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**Arrest, Detain, Deport:  
How Securitisation Marginalises Migrant Workers in  
Thailand**

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## **ABSTRACT**

The proposed research will investigate the securitisation of irregular migration in Southeast Asia, exemplified via a case study of Thailand. The research will seek to answer the question – is irregular migration framed as a security threat in the case of Thailand? The thesis will take a particular effort to employ a human rights perspective, in order to understand the impacts of securitisation to the most vulnerable stakeholder – migrant workers residing in Thailand. Within the framework of Non-Traditional Security studies, the research will examine the role of the Thailand’s military-led National Council for Peace and Order as a securitising actor and the impacts of its threat management tactics. The role of migrant workers in the Thai economy will be central to the research and how the NCPO’s aggressive anti-trafficking measures exacerbates migrants’ insecurities. The research concludes that the NCPO, in the interest of national security, has securitised the issue of irregular migration – at the expense of the individual and human security of its migrant workers.

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## **ABBREVIATIONS**

ACMW	ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers
ACTIP	ASEAN Convention Against Trafficking in Persons, Especially Women and Children
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Agreement
APWG	Asia-Pacific RCM Thematic Working Group on International Migration including Human Trafficking
ASEAN	Association of South East Asian Nations
AICHR	ASEAN Intergovernmental Commission of Human Rights
CSS	Critical Security Studies
GMS	Greater Mekong Sub-Region
IGO	Intergovernmental Organisation
IISS	International Institute for Strategic Studies
ILO	International Labour Organization
IOM	International Organization for Migration
MMN	Mekong Migration Network
MOU	Memorandum of Understanding
NCPO	National Council for Peace and Order
NGO	Non-Governmental Organisation
NTS	Non-Traditional Security
NTS-Asia	Consortium of Non-Traditional Security Studies
OSSC	One Stop Service Center
RSIS	S. Rajaratnam School of International Studies
SEA	Southeast Asia
UN	United Nations
UN DESA	United Nations Department of Economic and Social Affairs
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNCTOC	United Nations Convention against Transnational Organized Crime
US TIP	United States Trafficking in Persons Report

# I. INTRODUCTION

## 1.1 Background

*“I am, somehow, less interested in the weight and convolutions of Einstein’s brain than in the near certainty that people of equal talent have lived and died in cotton fields and sweatshops.”*

Stephen Jay Gould, *The Panda’s Thumb: More Reflections in Natural History*

Anti-immigration rhetoric is gaining traction in regions around the world, with many states framing migrants as ‘security threats’. With the rise of populism and nationalist sentiments, even within some of the world’s perceived democratic strongholds – like the United States (US) and the European Union (EU) – migration is increasingly seen as a destabilising influence on states’ national security. Has this idea of ‘migrants as a security threat’ gained a foothold in other regions of the world with persistent migration? One region dominated by expanding migratory flows is that of Southeast Asia. The temporary labour migrant populations emblematic of the Southeast Asian region may differ in profile from that of migration for permanent settlement in the US or refugees migrating to the EU from war-torn states, but their real and perceived economical and societal impacts are of equal importance. As economic growth for the ASEAN economy is projected to continue, so will the masses of temporary labour migrants. In this particular context it is appropriate to question – are migratory flows in Southeast Asia also managed in a security framework?

As Thailand is a primary destination country for migrants and migrant workers in Southeast Asia, this thesis will examine if the aforementioned trend of ‘migrants as a security threat’ is applicable in Thailand’s case as well. In light of the recent political instability in Thailand, specifically following the 2014 military coup d’état that installed the current National Council for Peace and Order (NCPO) as the ruling government of Thailand, it is relevant to examine how migration issues are managed and the human rights implications for the country’s large migrant worker population.

This research will employ the framework of Non-Traditional Security (NTS) studies, which is heavily influenced by the Copenhagen School of Security Studies (CSSS), to analyse the securitisation of irregular migration by Thailand's NCPO government. NTS studies asserts that states and individuals are equally important referents of security, and thus presents a more human rights-centered approach to security analysis in keeping with the aims of this thesis. Securitisation, according to Barry Buzan, Ole Waever, and Jaap de Wilde's pivotal publication, *Security: A New Framework for Analysis*, occurs when '...the issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure.'<sup>1</sup> This thesis examines whether the current NCPO military government has fulfilled these criterion, bringing the issue of irregular migration into the security agenda. The research will focus on the manifestation of the NCPO's emergency measures - its anti-trafficking policies – to determine in what ways the securitisation approach impacts relevant stakeholders, and specifically those at risk of marginalisation.

Within the wider issue of migration, this thesis will analyse the securitisation of 'irregular migration', utilising Thailand as a case study. Within Southeast Asia, 'irregular migrants' often entails those who are undocumented and have not employed legal channels in order to migrate, encompassing the wider populations of migrant workers, refugees, asylum-seekers, trafficked persons, among others. For the purposes of this research, undocumented migrant workers will be given focus within the larger umbrella term of 'irregular migrant'.

When analysing via the lens of human rights, it is essential not to enhance securitising rhetoric that exacerbates the vulnerabilities of marginalised peoples. Human rights researchers must critically investigate whose security is favored in policy development and the motivations behind securitising acts. Typically, desecuritisation methods are favoured, as they return the perceived threat to normal democratic processes.

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<sup>1</sup>Buzan et al, 1998, pp. 23 - 24.

## **1.2 Statement of Issue & Research Questions**

In Southeast Asia, and Thailand specifically, is irregular migration framed as a security threat? By examining the case of Thailand, the research will further analyse the possible securitisation of irregular migration and delve into the impacts on the country's largest migrant population – migrant workers. Is a security approach to migration management the most effective in ensuring security for all stakeholders – including the population most central in migration, migrants?

## **1.3 Methodology**

The research will be of an interdisciplinary nature, primarily utilising a human rights perspective while employing the theory of Non-Traditional Security studies in the analysis of its case study. This approach will be supplemented by information from the economic sphere, international relations, and international human rights law. The research method will be based primarily on qualitative analysis consisting of literature review of relevant academic sources that have attempted to demonstrate the link between securitisation and migration in the Southeast Asian context. Included is an element of quantitative analysis based on migration and labour statistics provided by UN DESA, UNODC, ILO, IOM, and the APWG project.

Primary sources include: Data from ILO, IOM, UN DESA, NTS Centre and other relevant NGOs, International Treaties and Conventions regarding migrant workers, relevant ASEAN declarations, Thai immigration and migrant workers related policy documents, press releases, official speeches, statements or communications from different relevant stakeholders in the region. Secondary sources include: Books and articles relating to Non-Traditional Security studies, securitisation theory, and reports from international and regional governmental bodies, civil society organisations, and newspaper articles documenting migration-related issues in Southeast Asia. The case study is focused on analysing securitisation of irregular migration in Thailand.



## II. SECURITY STUDIES & MIGRATION IN SOUTHEAST ASIA

### 2.1 Securitisation Theory & Expanding Security Studies

*“Securitisation [has been] an excuse by the State to limit human rights.”*

Dr. Seree Nonthasoot, Thai Representative to the ASEAN Intergovernmental Commission on Human Rights

*“To study securitization is to study the power politics of a concept.”*

Buzan et al, *Security: A New Framework for Analysis*

In 1998, Barry Buzan, Ole Wæver, and Jaap de Wilde’s pivotal publication, *Security: A New Framework for Analysis* was released, formulating a new, definitive theoretical framework to challenge the narrative offered by the traditionalist approach to security studies. Deemed as the Copenhagen School, the authors’ goal at the time was to offer a wider conception of security studies, to expand from traditional state-centered military threats to the larger relationship between an array of referent objects and their interplay with security. Their new approach also put into question the subject of security itself and its logic, situating it at the axis of all analyses.<sup>2</sup> Buzan, Wæver, and de Wilde’s securitisation theory evolved in the post-Cold War climate, as the debate between traditionalists and so-called wideners climaxed. Buzan et al reference Stephan Walt’s work as a prime demonstration of the traditionalist position on security studies, in which Walt defines it narrowly as ‘the study of the threat, use, and control of military force’.<sup>3</sup> The widener’s argument in favor of expansion of the centrum of security studies relied on the acknowledgment that nonmilitary threats, like those of the economic and environmental sectors, were equally instrumental in the construction of security.<sup>4</sup> This expansion of the sectorial focus is integral to the Copenhagen School’s securitisation

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<sup>2</sup> Ibid, p. 4-5.

<sup>3</sup> Walt, 1991, p 212.

<sup>4</sup> Buzan et al, 1998, p. 4.

theory, challenging the previous paradigm that focused exclusively on military threats to the state.

It is pertinent to additionally designate which intended definition of security is being invoked in securitisation theory. Conventionally, security was in reference to the security of the state. As securitisation theory operates in the realm of international relations, the wider ‘international security’<sup>5</sup> is the point of reference, a security requiring ‘survival in the face of existential threats’.<sup>6</sup> This definition facilitates the aforementioned larger scope of the theory, which can include various existential threats that generate the necessity for extraordinary measures.<sup>7</sup>

Another type of security that gained traction in the 1990’s in the international field is that of ‘human security’. Explored in-depth in the United Nations Human Development Report in 1994, ‘human security’ refers to the prioritisation of the security of peoples and communities in international development and states’ security policies.<sup>8</sup> Arguably the concept of human security was conceived in a similar vein to that of the Copenhagen School’s securitisation theory, derived from the idea that threats to security and our understanding of those threats were not only one-dimensional, but had reached a larger scale. As the 1994 report illustrates, ‘...threats to human security are no longer just personal or local or national. They are becoming global...’.<sup>9</sup> Though human security differs from international security, they should not be interpreted as mutually exclusive. Within human security, peoples and communities are always the referent object, where international security can encompass an array of referent objects. However, both international security and human security are notably different than the traditional understanding, where the state takes primacy and all threats are in relation to the state.<sup>10</sup> It is important to keep these varying conceptions of security in mind moving forward.

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<sup>5</sup> Ibid, p. 21.

<sup>6</sup> Ibid, p. 27.

<sup>7</sup> Ibid, p. 21.

<sup>8</sup> UNDP, 1994.

<sup>9</sup> Ibid.

<sup>10</sup> Buzan et al, 1998, p. 3.

The Copenhagen School theorists are responsible for constructing two distinct conceptual tools for security studies analyses, both of which are directly relevant to the work of this thesis - *security sectors*, and *securitisation theory*. Conventional levels of analysis in international relations are also embedded within the Copenhagen School framework, which help to clarify and analyse the relationships between different security actors and referent objects.<sup>11</sup> Buzan is credited for designating the five security sectors, which include the following:

1. *Military Security*:  
the traditional conception of security, primarily concerning the security of the state regarding its 'armed offensive and defensive capabilities'.
2. *Political Security*:  
the security of governing bodies regarding their stability and sovereignty.
3. *Economic Security*:  
the security attained through 'access to the resources, finance and markets' needed for various actors to survive and retain power.
4. *Societal Security*:  
the security of all facets of societal custom, such as culture and national identity.
5. *Environmental Security*:

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<sup>11</sup> The authors summarise well these levels in Buzan, 1998, pp. 5 – 6, as the following:

1. *International systems* – meaning the largest conglomerates of interacting or interdependent units that have no system level above them. Currently, this level encompasses the entire planet, but in earlier times several more or less disconnected international systems existed simultaneously.
2. *International subsystems* – meaning groups of units within the international system that can be distinguished from the entire system by the particular nature or intensity of their interactions with or interdependence on each other. Subsystems may be territorially coherent, in which case they are regional (the Association of Southeast Asian Nations [ASEAN], the Organization of African Unity [OAU]), or not (the Organization for Economic Cooperation and Development, the Organization of Petroleum Exporting Countries), in which case they are not regions but simply subsystems.
3. *Units* – meaning actors composed of various subgroups, organizations, communities, and many individuals and sufficiently cohesive and independent to be differentiated from others and to have standing at the higher levels (e.g., states, nations, transnational firms).
4. *Subunits* – meaning organized groups of individuals within units that are able (or that try) to affect the behavior of the unit (e.g., bureaucracies, lobbies).
5. *Individuals* – the bottom line of most analysis in the social sciences.

the protection of the environment, whose security is necessary to human survival.<sup>12</sup>

These expanded security sectors are employed in order to diversify security analysis beyond military and state-centered security. Utilising sectors allows analysts to dismantle the larger complex, facilitating simpler identification of the relationships present in a specific subset.<sup>13</sup> The theorists simultaneously recognise that these sectors do not operate singularly; thus after dissection the analysis must be reincorporated into its wider environment in order to make assertions about the authority, motivations, and larger dynamics at play in the construction of a security threat.<sup>14</sup>

The second relevant tool put forth by the Copenhagen School is *securitisation theory*. The Copenhagen School intends to differentiate the processes of politicisation and securitisation. Politicisation entails introducing an issue to the political sphere, presenting the opportunity of choice on said issue in order to generate action and change.<sup>15</sup> By distinction, securitisation requires the identification of an existential threat, sparking mobilisation of state resources and the enactment of emergency measures.<sup>16</sup> To delineate the concept succinctly:

Securitization studies aims to gain an increasingly precise understanding of who securitizes, on what issues (threats), for whom (referent objects), why, why what results, and not least, under what conditions (i.e., what explains when securitization is successful).<sup>17</sup>

Accordingly, the framework of securitisation theory comprises the following:

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<sup>12</sup> Buzan et al, 1998, pp. 7 – 8.

<sup>13</sup> Ibid, p. 8.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid, p. 29.

<sup>16</sup> Ibid, p. 5.

<sup>17</sup> Ibid, p. 32.

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## SECURITISATION THEORY FRAMEWORK<sup>18</sup>

<b><i>Speech Act</i></b>	The act of labeling and/or constructing a particular issue as a ‘security threat’, directly or indirectly <sup>19</sup>
<b><i>Securitising Actor</i></b>	An actor, by means of a speech act, who claims a specific referent as an existential threat and that claim is accepted by its audience
<b><i>Referent Object</i></b>	An object whose survival is threatened by the referenced security threat

There are important elements of note in each of the above components in order to fully grasp the framework in its totality. As stated, *speech acts* are conducted on behalf of the securitising actor in which a specific threat is identified, although ‘security’ itself does not need to be explicitly referenced, such in cases in which securitisation has become institutionalised. The onus must be placed merely on the gravity and urgency of the matter and that said threat requires the enactment of extraordinary measures.<sup>20</sup> The degree of success in delivering the speech act depends on the social capital of the securitising actor and the nature of the threat.<sup>21</sup>

The *securitising actor* conveys, via a speech act, an existing or imminent threat. The actor need not explicitly invoke ‘security’ in its speech act, only that the issue at hand requires immediate action and necessitates emergency action outside the bounds of normal political means.<sup>22</sup> Inherently, the actor must have an audience and the degree to which securitisation fully occurs depends on audience receptivity to the threat. However, as previously mentioned, in cases of institutionalisation of a security threat, the actor may not require audience acceptance: at the mention of said issue, it is taken as a given that extra-political measures are justified.<sup>23</sup>

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<sup>18</sup> Buzan et al, 1998, p. 36.

<sup>19</sup> Ibid, p. 26.

<sup>20</sup> Ibid, p. 26-27.

<sup>21</sup> Ibid, p. 33.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid, pp. 28 – 29.

The *referent object* is that which is potentially at threat of survival. In traditional security studies, this was the state's sovereignty under threat.<sup>24</sup> By contrast, in the expanded agenda of the Copenhagen School, an example referent object in the environmental sector may be a particular forest facing a threat, or the environment as a whole, which requires emergency measures in order to protect its survival. Finally, it should be noted that *functional actors* can be identified, those that are not a securitising actor or referent object, who influence the specific security issue.<sup>25</sup>

To operate within securitisation theory is primarily an exercise in discourse analysis while analysing the larger political and contextual structure at play. A conclusive case of securitisation occurs only when the existential threat: 1) is delivered via a speech act by a securitising actor, presenting a constructed or legitimate threat; 2) is accepted by the relevant audience, by means of consent or coercion; and 3) effectively necessitates extraordinary measures to manage the presented threat.<sup>26</sup> If a threat has been referenced, but is not accepted by the audience, it can be considered only a *securitising move*.<sup>27</sup>

Security is not a static concept; its invocation can influence the dynamics of a particular security complex and has tangible consequences for its constituents.<sup>28</sup> The Copenhagen School authors recognized this and place the responsibility with the analyst to determine if securitising a particular referent is positive or negative, and who potentially benefits or is oppressed by it.<sup>29</sup> This requires the analyst to be mindful in their research, as it is made explicit that evaluating the integrity of a particular instance of securitisation has the ability to shape how relevant actors approach a security threat.<sup>30</sup> While employing securitisation theory from a human rights perspective, the researcher should consider the power dynamics in a given context and what human rights implications may be incurred from securitisation. Securitising an issue should not *de facto* be considered an inherently beneficial or positive move and it is imperative to remain cognizant of the power

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<sup>24</sup> Buzan et al, 1998, p. 36.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid, p. 25.

<sup>27</sup> Ibid.

<sup>28</sup> For more on *security complexes*, refer to Buzan, 1998, pp. 10 -19.

<sup>29</sup> Ibid, p. 34.

<sup>30</sup> Ibid, p. 30.

structures fundamental in security. Conventional securitising actors, such as states, hold a status of power that enables them to fundamentally frame issues of security.<sup>31</sup> While concentrating primarily on actors and their corresponding speech acts, the researcher must remain conscious of potential biases and ‘...that too much focus can be placed on the acting side, thus privileging the powerful while marginalizing those who are the audience and judge of the act.’<sup>32</sup> Securitisation may not necessarily be good, or the appropriate course of action when handling a particular threat. This method of control leaves the realm of normal politics and operates within an emergency context, sometimes at the expense of democracy. Therefore, the Copenhagen School advocates for *desecuritisation*, to relay the issues and construct solutions within the normal political domain.<sup>33</sup>

### **2.1.1            *Critical Security Studies***

In *Security: A New Framework for Analysis*, the authors recognise there is some disunity between the various theoretical camps in the new widened security agenda. The so-called Aberystwyth School of security studies (here forth referred to as CSS [critical security studies]) has its foundations in the Marxian productivist paradigm and diverges from the Copenhagen School in their focus on human emancipation.<sup>34</sup> While the Copenhagen scholars take a more inter-subjective approach in identifying each element in the securitisation framework, CSS posits that true security is achieved when people are ‘...the primary referent, not states.’<sup>35</sup> CSS scholar Ken Booth argues that the precedence of human emancipation in security construction is the only path to stable security.<sup>36</sup>

CSS theorists also differentiate themselves from the Copenhagen School in their shared belief that change can occur because power structures are socially constructed.<sup>37</sup> This

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<sup>31</sup> Buzan et al, 1998, p. 31.

<sup>32</sup> Ibid, p. 41.

<sup>33</sup> Ibid, p. 29; for more on *desecuritization*, see also: Wæver, Ole, ‘Securitization and Desecuritization’, pp. 46 - 87, in Ronnie Lipschutz, *On Security*. Columbia University Press, 1995.

<sup>34</sup> Wyn Jones, 2001, pp. 5-10.

<sup>35</sup> Booth, 1991, p. 540.

<sup>36</sup> Ibid, p. 539.

<sup>37</sup> Neufeld, 2001, p. 132.

awareness, with emancipation at the core of analyses, empowers the analyst to challenge traditional structures of power and order, which constitutionally privilege the security of one actor at the expense of another.<sup>38</sup> The Copenhagen theorists acknowledge the position of CSS scholars, but counter it by claiming that when social constructs become so embedded in reality and practice, analyses must be conducted considering existing structures in order to fully understand and navigate them. The Copenhagen School upholds that the two methods need not be exclusive, but can operate complementarily.<sup>39</sup>

### **2.1.2 Non-Traditional Security Studies**

*“[Non-traditional security] underscores the fact that security is also about legitimacy, and that sovereignty rests not only on territorial control, but also on a nation’s service, support and fulfillment of the basic rights of its citizens.”*

Mely Caballero-Anthony, *An Introduction to Non-Traditional Security Studies: A Transnational Approach*

As this thesis will take a regional focus on Southeast Asia, it is applicable to note another important epistemic school of security studies - the Consortium for Non-Traditional Security Studies (NTS-Asia), composed of 31 think tanks and research institutes from across the Asia-Pacific region and led by the Centre for Non-Traditional Security Studies out of S. Rajaratnam School of International Studies (RSIS) in Singapore.<sup>40</sup> The goal of NTS-Asia is to bring NTS studies to the forefront of International Relations, while concurrently developing NTS as an operational tool in security studies.<sup>41</sup> NTS-Asia’s mission rings familiar to those previously mentioned, as the focus is primarily on the wider agenda of non-traditional security (NTS) – issues outside of the scope of traditional military threats. In *An Introduction to Non-Traditional Security Studies: A Transnational Approach*, author and leading NTS scholar Mely Caballero-Anthony describes the shared

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<sup>38</sup> Booth, 1991, p. 539.

<sup>39</sup> Buzan, 1998, p. 35.

<sup>40</sup> For more on the historical development of NTS studies, refer to: Caballero-Anthony, Mely, ‘Understanding Non-Traditional Security’, pp. 3 – 19 in Mely Caballero-Anthony, *An Introduction to Non-Traditional Security Studies: A Transnational Approach*. London: Sage Publications Ltd, 2016.

<sup>41</sup> Caballero-Anthony, 2016, p. 6.



characteristics of non-traditional security threats: these threats are often transnational in scope and effects; they are not always the results of state competition or power shifts but can often generate political or societal effects; their transnational nature demands regional and/or multilateral responses; and lastly, the primary referent of security has expanded beyond the state to include people, individuals as well as societal collectives.<sup>42</sup>

NTS studies appears to build on the foundations of both the Copenhagen and Aberystwyth schools of thought, fusing elements of each approach into its newly formulated NTS studies and integrating a regional perspective that accounts for threats specific to the Asia-Pacific region and that can be operationalised in the greater Global South.<sup>43</sup> NTS-Asia supports the expanded sectorial focus of the Copenhagen School, while also recognising that their security studies model still relies heavily on states as primary referents for security.<sup>44</sup> NTS scholars also believe in the validity of human emancipation and security advanced by CSS. Where NTS-Asia differs from their predecessors is that they advocate for a collective conception of security studies, incorporating the expanded sectorial focus while also advocating that the state and individual are equally essential referents of security.<sup>45</sup> NTS postulates that traditional state-centric security, concerned chiefly with state sovereignty and territorial integrity, is incapable of conceptualising a more holistic security to address urgent transnational threats, such as irregular migration or climate change. Nonetheless, NTS does not exclusively assert human security alone addresses the shortcomings of traditional security. Non-traditional security maintains that the state and the individual are analogous referents of security, as '[b]oth referents need to feel secure, since a state that is insecure will not be able to guarantee the safety and well-being of its people.'<sup>46</sup>

The NTS framework is as follows:

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<sup>42</sup> Ibid.

<sup>43</sup> Caballero-Anthony, 2016.

<sup>44</sup> Ibid, p. 14.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid, p. 14.

**NON-TRADITIONAL SECURITY  
FRAMEWORK<sup>47</sup>**

<b><i>Issue Area</i></b>	Existential threat being identified, including analysing if there is consensus regarding the threat among relevant actors
<b><i>Securitising Actor</i></b>	The main actor presenting the security threat
<b><i>Security Concept</i></b>	Asks the questions of whose security is at risk, which helps identify the main security referents
<b><i>Process</i></b>	Speech acts and corresponding acts that declare and construct the issue as a threat
<b><i>Outcome I – Degree of Securitisation</i></b>	Must ask if has securitisation occurred and to what extent, taking into consideration ‘resource allocation trends, military involvement, legislation and institutionalisation’ <sup>48</sup>
<b><i>Outcome II – Impact on the Threat</i></b>	Impact of securitisation, assessing if the threat level has risen or declined
<b><i>Conditions Affecting Securitisation</i></b>	Factors influencing securitization process: Interaction of different security concepts; connections between security issues; role of functional actors; domestic political systems; and international norms

From a human rights perspective, non-traditional security is an appropriate lens in which to analyse elements of security, especially within the Asia-Pacific region; it explicitly emphasises adopting a human rights- and needs-based approach to addressing and combatting NTS threats while upholding that those vulnerable to these threats are vital to the construction of adequate solutions.<sup>49</sup> The NTS theoretical framework employs the fundamentals of *securitisation theory*, while broadening it to correspond with the NTS goal to contribute an operational and practical model.

As the Copenhagen scholars recognised, “[s]ecurity” is thus a self-referential practice, because it is in this practice that the issue becomes a security issue – not necessarily because a real existential threat exists but because the issue is presented as such a

<sup>47</sup> Ibid, pp. 16 – 17.

<sup>48</sup> Cabarello-Anthony, 2016, p. 16.

<sup>49</sup> Ibid, p. 14.

threat.”<sup>50</sup> Arguably there are objective security threats, but analysts must be wary in their analyses that they do not contribute to the further construction of unnecessary security problems, but analyse existing threats and the implications of those threats. As a human rights researcher, it is vital to identify what groups may be disproportionately impacted by security issues and their subsequent solutions. We must also seek to ask ‘these actions are in the interest of *who’s security?*’ and to draw attention to any potential marginalisation of vulnerable peoples or communities.

It is within the confluence of the diversified agenda of security studies that this thesis erects its foundational infrastructure. The thesis will attempt to undertake a practical, interdisciplinary approach, informed by security studies, economics, and international relations while consistently incorporating a human rights perspective. The successive research will apply the more robust framework of *non-traditional security* crafted by NTS-Asia in order to delve into the threat of *irregular migration* in Southeast Asia and its human rights implications for vulnerable groups. Parallel to the security analysis, the thesis intends to identify any vulnerable or marginalised community affected by the securitising moves concerning migration in Southeast Asia. It is imperative to identify what are the practical human rights implications for this community due to the securitisation process and are contemporary security policies conceived with human security deficits and vulnerabilities in mind. The NTS framework is applicable in this context as it adopts the well-established framework of securitisation theory and is feasible to operationalise in the constraints of this work; it melds the twin pillars of state security and human security asserted by the Copenhagen and Aberystwyth Schools respectively; while conjointly endorsing the application of a holistic, human rights-based and needs-based approach in its security analysis. This last point is crucial - a more diversified approach centered on human rights facilitates analyses that lead to wider engagement of relevant stakeholders and may influence actors to develop more sustainable security solutions.

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<sup>50</sup> Buzan et al, 1998, p. 24.

## 2.2 Migration in Southeast Asia

The Southeast Asian region is located in the greater Asia-Pacific, consisting of the 11 sovereign states of Brunei, Cambodia, East Timor, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. Ten of these countries are party to the regional intergovernmental organisation ASEAN – the Association of Southeast Asian Nations, while East Timor and Papua New Guinea currently hold only observer status. Established in 1967 with the outset of the ASEAN Declaration in Bangkok, Thailand, the founding members included Indonesia, Malaysia, Philippines, Singapore, and Thailand, with the aims to promote regional economic, social, and cultural development and foster peace, stability, and collaboration between nations.<sup>51</sup> Distinctly, ASEAN did not gain legal personality and a formal institutional framework until the creation of the ASEAN Charter in 2007, 40 years after the organisation’s initial inception.

Central to the notion of cooperation are the mutual respect of all States’ sovereignty and the principle of non-intervention in another state’s affairs. These values influenced the ASEAN consultation and consensus-based model, establishing that no member states hold veto power; no resolutions are adopted unless all members are able to formally agree on the proposal. In 2009, the ASEAN Intergovernmental Commission of Human Rights (AICHR) was founded, succeeded in 2012 by the ASEAN Human Rights Declaration. Unlike other regional inter-governmental bodies however, such as the Organisation of American States, ASEAN does not have a regional court system to address human rights, rendering it fundamentally weak in enforcement of its declaration.

There is significant development in relation to economic integration in the region; the ASEAN Free Trade Area (AFTA), effective in 2003, constructs a regional single market economy.<sup>52</sup> The 2003 Bali ‘Declaration of ASEAN Concord II’, called for the creation of a larger, integrated ASEAN Community by 2020 (which was later pushed forward to 2015). The ASEAN Community consists of three parallel pillars - the ASEAN Economic

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<sup>51</sup> ASEAN, ‘Overview: Establishment’.

<sup>52</sup> ASEAN, ‘Overview: The ASEAN Free Trade Area (AFTA)’.

Community (AEC), the Political-Security Community, and the Socio-Cultural Community. Of focus is the AEC, formalised in 2015, which incorporates the AFTA and also facilitates movement of goods, services, skilled labour, investment and capital within the region.<sup>53</sup> 2015 AEC statistical data quotes the region's population at almost 630 Million people, ranking it as the world's 3<sup>rd</sup> largest market base, with a GDP of 2.4\$ Trillion USD, marking it the 5<sup>th</sup> largest economy in the world.<sup>54</sup> Nonetheless, the individual economies of ASEAN are not homogenous. Indonesia, Thailand, and Malaysia weigh in with the highest GDP, at almost 858\$ Million, 396\$ Million, and 294\$ Million respectively, but Singapore and Brunei outstrip all the others with highest GDP per capita, at almost 53\$ Million and 31\$ Million each.<sup>55</sup> The top ASEAN exporters in goods are Singapore, Thailand, and Malaysia.<sup>56</sup> Despite the diversity of individual economies in ASEAN, the burgeoning economic development in the region relies heavily on the expansion of major industries, including the manufacturing sector, trade, retail, and transportation.

The emergence of major global industries in Southeast Asia are one of the definitive pull factors linked with larger migration patterns in the region. Firstly, the broader background of migration across Asia gives a context in which to situate the developments of labour migration in Southeast Asia. The Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat (UN DESA) routinely publishes reports on global migration; according to the latest *International Migration Report 2015*, UN DESA calculated that of the 244 million international migrants worldwide, Asia alone hosted around one-third (75 million).<sup>57</sup> This figure lends itself to the fact that Asia has been experiencing yearly gains in number of migrants from 1990<sup>58</sup> – 2015, approximately 27 million new arrivals; with 90% of these migrants originating

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<sup>53</sup> ASEAN, 'Fact Sheet – ASEAN Economic Community'.

<sup>54</sup> ASEAN, 'Statistical Leaflet'.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> UNDESA, 2016, p. 2; also note, 'Asia,' in this context, consists of the sub-regions of Central Asia, Eastern Asia, South-Eastern Asia, Southern Asia, and Western Asia and is comprised of 50 states and Special Administrative Regions. See table for all countries in: UNDESA, 2016, p. ix.

<sup>58</sup> The UNDESA only utilised migration data obtained from 1990 - 2015 in the *International Migration Report 2015*.

from another Asian country.<sup>59</sup> Intra-regional migration flows within Asia are now the largest of any other region in the world. The report notes in 2015, 59 of the 75 million total number of migrants living in Asia originated from another country within Asia, qualifying it as the most utilised regional migration corridor globally.<sup>60</sup>

However, as Asia encompasses a vast region, analysing top bilateral migration routes between countries provides more clarity on how Southeast Asian countries contribute to these vast numbers of migrants. Below, figure 2.3.1 illustrates the Southeast Asian migratory corridor of Myanmar to Thailand as consistently among the top ten bilateral migration routes between 1990 and 2015, based on annual fluctuations in international migrant numbers. This migration snapshot illustrates the sustained levels of migration throughout parts of Southeast Asia in recent years. The Myanmar - Thailand route ranked seventh between 1990-2000, moved up to the fourth spot in 2000-2010, and dropped back to ninth in the recent 2010-2015 data. Consistent mass emigration from Myanmar over this period is directly related to political instability and ethnic tensions in the state, forcing the populous to seek refuge in neighboring Thailand, and more recently Bangladesh.<sup>61</sup> Also representing the SEA region, the Malaysia - Singapore corridor made a showing in the 1990-2000 period, at sixth largest bilateral migratory route for that time period.

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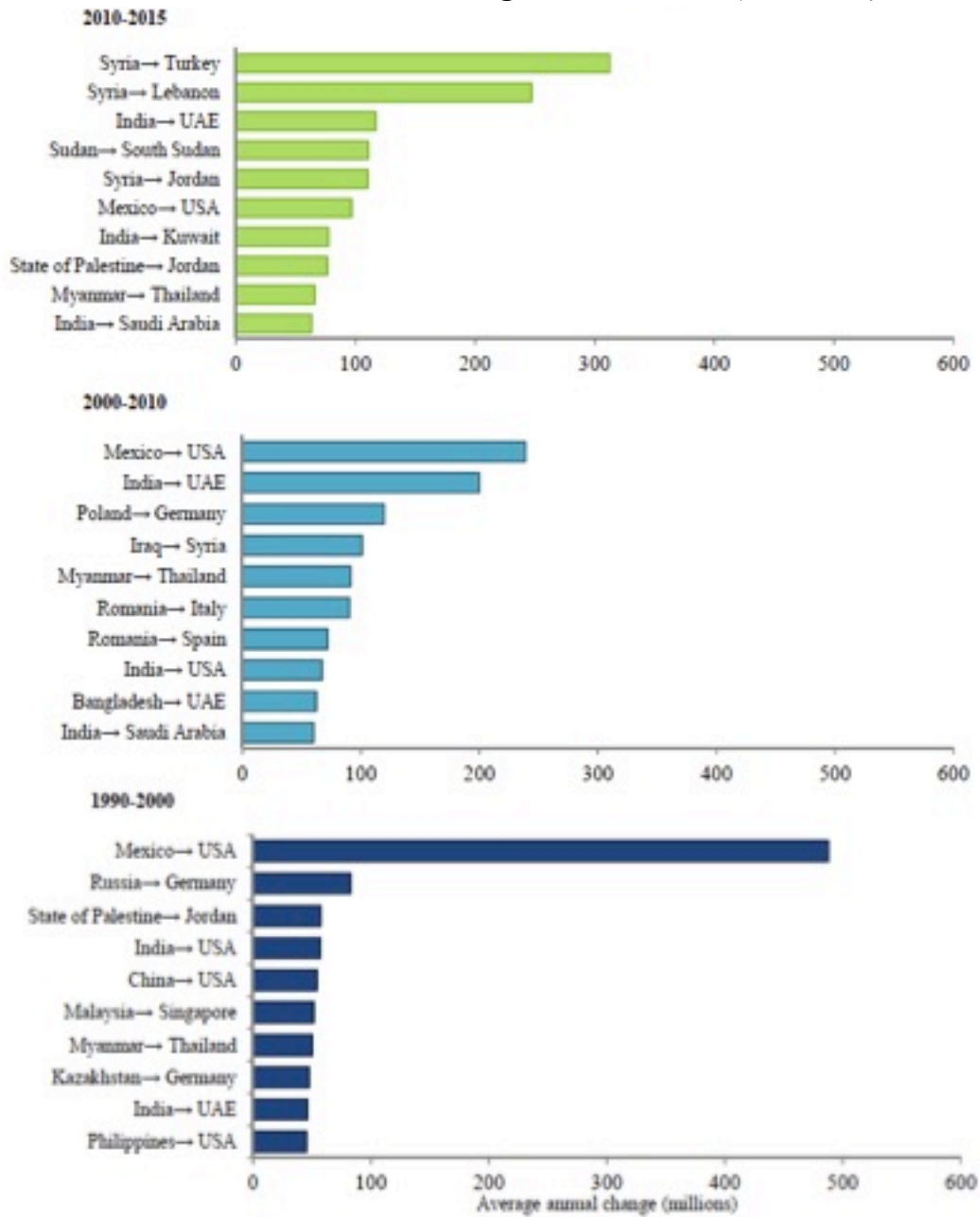
<sup>59</sup> UNDESA, 2016, p. 2.

<sup>60</sup> Ibid, p. 3.

<sup>61</sup> See for more information: UNHCR, 'Mixed Movements in South-East Asia 2016', UNHCR Regional Office for South-East Asia, April 2017.

**Figure 2.2**

**Ten bilateral migration corridors with the largest average annual change in the number of international migrants, 1990-2015 (thousands)<sup>62</sup>**



Source: United Nations, Department of Economic and Social Affairs, Population Division (2015).  
 Note: Russia refers to the Russian Federation, Syria refers to the Syrian Arab Republic, UAE refers to United Arab Emirates, UK refers to the United Kingdom of Britain and Northern Ireland and USA refers to the United States of America.

<sup>62</sup> UNDESA, 2016, p. 6.

The most recent ASEAN-related migration data released by the International Labour Organization (ILO), in its *Migration in ASEAN in figures: The International Labour Migration Statistics (ILMS) Database in ASEAN*, illuminate the ways in which SEA migration patterns mirror those of the greater Asian region. Within ASEAN, the majority of international migrants are deployed from other ASEAN states, affirming the large intra-regional migratory pattern documented in UN DESA's *International Migration Report 2015*. In 2013, 68.5 percent of all international migrants originated from another ASEAN state, and decreased slightly to 66.5 percent in 2015.<sup>63</sup> In 2013, Singapore, Malaysia, and Thailand hosted the largest migrant populations, at 2.3 Million, 2.4 Million, and almost 4.5 Million respectively.<sup>64</sup> Malaysia, Thailand, and Cambodia had the highest percentages of intra-regional ASEAN migrants; 72.5 percent in Malaysia, 80.6 percent in Thailand, and overwhelmingly 92.1 percent of Cambodia's overall migrant population hailed from within ASEAN (Lao PDR and Singapore also had intra-ASEAN migrant populations of over 50 percent).<sup>65</sup>

Strikingly, the Philippines was the primary origin country of ASEAN migrants worldwide, deploying over 6 Million migrants in 2013 alone.<sup>66</sup> The primary origin countries for intra-ASEAN migrants for the same year were Indonesia at more than 1 Million migrants, Malaysia with 1 Million, and Myanmar with almost 2 Million migrants. These countries also constituted the largest intra-regional bilateral corridors in ASEAN in 2013: Indonesians migrated to Malaysia; Malaysia to Singapore; and Myanmar to Thailand.<sup>67</sup>

Of the latest available data obtained by the ILO, the top destination countries of Malaysia, Singapore, and Thailand had large portions of their migrant populations employed, either via regular paid employment or self-employment. Of Malaysia's migrant stock in 2015, 72 percent of working age (15 years and older) migrants were employed during that year. Singapore documented 84.8 percent of its migrant stock were

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<sup>63</sup> ILO, ILMS, 2015.

<sup>64</sup> Ibid, pp. 1 – 11.

<sup>65</sup> Ibid, pp. 15 – 16.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.



employed in 2014 and Thailand calculated 48.1 percent employed in 2010.<sup>68</sup> The trend signified by this data appears to demonstrate that a large portion of migrants is employed in their destination countries in some fashion. As irregular migration flows are high in Thailand, it is arguable that many migrant workers may not be included in this data, which would significantly increase the percentage. However, due to the undocumented nature of irregular migration, it is difficult to obtain exact statistics. More information regarding statistics of labour migration and irregular migration in Thailand specifically will follow in the next sub-chapter.

It is necessary to gain a distinct understanding of the nature of migration in Southeast Asia and what are the dominant migratory trends in the region. The Asia-Pacific RCM Thematic Working Group on International Migration including Human Trafficking (APWG), co-chaired by the International Organization for Migration (IOM) and the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), released an in-depth report entitled *Asia-Pacific Migration Report 2015: Migrants' Contributions to Development*, detailing characteristics of migratory flows in Asia and their economic and social impacts, as well as analysing national migration policies in the region and suggesting potential policy reforms.<sup>69</sup> Their research reiterates a trend of intra-regional migration and the overwhelming majority of all migration in the region is comprised of *temporary labour migration for low-skilled jobs*.<sup>70</sup> Other flows include migration for high-skilled labour, permanent settlement, seasonal employment, marriage and education, however the amount of migrants on the move for temporary labour migration vastly overshadows these flows - from 2012 to 2014, the Philippines alone deployed over 1.8 million migrant workers annually, more than 500,000 depart from Indonesia yearly, and over 100,000 migrant workers leave Thailand and Vietnam.<sup>71</sup>

Selected data presented in the *ILMS Database in ASEAN*, continue to demonstrate not only intra-ASEAN migratory flows but, in keeping with the findings of the APWG

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<sup>68</sup> ILOSTAT, 'Employment'.

<sup>69</sup> UNESCAP, 2015.

<sup>70</sup> Ibid, p. 19.

<sup>71</sup> Ibid, p. 21.

report, that majority of migrant workers are employed within the same region. 79.5 percent of migrant workers in Brunei were from within ASEAN (2014); 88.1 percent in Cambodia (2008); 89.7 percent in Thailand (2015); and 56.4 percent in Malaysia (2013). Two of the top ASEAN destination countries, Thailand and Malaysia, had significant portions of their employed migrant populations filling low-skill jobs in 2015; Thailand having almost 1.5 Million out of 1.6 Million migrant workers in this category.<sup>72</sup> Low-skill, elementary occupations<sup>73</sup>, such as construction or services workers, account for 46.5 percent and almost 90 percent of migrant labour for each Malaysia and Thailand.<sup>74</sup> As evidenced in the research presented in the APWG report, temporary, low-skill labour migration characterise considerable patterns of migration in Southeast Asia.

Focusing in on specific country profiles exemplifies how integral migrant labour has become to the functioning of various Southeast Asian economies. The comprehensive APWG report details labour market impacts to the top three destination countries in the region – Singapore, Malaysia, and Thailand. As Thailand’s profile is central to the case study of this thesis, further relevant details will be cited in the following sub-chapter. Singapore has the highest performing economy within ASEAN, reliant on a robust manufacturing sector centered on electronics and biomedical products, a strong financial sector, and wholesale retail.<sup>75</sup> In Singapore, foreign workers grew from only 3 percent of the workforce in 1970 to 35 percent in 2010, indicating how heavily their economy relies on the labour contributions of migrants.<sup>76</sup> The total migrant stock of the small nation comprised over 42 percent of the general populace in 2013. Migrant workers are primarily fulfilling low-semi-skilled occupations, 43 percent in 2011, pivotally contributing to the construction and health care sectors, as well as food services.

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<sup>72</sup> ILO, ILMS, 2015, pp. 33 – 34; comparable data unavailable for Singapore.

<sup>73</sup> The ILO’s, ‘International Standard Classification of Occupations: ISCO-08’, lists elementary occupations as the following: cleaners and helpers; agricultural, forestry, and fishery labourers; labourers in mining, construction, manufacturing and transport; food preparation assistants; street and related sales and services workers; and refuse workers and other elementary workers.

<sup>74</sup> ILO, ILMS, 2015, pp. 33 – 34.

<sup>75</sup> UNESCAP, 2015, p. 67.

<sup>76</sup> Ibid, p. 68.

Moreover, they compose 21 percent of high-skilled workers, in technology-driven sectors.<sup>77</sup>

The *Asia-Pacific Migration Report 2015* describes Malaysia as ‘one of the most migrant-dependent economies of the Asia-Pacific region.’<sup>78</sup> Malaysia’s economy is quite variegated in terms of migrant contributions, but similar to Singapore, it is commensurately dependent on migrant labour. Major industries of the middle-performing economy include the services sector, the industrial sector (manufacturing and construction), as well as the agriculture sector, each amounting to 47 percent, 41 percent, and 12 percent of the overall GDP of the country, while concomitantly exporting electronics equipment and natural resources at a surplus.<sup>79</sup> Foreign labour accounts for a critical proportion of both the industrial and agricultural sectors - disaggregated, these workers consist of 30 percent of the manufacturing workforce; 45 percent of the construction industry; and a staggering 70 percent of all agricultural work is performed via migrant labourers.<sup>80</sup>

As these two countries, along with Thailand, are cropping up as leading destination countries in Southeast Asia for migrants, sectorial workforces substantially augmented by foreign labour is a plausible trend. What is formidable is the degree to which these emerging economies acclimate to extensive intra-regional labour migration flows and contemporaneously how reliant various sectors have become on this abundance of low-cost, low-skilled labour. It is evident that the region is dominated by temporary labour migration flows, with a high degree of intra-regional migration, and these pathways are expected to continue and expand as the various ASEAN economies develop further, increasing states’ migrant stock thus migrant labourers. The ASEAN economy is expected to undergo an annual growth of 5 percent, propelling the community to become the 4<sup>th</sup> largest economy worldwide by 2050.<sup>81</sup> If development and production levels continue as predicted, migrant workers’ contributions will become ever more integral to

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<sup>77</sup> Ibid, p. 69.

<sup>78</sup> Ibid, p. 65.

<sup>79</sup> Ibid, p. 62.

<sup>80</sup> UNESCAP, 2015, p. 62.

<sup>81</sup> ASEAN, ‘ASEAN Matters’.

various industries across ASEAN, such as in the cases of Malaysia’s agricultural industry and Thailand’s fishing industry. As temporary labour migration is the indicative tendency of wider migration in the region and trends are projected to continue as thus, it is pertinent that ASEAN countries adequately prepare, economically, politically, and socially for the continued influx and integration of migrant workers in their populations. As the APWG report outlines, ‘[m]igration is therefore a structural reality in the Asia-Pacific region, both today and in the years to come.’<sup>82</sup>

### **2.3 Relevant International Instruments Concerning Migration in SEA & Migration-Related Issues**

The *Asia-Pacific Migration Report 2015* highlights that migration in Asia materialises in many forms, such as temporary labour migration, high-skilled migration, and migration for marriage. However, it is difficult to discuss migration in Southeast Asia and not acknowledge the excessive number of irregular migrants. Occurring in tandem with the large migratory flows in SEA, it is pertinent to likewise note the chronic utilisation of irregular channels of migration. Substantial to this research are temporary labour migration and also the most significant forms of irregular migration, including smuggling and trafficking of people, as these are the most prominent sub-sets of migration in Southeast Asia, and specifically Thailand.

Though governments regulate most migration, States are in a precarious position to develop adequate migration policies as migration in the region tends to be ‘mixed’ – including not only legal migrants, such as migrant workers, but also refugees, asylum seekers, smuggled and trafficked migrants, and irregular migrants.<sup>83</sup> Irregular migration is the larger umbrella under which unregulated or unlawful migration takes place. As noted in the *Asia-Pacific Migration Report 2015* report, ‘irregular migrants’ refers to migrants that have gained this status due to 1) entering the country unlawfully, (either of their own volition or as a result of human trafficking or smuggling), 2) entering lawfully, but over-staying without authorisation, or 3) initially entering lawfully to work but later

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<sup>82</sup> UNESCAP, 2015, p. 9.

<sup>83</sup> UNESCAP, 2015, p. 19.

conditions of their work violating regulations.<sup>84</sup> In regards to labour migrants specifically, the ample supply of labour in Southeast Asia often outpaces individual governments' allotment of temporary labour migrants, even as the demand for these workers remains high. As legal channels for migration are not always easily accessible for these migrants, often consisting of costly and complicated bureaucratic procedures, migrants resort to utilising irregular pathways for migration.

It is complicated to obtain exact statistics on irregular migrants for the fact that they operate outside of typical regulatory channels. Even so, the APWG report claims that '[m]ost migrants arrive in Thailand in an irregular fashion...', primarily for work purposes.<sup>85</sup> Despite this lack of data on irregular migrants, there are policies in place in Thailand that enable these irregular migrants to register, once in the country, for some form of legal status. The ILO Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region (TRIANGLE) project, which aims to promote and increase protections of labour migrants' rights, recently began conducting quarterly reports on issues of migration in ASEAN, which include number of registrants via the National Verification process. The project describes these periodic registrations of irregular migrants as follows:

...registrations for irregular migrants were carried out on a semi-regular basis. Issued by cabinet resolutions, these policies provide short-term amnesty to migrant workers in violation of Thailand's immigration laws. This registration does not grant full legal status to migrants, in essence allowing employers to request a temporary reprieve from deportation. Completion of a lengthy nationality verification process allows registered migrant workers to receive temporary passports from countries of origin...'<sup>86</sup>

When accounting for the numbers of migrants who utilise these sporadic periods of amnesty to register for some form of legal status, an educated estimate of the number of

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<sup>84</sup> Ibid, p. 26.

<sup>85</sup> UNESCAP, 2015, p. 70.

<sup>86</sup> ILO, TRIANGLE, 2017.

irregular migrants (at minimum a portion of those who are working) can be surmised. The two latest TRIANGLE Quarterly Briefing Notes included numbers tabulated for August 2016 and January 2017, documenting 964,130 and 881,249 registrations respectively via the National Verification process, a majority of those migrants being from Myanmar.<sup>87</sup> These numbers equate to almost 2 Million migrants in some form of irregularity registering for a legal status in that time period, and though these statistics remain incomplete, they demonstrate the prevalence of irregular migrants in Thailand.

What does it exactly mean when a migrant is ‘irregular’? For migrant workers, this means they are operating outside of legal protections in their work. This leaves workers vulnerable to exploitation, such as forced labour, and lack of social services, like social security or health care. Entering a country via irregular channels as well, such as smuggling, can increase migrants’ vulnerability to being trafficked, and in the case of labour migrants, being trafficked for the purposes of forced labour. Global Slavery Index estimates that there are 45.8 million people worldwide trapped in modern slavery.<sup>88</sup> Of these 45.8 million people, over 50 percent of them are found in the Asia-Pacific region. It appears that as the region becomes more globalised, home to an abundant amount of low-cost labour, a large labour force, and a high degree of labour migration, migrant workers may be at an increased risk of exploitation.

An additional constituent of irregular migration causing concern is that of human trafficking. Trafficking manifests itself primarily in forms of modern slavery, such as forced labour.<sup>89</sup> The Global Slavery Index, part of the Walk Free Foundation, estimated that 45.8 Million people were trapped in some form of modern slavery across the world in 2016.<sup>90</sup> Previously in 2012, the ILO conducted its own research to expose the prevalence of modern day slavery, calculating a more conservative estimate of 21 Million victims of forced labour worldwide.<sup>91</sup> Strikingly, the Asia-Pacific region accounted for

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<sup>87</sup> ILO, TRIANGLE, 2016; ILO, TRIANGLE, 2017.

<sup>88</sup> Global Slavery Index.

<sup>89</sup> In the *ILO Data Initiative on Modern Slavery*, ‘modern slavery’ is used as an umbrella term to include all the concepts of forced labour, human trafficking and slavery.

<sup>90</sup> Global Slavery Index.

<sup>91</sup> ILO, *Forced Labour*, p. 13.

over 50 percent of the global population of forced labour, at 11.7 Million, with profits estimated at 51.8 Billion USD, demonstrating the high degree of trafficking in the region.<sup>92</sup>

Given the degree to which migrant labour, whether documented or irregular, is becoming exponentially more vital to various industries and economies worldwide, addressing the particular vulnerabilities inherent in migrant work is becoming exponentially more vital. As economies become more globalised, the prevalence of forced labour and other forms of labour exploitation in a myriad of sectors and industries around the world is becoming increasingly pronounced. Given these circumstances, it is imperative that there is continued progress at the international and regional levels to enhance the rights and protections of this indispensable population. In the following sub-sections, international and regional instruments relevant to migrant workers and insecurities arising from migration in the Southeast Asian context are catalogued, with particular focus given to whether these instruments are applicable in Thailand.

### ***2.3.1 International Instruments***

#### **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

The most comprehensive and progressive multilateral treaty addressing the protection and promotion of migrant workers' rights to date is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted by the United Nations General Assembly on 18 December 1990 and entered into force 1 July 2003. This revolutionary instrument provides international definitions for categorising migrant workers, stipulates all the rights that are due to migrant workers and their families regardless of their legal status, and places the responsibility to protect and uphold the rights of migrant workers and their families formally with the State.

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<sup>92</sup> Ibid, p. 16; ILO, Profits, 2012.

The preamble of the Convention invokes all the basic human rights codified in previous international instruments, like that of the Universal Declaration of Human Rights and the International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights, as well as relevant ILO conventions. It continues by cataloguing all specific rights due to migrant workers and their families, also reiterating the principle of non-discrimination. Migrant workers and their families may not be subject to forced labour (Article 11); no one can confiscate or destroy migrant workers' identity documents (Article 21); migrant workers and family members shall same treatment with regard to social security as nationals (Article 27); and rights particular to migrant workers and family members in documented or regular situations (Part IV). Also, notably, migrant workers are free to join in any trade union activities or other legal associations (Article 26) and also hold the right to receive medical care (Article 28).<sup>93</sup>

Although it does not employ explicit language, the Convention does obligate States to prevent and eliminate irregular forms of migration, such as smuggling and trafficking. Unfortunately, many primary destination countries for migrants and their families have yet to ratify the Migrant Workers Convention. Appallingly, only two of the 10 ASEAN states have ratified the Convention – Indonesia and the Philippines. Thailand has notably not signed or ratified the Convention, leaving its large migrant population without an over-arching international human rights instrument.

### **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**

Human trafficking in Thailand has recently become a primary transnational security concern, as the country witnessed its status in the United States Trafficking in Persons Report drop to the lowest ranking, Tier 3, in 2014 and 2015.<sup>94</sup> As it has become a high

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<sup>93</sup> UN Migrant Workers Convention, 1990.

<sup>94</sup> Thailand was upgraded back to the Tier 2 Watch List in 2016 and remains there for the 2017 report. All annual reports and information available via the US State Department website at:

<https://www.state.gov/j/tip/rls/tiprpt/>

United States Trafficking in Persons Report ranks countries according to the following tiers:

- Tier 1: Countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards.



priority of the current government to address the issue head-on, they have advanced steps to combat trafficking, such as ratifying the United Nations Convention against Transnational Organized Crime (UNTOC) and its Trafficking Protocol in October 2003. This protocol, the Trafficking Protocol, is one of the three Palermo protocols supplementing the UNTOC and entered into force in 2003. The Trafficking Protocol defined human trafficking and emphasised combatting illicit activity by protecting and assisting victims of trafficking, and prosecuting human traffickers. It provides a holistic conception of trafficking in persons as:

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.<sup>95</sup>

All ASEAN states have ratified the Trafficking Protocol, with the exception of Brunei.

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- Tier 2: Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.
  - Tier 2 Watch List: Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND: a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.
  - Tier 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

<sup>95</sup> UN Trafficking Protocol, 2000.

### **Protocol against the Smuggling of Migrants by Land, Sea and Air**

Smuggling is a sub-section of irregular migration and is a widely utilised alternative to regular migration paths in Southeast Asia. When legal channels are not available or accessible for migrants, they will rely on the assistance of smugglers to transport them illegally. In 2013, the United Nations Office of Drugs and Crime (UNODC) tried to estimate the number of migrants smuggled and illegal profits earned in exchange. Due to the illicit nature of smuggling, it is difficult to define concrete statistics on the issue, but UNODC released figures estimating over 500,000 migrants originating primarily from Cambodia, the Lao People's Democratic Republic, and Myanmar, are smuggled into Thailand annually. This amount of activity has an estimated worth of \$192 million USD.<sup>96</sup>

The second Palermo protocol followed the previous Trafficking Protocol into force in 2004, now referred to as the Smuggling Protocol, is also an addition to the UNCTOC. It defines smuggling as: 'Smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.'<sup>97</sup> Widely regarded as a useful instrument in combatting and preventing migrant smuggling, the Smuggling Protocol also obligates State parties to criminalise the act of human smuggling. Though this protocol is equally important to providing security and protection to those who migrate via irregular channels, only half of the ASEAN nations have ratified the protocol; notably absent are the primary destination countries for migrants in the region – Malaysia, Singapore, and Thailand.

### ***2.3.2 International Labour Organization Treaties***

#### **ILO Convention concerning Migration for Employment, No. 97**

The 1949 Migration for Employment Convention, No. 97, entered into force in 1952 and currently only stands at 49 state ratifications. The 1949 Convention drafts conditions for

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<sup>96</sup> UNESCAP, 2015, p. 29.

<sup>97</sup> UN Smuggling Protocol, 2000, Art. 3a.

recruitment of migrant workers and promotes the standards of good working conditions for migrant workers. No. 97 advanced the crucial principle of equal treatment between migrant workers and national citizens regarding matters of law, regulation, and more importantly administrative formalities with respect to compensation, social security, living and working conditions, taxes, and access to justice.<sup>98</sup> This essential convention of the ILO has only been ratified by the Philippines.

### **ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, No. 143**

The 1975 Migrant Workers Convention was the first multilateral effort to combat irregular migration related to human trafficking, entering into force in 1978. It encouraged States to uphold the human rights of even irregular migrants and expanded the rights of documented migrant workers. These rights included equal access to opportunity and employment and economic, social and cultural rights, such as right to join trade unions.<sup>99</sup> Again, only the Philippines has seen fit to ratify this convention. Thailand does not permit for its own nationals to join trade unions in specific sectors, and the Alien Work Act explicitly prevents migrant workers from joining a union in any context, which conflicts with the provisions outlined in this ILO convention.<sup>100</sup>

### ***2.3.3 ASEAN Declarations***

Despite continuous labour migration flows within ASEAN and their integrality to industrial growth in the region, it appears that the inter-governmental body has yet to cultivate long-term regional migration policies. Regulation efforts have largely been left to the responsibility of individual states to develop sustainable migration policies to mitigate and structure incoming migrants. As documented in the previous section, temporary labour migration is the dominant flow, however each ASEAN state experiences this flow differently. Some states are destination countries, some countries of origin, while each houses different industries that necessitate various occupational skill

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<sup>98</sup> ILO Migration for Employment Convention, 1949, No. 97.

<sup>99</sup> ILO Migrant Workers Convention, 1975, No. 143.

<sup>100</sup> Alien Work Act B.E. 2551, 2008.

levels. The economic opportunities present in the region certainly drive migrants to move, but other drivers may include political instability, persecution, or natural disasters. Thus, a blanket one-policy-for-all would not address the diverse profile of migration in the region.

### **ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers**

At the 12<sup>th</sup> ASEAN Summit in Cebu, Philippines in 2007, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Migrant Workers Declaration) was the first of its kind regionally to be adopted by its member states. The Migrant Workers Declaration held much promise to finally address the vulnerabilities of its endemic migrant populations, establishing the ASEAN Committee on the Implementation of the Declaration (ACMW) with the goal of creating a legally binding instrument.<sup>101</sup> However, ten years after the Cebu Summit, there has still yet to be consensus on adopting a formal instrument. Indonesia and the Philippines have been strongly supportive of implementation of the instrument, but have been met with resistance by the main destination countries of Malaysia, Singapore, and Thailand.<sup>102</sup> The upcoming 31<sup>st</sup> ASEAN Summit scheduled for November 2017 will include discussions on the declaration, perhaps leading to a much-anticipated consensus.

### **ASEAN Convention Against Trafficking in Persons, Especially Women and Children**

There has recently been more promise from ASEAN in the arena of combatting human trafficking. The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), signed in 2015, entered into force 8 March of this year, 2017, after six ASEAN States ratified the Convention – Singapore, Thailand, Vietnam, Myanmar, Philippines, and Lao PDR.<sup>103</sup> It is the first legally binding instrument concerning trafficking in persons implemented by ASEAN; the ACTIP aims to prevent and fight trafficking, enhance enforcement mechanisms to punish perpetrators, and

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<sup>101</sup> ASEAN Migrant Workers Declaration.

<sup>102</sup> Thuzar, 2017; Salim, 2017.

<sup>103</sup> ASEAN, 'ACTIP', 2017.

provide increased protection and assistance to victims.<sup>104</sup> Moving forward, it will be vital to assess the ways in which the ACTIP is implemented in the ASEAN States and how it increases protections to migrant workers.

Though much progress is still to be made in order to fully protect the rights and safety of migrant workers around the world, these instruments demonstrate a growing movement to address their unique circumstances and vulnerabilities. The combination of these instruments also illustrates the particular human insecurities that are borne from the rapidly expanding migratory trends of globalisation. Their existence highlights not only the risks posed to the security of states, but also the very real and detrimental security risks to individuals and populations within states. Utilising the case of Thailand, this link between security, that of the state and of individuals, and migration will be explored and analysed in the next chapter.

### **III. THE SECURITY-MIGRATION NEXUS: THE CASE FOR THAILAND**

#### **3.1 Nexus of Securitisation & Migration**

*“Increased global migration has become both a symbol of freedom and a reminder of global insecurities.”*

Jennryn Wetzler, *Human Security: Securing East Asia's Future*

In *Security: A New Framework for Analysis*, the Copenhagen School scholars appear to summarise the security analysis as disinterested in real or ‘objective threats’, but more so in how these threats are constructed.<sup>105</sup> On the other hand, NTS studies delineate that certain security challenges, like ‘climate change, resource scarcity, infectious diseases, natural disasters, irregular migration, food shortages, people smuggling, drug trafficking

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<sup>104</sup> ASEAN Convention Against Trafficking in Persons.

<sup>105</sup> Buzan et al, 1998, pp. 24 - 26.

and transnational crime' are concrete threats that do exist regardless of securitising processes.<sup>106</sup> Globalisation has led to an uneven distribution of wealth and employment, and thus migration is a reality for the foreseeable future as people leave their home countries in search of better economic opportunities. From the preceding chapter, it is clear that forced labour, trafficking, smuggling, and irregular migration may materialise as derivatives of these migratory flows. These manifestations of irregular migration are genuine generators of security risk for states and individuals alike. It is necessary then, at times, to draw a distinction between perceived and concrete existential threats and to recognise that states often use their power as securitising actors to construct security threats so they may maintain a status quo or as a means to reinforce particular policies, as Mohd Don and Lee write.<sup>107</sup> Other times, such as evident with the case of irregular migration, a security threat objectively does exist. Moreover, it is crucial to be critical of the methods used to interpret these threats, and in what ways those methods help or harm those who's security is at the greatest risk.

In *Security*, the Copenhagen School briefly discusses how migration can be regarded as a threat to the societal, or identity, security of a state or nation, as it can challenge the community's survival.<sup>108</sup> Migrants, which compose the larger notion of migration, may be constructed as an 'other' which threatens the 'we' of the societal, or national, identity. State officials, as securitising actors, typically address migratory threats via control of borders or legislation, and are advantaged in doing so as often those in positions of power can dictate the means of management and public perception of the threat. As the scholars recognise, '[t]he defense of state and sovereignty will tend to strengthen those in power.'<sup>109</sup> Though they encourage for a conscious approach to power structures, their centre of analysis lies too far from the human rights-focused critique that is necessary when researching the nexus of security and migration.

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<sup>106</sup> Caballero-Anthony, 2016, p. 6.

<sup>107</sup> Mohd Don and Lee, 2014.

<sup>108</sup> Buzan et al, 1998, pp. 120 – 121.

<sup>109</sup> Ibid, p. 23.

Contrastingly, NTS-Asia unequivocally advocates for a human security-centered, rights-based approach to migration policy. An *NTS Issues Brief* from 2013 quite succinctly illuminates the stance of the NTS school of thought, asserting that ‘[w]hen destination countries tolerate high levels of irregular migration, they undermine their own legal immigration systems’ and likewise that combatting irregular migration via law enforcement or criminalisation is largely insufficient now.<sup>110</sup> The school respects states’ right to sovereignty and affirms that uncontrolled flows of migration can endanger national security, but also insists that mismanagement on behalf of the state can generate negative and detrimental perceptions of the public towards migration. This fusion of state and human security, focalised on human rights, is a more holistic, analytical approach that possibly can help to realise a greater feeling of security for all stakeholders, including those most vulnerable.

Concerning this topic in the context of Southeast Asia, other scholars have found linkages between securitisation and migration and migration-related issues in the region.

Alexander Arifianto’s article for the *Asian Politics & Policy* in 2009 entitled ‘The Securitization of Transnational Labor Migration: The Case of Malaysia and Indonesia’, makes a case that the Malaysian government had shifted from welcoming Indonesian labour migrants to categorising them as a threat to national security.<sup>111</sup> The author concludes that a tangible process of securitisation can be observed via a ‘bottom-up’ approach, in which the local Malaysian populace influenced the state and policy-makers to take more serious action regarding the increasing flows of migrant workers. However, Arifianto does conclude by recognising the increased vulnerabilities of the Indonesian migrant workers who were present in Malaysia as a result of harsher security policies and recommends exploring alternative policies regarding migrants within the bounds of normal democratic processes.<sup>112</sup>

A more recent article, ‘Using Security: The Securitisation of Migration in Malaysia’ by George May, takes on more of the critical security studies perspective and confirms a

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<sup>110</sup> RSIS, 2013, p. 2.

<sup>111</sup> Arifianto, 2009.

<sup>112</sup> Ibid, p. 628.

continued framing of Indonesian migrant workers as perceived threats, propagated by Malaysian elite.<sup>113</sup> May's research argues that elites have facilitated stigmatisation of these migrants, which in turn validates further extraordinary measures concerning migration as this view has permeated into Malaysian society. In doing so, Malay 'politico-cultural hegemony' is maintained, but at the expense of migrant workers' security.<sup>114</sup> In similar research conducted by Zuraidah Mohd Don and Charity Lee, the authors found that elites in Malaysia, via the media, continuously portray refugees and asylum seekers as illegals and threats, which reinforces restrictive governmental policies concerning those populations.<sup>115</sup>

For states, migration – which obviously concerns the movements of people, meaning migrants, migrant workers, and irregular migrants – is a valid security concern. When states are unable to control migratory flows into their territory manifestations of irregular migration, such as trafficking and smuggling, pose a real danger to the national security of the state. Large numbers of irregular migrants can create unrest within the national population, as locals distrust their governments are adequately managing migration; while lacking a formal status, migrants may not be able to access health care and can spread infectious diseases to members of the community.<sup>116</sup> Most commonly however, which is arguably the motive for President Trump in the US and a facilitating factor in the success of the Brexit vote, is the idea of preserving national identity. Immigrants, including migrant workers and irregular migrants, are seen as a threat to the preservation of a national identity. Migrants are accused of dismantling the national identity, due to differing religious or ethnic affiliations than the majority population; they may be competing with locals for similar jobs and perceived as depressing wages; or their 'otherness' is in itself incompatible with the national and cultural identity of a state. When analysing processes of securitisation and the methods, rhetoric, and measures utilised by the securitising actor in threat management, from a human rights perspective, the researcher must ask if extra-political measures are truly in the interest of preserving

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<sup>113</sup> May, 2015.

<sup>114</sup> Ibid, p. 38.

<sup>115</sup> Mohd Don and Lee, 2014.

<sup>116</sup> Huguët, 2014, p. 69.



national security or merely a means to consolidate power. The state, often retaining a monopoly over the construction of security and seeking to forward its own agenda, may manipulate the perceived threat of migration as a means to enact extra-political legislation in a bid to consolidate power.

It seems self-evident, but it is imperative to briefly underscore the threats to the safety and welfare, or human security, of migrants arising from their migratory experiences. As this thesis is primarily concerned with migrant workers, it is most applicable to chronicle those insecurities related to trafficking for the purposes of forced labour and undocumented work of migrants; the first originating pre-destination and the second post-destination. As previously stated, trafficking of migrants entails the act of taking and transporting someone against their will, by force or coercion, for the purposes of exploitation, such as sexual exploitation, slavery, or forced labour.<sup>117</sup> Vulnerable migrants, especially those traveling to fill the demand for low-skilled employment, often resort to utilising irregular pathways that increase their susceptibility to trafficking. As the 2016 RSIS *Year In Review* reports, undocumented and irregular migration flows, particularly those between neighbouring countries, are highest in Asia.<sup>118</sup> The 2016 UNODC *Global Report on Trafficking in Persons* details that though trafficking for the purpose of sexual exploitation comprises the majority of cases worldwide, trafficking for forced labour is increasing, with ‘four in 10 victims detected between 2012 and 2014...and out of these victims, 63 per cent were men.’<sup>119</sup> UNODC also found that from 2012 to 2014, 60 percent of detected trafficking victims were sexual exploitation cases, but almost one third of the 7,800 victims were of forced labour, identified in Cambodia, Indonesia, and Thailand as primarily victims in the fishing industry.<sup>120</sup> When a migrant is trafficked, it is a serious human rights violation that impinges a person’s liberty, agency, and at times their very life.

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<sup>117</sup> Please refer to the UNCTOC Trafficking Protocol for the full definition.

<sup>118</sup> RSIS, 2016, p. 11.

<sup>119</sup> UNODC, 2016, p. 6.

<sup>120</sup> East Asia and the Pacific consists of: Australia, Cambodia, China including Taiwan Province of China, Fiji, Indonesia, Japan, Malaysia, Marshall Islands, Mongolia, Myanmar, Philippines, Republic of Korea, Solomon Islands, Thailand and Viet Nam. UNODC, 2016, p. 103.

Given that even legal migration lacks comprehensive protections, migrant workers' vulnerability to exploitation is compounded post-destination when they are in a state of irregularity, or undocumented. Migrant workers can initially become irregular by entering the country via unlawful pathways, like smuggling or trafficking. They may also enter unlawfully of their own volition, or enter legally but then gain an irregular status due to an expired visa, residence, or work permit. Once established in a destination country, but without a legal status, undocumented migrant workers lack the access to the resources available to local or documented workers, such as social security benefits and health care. They face a greater risk of labour exploitation from employers, such as overwork, abuse, confiscation of identity documents, intimidation, but also occupational safety and health risks, extortion from corrupt officials, and lack of mechanisms for redress.<sup>121</sup>

There are numerous, well-documented instances of the exploitations experienced by migrants in Southeast Asia, yet two relevant examples which exemplify the nexus of security and migration in the region are the 2015 Bay of Bengal 'boat crisis' and the recent abuses exposed in the Thai fishing industry. In 2015, this 'boat crisis' escalated, as boats toting refugees and migrants from Myanmar and Bangladesh in route for other Southeast Asian destinations attempted to anchor in Thailand but were forced back out by the Thai navy, leaving thousands stranded at sea with many casualties.<sup>122</sup> The case particularly illustrated the lack of effective migration policies and the inadequacy of the relevant governments in managing a crisis of this nature. The governments involved, notably Thailand, were concerned with national security and the inability to provide services to all the incoming migrants. Thai Prime Minister, General Prayut Chan-o-cha, responded to the crisis arguing that Thailand did not have the necessary resources in which to aid the refugees, stating, "No one wants them. Everyone wants a transit country like us to take responsibility. Is it fair?"<sup>123</sup> This crisis emphasised the grave consequences borne from prioritising national security at the expense of the human

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<sup>121</sup> Huguet, 2014.

<sup>122</sup> Associated Press, 2017; see also the following for a broader timeline of events: Nayak S., "South-East Asian migrant crisis timeline", *ABC News*, 29 May 2015.

<sup>123</sup> Associated Press, 2017.

security of refugees and migrants.<sup>124</sup>

There is a compelling link between security and migration, both for states and individuals. Despite the objective analytical approach advanced by the Copenhagen School, migration inherently conveys real threats: states may face strains on local resources due to large influxes, possible backlash from national population due to fear of unregulated migration, or possible threats to the health and well-being of the local populace posed by migrants. For individuals, they can be trafficked, forced to work against their will, or unable to seek redress for labour or human rights violations. Based on this logic and viewing this nexus of security and migration from a human rights perspective, part of this thesis draws its argument from the idea that true security of all stakeholders cannot be achieved without encapsulating the security of the most vulnerable in all migration policy. What is of concern are the methods of management employed by the monopoliser of security – in this case, the state – and of equal importance is always the need to question who's security is prioritised and where do gaps exist in implementation that exacerbate the vulnerabilities of those most vulnerable.

Thailand serves as a representative case in which to analyse the linkages between security and migration, within the framework of securitisation, as it accommodates flows of Southeast Asia's emblematic temporary labour migration, with a high degree of susceptibility to irregular migration. The example of labour exploitation in the country's fishing industry will be highlighted throughout the case study, as it functions as an embodiment of the ways in which mismanagement of migratory flows and continued absence of human rights-centered migration policies can result in severe security repercussions for the state and vulnerable migrant workers.

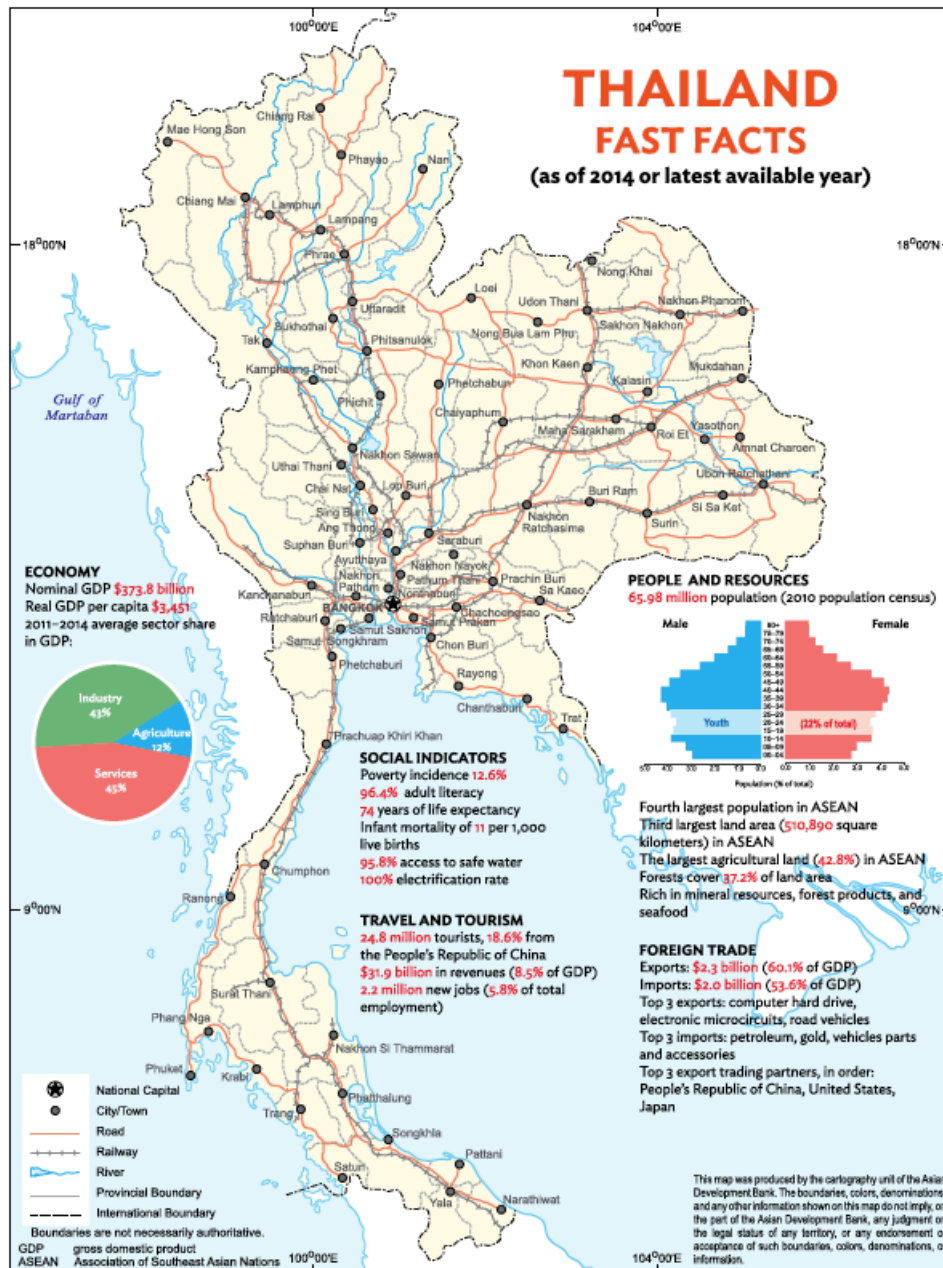
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<sup>124</sup> For an in-depth look at the 2015 Bay of Bengal crisis, see: Newland, Kathleen, *Irregular Maritime Migration in the Bay of Bengal: The Challenges of Protection, Management and Cooperation*. 2015, Bangkok and Washington, D.C.: International Organization for Migration and Migration Policy Institute.

## 3.2 Characteristics of Labour Migration & Role of Migrant Workers in Thailand

*“Thailand’s economic development is dependent on labour-intensive export sectors and ... has been built on systematic and widespread exploitation of migrant workers from neighbouring countries.”*

Andy Hall, interview for *Frontier Myanmar*



Thailand is one of the five founding members of ASEAN, along with Indonesia, Malaysia, the Philippines, and Singapore, and the regional organisation was inaugurated in Bangkok with the signing of the Declaration on 8 August 1967.<sup>125</sup> Since its inception, Bangkok has been the site for many of the organisation's various conferences and forums, as Thailand's biggest and capital city has become a regional economic hub. Thailand has experienced strong and steady economic growth since the late 1980's, as the emergence of its manufacturing and export industries blossomed. As economic prosperity allowed for the local Thai population to transition to more skilled employment, the growing demand for low-skill labour stimulated intra-regional migration, primarily from Thailand's neighbouring countries. Migrant workers became progressively more integrated into the economy, however Thailand's migration policy has been characterised as 'ad hoc' at best. Lack of robust regulation and implementation has given rise to unfettered irregular migration with serious human rights implications for unprotected migrant workers.

### **Thai Economy**

Thailand has firmly staked its position as a top-performing economy in the ASEAN region – its 2016 GDP ranked 2<sup>nd</sup> of the ten ASEAN nations, at almost 395\$ Million USD.<sup>126</sup> The following graph illustrates Thailand's climb to becoming a middle-income economy:

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<sup>125</sup> Map: ADB, 2015.

<sup>126</sup> ASEAN, 'Statistical Leaflet', 2016.

**Figure 3.2**<sup>127</sup>

*Globalization and mass society, 1970s onwards*

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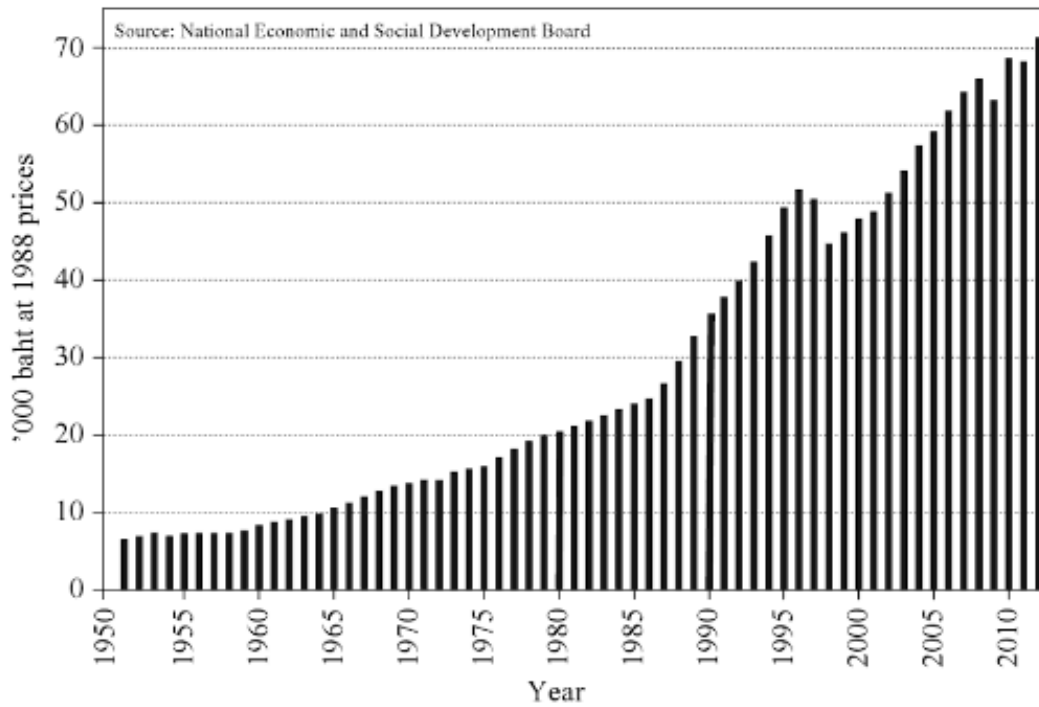


Chart 2: Real GDP per head, 1951–2012.

Though Thailand has established itself as a powerhouse of manufacturing and export in Southeast Asia, namely home to major construction, electronic part and automobile assembly, agriculture, textile, and fishing industries, the country has recently experienced stagnation in its economic growth.<sup>128</sup> Recent annual growth has decelerated in comparison to its latest era of industrial and urban development, but the World Bank projects that the country's economy will see a 3.2 percent growth in GDP for 2017, as it continues on a trajectory of being a top-performing economy in Southeast Asia.<sup>129</sup> After a period of economic liberalisation, the 1980s witnessed rapid industrialisation, driving a reallocation from primarily agricultural production to manufacturing and services. This marked facilitated technological advances, which also aided the country's transition from

<sup>127</sup> Baker & Phongpaichit, 2014, p. 201.

<sup>128</sup> ADB, 2015.

<sup>129</sup> World Bank Group, 2016.

a labour-intensive economy to a more production-oriented, capital-driven economy.<sup>130</sup> Since the mid-1980s, the industrial sector has swelled from 30 percent to 42 percent of Thailand's GDP in 2014. Contrastingly, the share of the agricultural sector's GDP drastically declined during the rapid industrialisation period leading to only 12 percent of total GDP in 2014.<sup>131</sup>

### **Thai Labour Force**

In this transformative decade from 1985 to 1995, rising education levels led to an expansion of the middle class as Thais transitioned to more skilled and professional positions.<sup>132</sup> The manufacturing workforce reached almost 5 million strong, doubling in size; almost a million people annually left the agricultural sector for work in services or in the bustling manufacturing sector.<sup>133</sup> However, of the current labour force of about 38.5 million, the agricultural sector still employs 40 percent of the working population while the industrial sector is about 14 percent, with the remainder in services.<sup>134</sup>

Synonymous with industrial growth was the increased demand for affordable, low-skilled labour, which attracted migrants to Thailand to fill the shortfall. The expansion and success of Thailand's industrial prosperity relies heavily on the cheap labour provided by this influx of migrant workers. After sustained migratory flows, the construction industry labour force is now estimated to be composed of 80 percent migrant workers, while migrant workers consist of 75 percent of the fishing industry (and within the fishing industry, a formidable 90 percent of the seafood-processing workforce<sup>135</sup>).<sup>136</sup> Thai reliance on its migrant workforce is becoming more pronounced and the fishing industry provides a befitting example of this truth. The most recent IOM *Thailand Migration Report* in 2014 writes:

...the sector would be unable to maintain its current level of production without them [migrant workers] (Chokesanguan, 2011). Any disruption of the fisheries

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<sup>130</sup> Chalamwong et al., 2012, p. 447.

<sup>131</sup> ADB, 2015, pp. 3 -4.

<sup>132</sup> Baker & P., 2014, p. 199.

<sup>133</sup> Ibid, p. 203.

<sup>134</sup> ADB, 2015, pp. 3 -4.

<sup>135</sup> FishWise, 2013.

<sup>136</sup> Huguët, 2014, p. 165.

sector would have further implications for other industrial sectors, such as seafood processing, storage, transportation and trade, impacting related communities and businesses as well as domestic and international consumers...As such, the economic and social implications of changing migration patterns go well beyond GDP.<sup>137</sup>

In 2016, employment declined by 0.9 percent as demand for the Thai agricultural and manufacturing sectors wanes and its aging population is causing a shrinkage in the labour force.<sup>138</sup> It appears Thailand is facing an impending labour shortage in the near future and migrant workers will continue to be vital in filling key gaps in the work force. It is currently estimated that Thailand's migrant workers, approximately 3.25 million people, constitute 8.5 percent of the total labour force, working in the fishing and construction industries, as well as other agriculture industries, manufacturing, and domestic work.<sup>139</sup>

### **Labour Migration to Thailand**

Due to its previous rapid economic growth and abundant employment opportunities relative to its neighbours, Thailand has become the top destination country for migrants in the Greater Mekong Sub-region (GMS), with migrant workers primarily originating from Cambodia, Laos, and Myanmar (CLM).<sup>140</sup> According to the International Organisation of Migration (IOM) in 2015, migrants from Myanmar alone consisted of over 1.9 million of the 3.9 million migrants in Thailand.<sup>141</sup> In 2014, women accounted for 40 percent of all documented migrant workers.<sup>142</sup> Many sectors tend to exhibit gendered labour segregation, with women migrant workers primarily employed in domestic work, whereas men dominate the construction industry.

An array of factors act as push and pull drivers of migration for these populations. Push factors are dependent on the particular origin country; in the case of Cambodia, wide

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<sup>137</sup> Ibid; 'Chokesanguan, 2011' is cited within the report.

<sup>138</sup> ILO, Asia-Pacific Labour Market, 2017, p. 1.

<sup>139</sup> ILO, TRIANGLE, 2017.

<sup>140</sup> Huguët, 2014.

<sup>141</sup> IOM, 2017.

<sup>142</sup> Huguët, 2014, p. 111.



inequality and poverty propel migrants over the border and the circumstances in Lao PDR are similar. Myanmar migrants, which act as the hallmark representation of ‘mixed flow’ as this group may consist of migrant workers, refugees, stateless peoples, and smuggled or trafficked persons, have sought out shelter and opportunity in neighbouring Thailand as they flee the political instability and economic stagnation that has been plaguing Myanmar for the past half century. The country was governed by strict military dictatorship until its recent transition to democracy that began in 2011. Despite this, there has been continued violence, markedly in Rakhine state, which continues to drive masses of Burmese and Rohingyas out of Myanmar.<sup>143</sup> The wide availability of employment opportunities, across a multitude of industries, presents the strongest pull factor for migrants in the region, from the rural areas within Thailand and CLM.<sup>144</sup> The wage differential between Thailand and its neighbours is in high contrast, as its economy greatly outperforms those of Cambodia, Lao PDR, and Myanmar.

### **3.4 Domestic Policies Concerning Migrant Workers**

Previous administrations of Thailand have taken formal steps over the past two decades to incorporate the largest migratory sub-group flowing into the country, temporary, low-skilled labour migrants, into their workforce, but policies remain fragmented, ineffective, and for the most part ad hoc.<sup>145</sup> The following table provides a brief overview of the RTG’s attempts to regulate migration in the country until 2012. The next section will focus on the current administration’s, the military-led National Council for Peace and Order, slightly differing approach to migration policy, which is actively focused on combatting the human trafficking element of irregular migration.

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<sup>143</sup> For more information on the Rohingya population of Myanmar, and see: UNHCR, ‘Mixed Movements in South-East Asia 2016’, UNHCR Regional Office for South-East Asia, April 2017.

<sup>144</sup> Chalamwong, 2012, p. 447.

<sup>145</sup> Ibid; Huguet, 2014.

**Table 3.4**

**Development of Migration-Related Policies in Thailand, 1990 – 2012<sup>146</sup>**

Stage	Key Policy
<p><b>Stage 1</b> (1990–2000) Acknowledgement of irregular migrant workers</p>	<ul style="list-style-type: none"> <li>■ Low-skilled migrants from neighbouring countries were first acknowledged in Thai society.</li> <li>■ The government implemented the ‘quasi-regularisation’ of migration which responded to concerns about national security, economic necessity and employer demand.</li> <li>■ The most important policy in this stage was the “registration policy”, which was first implemented in 1992.</li> </ul>
<p><b>Stage 2</b> (2001–2003) Regularisation migrant policy</p>	<ul style="list-style-type: none"> <li>■ The Ministry of Labour was assigned to develop policies towards regularization of irregular migrant workers.</li> <li>■ Thailand signed Memorandums of Understanding (MOUs) on employment cooperation with three neighbouring countries; namely, Myanmar, Lao PDR, and Cambodia.</li> <li>■ This stage was also known as the development of the “<i>half-open door</i>” policy because the government extended the registration policy; however, it covered only some sectors and provinces.</li> </ul>
<p><b>Stage 3</b> (2004–2005) Amnesty Policy</p>	<ul style="list-style-type: none"> <li>■ The government tried to legalise irregular migrant workers who were acknowledged as an invisible group.</li> <li>■ The government implemented two major measures toward legalisation of irregular migrants including “<i>Nationality Verification (NV)</i>” and importation of migrant workers directly from neighbouring countries with a temporary passport.</li> </ul>
<p><b>Stage 4</b> (2006–2008) Sticking to the “regularisation” policy</p>	<ul style="list-style-type: none"> <li>■ Implementation of the Nationality Verification (NV) process with legal \ regular workers from Cambodia and Lao PDR (2006) and Myanmar (2008).</li> <li>■ The constraints on implementing the nationality verification process included; (1) an inefficient system; (2) complex NV process and absence of ‘one-stop’ services; (3) lack of information among employers and migrants; (4) high costs from unregulated brokers; (5) problems with return of migrants from Myanmar (particularly ethnic minorities reluctant to return home) and (6) delays caused by reciprocal NV process in Myanmar.</li> </ul>
<p><b>Stage 5</b> (2009– 2012 ) “More open door policy”</p>	<ul style="list-style-type: none"> <li>■ Development of a “<i>more open door</i>” policy, which broadens government cooperation with neighbouring countries</li> <li>■ The policies implemented in this stage entail protecting the rights of migrant workers, ensuring safety migration and return, encouraging potential workers to use legal channels for migration, expediting the process of regularization of migrant workers as well as guaranteeing humane treatment of all workers, especially those with health problems.</li> <li>■ A draft amendment to the Alien Employment Act 2008 was proposed.</li> <li>■ In 2011, the Illegal Alien Workers Management Committee and its subcommittees concluded their deliberations and recommended the opening of a new migrant worker amnesty/registration scheme to address serious low-skilled labour shortages reported by employers. The government agreed to re-open migrant worker registration to all workers from neighbouring countries, including those who were not previously registered.</li> </ul>

<sup>146</sup> Chalamwong, 2012, pp. 453 – 454.

The above timeline of migration policy development illustrates the reactionary approach of the Thai government concerning migration policy. Three varying avenues, often changing and not streamlined amongst them, have been constructed either to regularise undocumented migrant workers or to recruit them initially from their country of origin. These policies include the *registration* periods and the *Memoranda of Understanding* (MOU), which created both the *National Verification* (NV) process and country-of-origin recruitment processes. Despite the sustained flow of migrant labourers to Thailand since the industrialisation boom, legislation directly targeting low-skilled labourers only began in 2003 with the introduction of the MOUs with its neighbouring countries. Since that time, registration periods remain sporadic and recruitment via MOUs remains low.<sup>147</sup> However, viewing the policies in totality demonstrates that since the early 1990s the Royal Thai Government (RTG) has attempted, however slowly, to address and acknowledge the necessity of migrant workers for its economy and mark the first steps to increasing the human security of these individuals. Gaining regular status allows migrant workers to access health insurance, social security, and decreases risk of deportation and exploitation.<sup>148</sup>

Here, the main components of the registration and MOU processes will be highlighted. Periods of registration for irregular migrants already employed within Thailand began in the early 1990s, but the first nation-wide registration was not granted until 2004, with an overwhelming 1.28 million undocumented migrant workers utilising the amnesty process.<sup>149</sup> Registration periods are essentially amnesty periods, granted exclusively for undocumented migrant workers, and their children, who had immigrated to Thailand irregularly. The original intention of these registration periods was to provide a short-term solution; the goal was to regularise already present undocumented migrant workers until the later MOU and NV processes became institutionalised.<sup>150</sup> These periods allowed irregular migrants to register for a one-year work permit, providing workers with some form of documentation and allowing them to access health insurance. These

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<sup>147</sup> For detailed information regarding *registration*, *MOUs*, and *National Verification*, please see: Huguet, 2014; ILO, 'Review of MOUs', 2015; and the most recent quarterly reports by ILO TRIANGLE.

<sup>148</sup> Huguet, 2014.

<sup>149</sup> Ibid, p. 14; see also Huguet, 2014 for more information specifically regarding registration processes.

<sup>150</sup> Ibid, p. 7.

registrations did not, however, provide these migrants with a regularised immigration status; they were still denied them specific labour rights afforded to documented migrant workers, allowing them to legally work while leaving them vulnerable to exploitation. Lack of regulation of these policies gave rise to corruptive practices amongst government officials and employers, such as extorting migrants for registration fees.<sup>151</sup> Also due to the temporary nature of the policy, the RTG coupled this tactic with the intention to arrest and deport any irregular workers that were found unregistered in the meantime.<sup>152</sup>

Whereas the registration periods were a unilateral effort at migration policy by the RTG, the Memoranda of Understanding on Cooperation in the Employment of Workers were bilateral agreements, signed with Thailand's neighbouring countries, Laos PDR in 2002 and Cambodia and Myanmar in 2003. Per the MOUs signed with the CLM countries, undocumented migrant workers can gain legal working status through the National Verification process or via recruitment channels in their countries of origin.<sup>153</sup> The ILO's 2015 *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* outlines the goals of the process:

1. Proper procedures for employment of workers;
2. Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party;
3. Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to; and
4. Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.<sup>154</sup>

Yet clear guidelines concerning the recruitment and placement processes and migrants' labour rights and social entitlements were not explicitly articulated in the agreements. Loosely explained, the MOU recruitment begins in the migrant's country of origin, in

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<sup>151</sup> Huguet, 2011; Chalamwong, 2011, pp. 457 – 458; Huguet, 2014, p. 14.

<sup>152</sup> Huguet, 2014, p. 7.

<sup>153</sup> ILO, 'Review of MOUs', 2015.

<sup>154</sup> Ibid, p. 8 - 9.

which they register for work in Thailand via a private recruitment agency (these agencies were formulated to unburden the MOU process for the government authorities). Once registered, migrants are permitted to travel to Thailand for their allotted employment with all proper documentation, including a temporary passport, Thai visa, and a two-year work permit.<sup>155</sup>

The National Verification (NV) process was also borne from the MOUs, and similar to the previous registration periods, was meant to regularise irregular migrants already residing in Thailand, complementary to the MOU recruitment channel. The NV differed from previous amnesty efforts, as it required the migrant's country of origin to verify their nationality, and afterwards then received the temporary passport or identity certificate, a two-year visa, and modified work status to legal.<sup>156</sup> Just as other MOU migrants, NV registrants qualified for social protections such as social security, work accident compensation, and ability of free movement.<sup>157</sup>

According to the ILO's 2015 review of the MOUs, upwards of 1 million migrants have migrated via MOU recruitment and NV processes, but these numbers are low given the fact these registration channels have been available to migrant workers since 2006. As mentioned in the previous sections, irregular migration still remains a rampant concern for Thailand, despite these policy initiatives, and many criticisms have been put forth regarding the registration and regularisation (MOU and NV) processes. Gaps in implementation still exist, as highlighted by the IOM in 2013 - of the 2.76 million (of the total 3.25 million working foreigners) migrant workers from CLM, almost 1.6 million still had irregular status, and this does not include workers who have never registered.<sup>158</sup> Migrants often claim the processes are expensive, time-consuming, and lack transparency. MOU procedures have led to a rise in exploitive practices by recruitment agencies, as recruiters charge high fees for services and deduct from migrants' salaries. There are also noted irregularities between "regular" and "registered" migrants, as the

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<sup>155</sup> Huguet, 2014, p. 14.

<sup>156</sup> Hall, 2012, p. 6.

<sup>157</sup> Hall, 2012, p. 6.

<sup>158</sup> Ibid.

former enjoy fully legal status and benefits while the latter will be slated for deportation upon completion of their allotted temporary stay. It is evident from the numerous systemic flaws and complications in the regularisation processes, as well as from the sporadic, short-term registration periods, that Thailand's policies are not forging a long-term, sustainable migration plan. As Hall notes, the MOUs came to fruition due to the insistence of Thailand's National Security Council, which exemplifies the primary objective initially arising from national security concerns.<sup>159</sup> Upon implementation, these policies disproportionately focus on bureaucratic processes and curbing continued irregular migratory flows per arrests and deportations. Seemingly lacking in the conception and practice of these policies are a true understanding of how significant migrant workers are to the Thai economy and efforts to afford them their due social protections and labour rights. Arguably, policies are chiefly developed in the interest of national security and less so on the human security of migrant workers.

### **Irregular migrant workers in Thailand**

It is common knowledge that congruent with these migratory flows there is a substantial amount of irregular migration occurring, primarily for the purposes of temporary labour. Porous borders, lack of robust policy, and implementation and enforcement of current policies allow irregular migrants to continue entering and working in Thailand.<sup>160</sup> Despite their status, most irregular migrants still maintain employment and thus contribute to the local economy, which inhibits many national authorities from proactively regulating this migratory group.<sup>161</sup> Due to the high degree of irregular migration, exploitation of migrants and migrant workers is pervasive within Thailand; trafficking, smuggling, forced labour, and other forms of labour exploitation are commonplace. Workers among those most commonly victims of human trafficking are within domestic work, fishing and fishing-related industries, textiles, and factory work.<sup>162</sup>

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<sup>159</sup> Hugué, 2011, p. 19.

<sup>160</sup> Hugué, 2014.

<sup>161</sup> UNESCAP, 2015, p. 26w.

<sup>162</sup> Hugué, 2014, p. 123.

Prominent migrants rights activist and founder of Migrant Workers Rights Network in Thailand, Andy Hall, was recently interviewed by *Frontier Myanmar* about Thailand's migration policy and conditions of migrant workers in the country. After working on these issues in Thailand and Southeast Asia for over a decade, he had this to say about migrant workers in Thailand, '[t]hese workers have often [endured] terrible and degrading conditions, [been victims of] forced labour and trafficking, and are perceived as second-class citizens not worthy or deserving of basic rights and recognition.'<sup>163</sup>

### **The Thai Approach to Labour Migration**

Continued flows of irregular migration and rife exploitation of migrant workers – especially those in vulnerable employment such as the fishing industry, demonstrate a lack of comprehensive, long-term migration policy. Registration and regularisation processes are a start in policy development, but practical implementation unnecessarily employs repatriation or criminalisation tactics regarding irregular migrants that exacerbate migratory-borne vulnerabilities. As Wetzler indicates, developing migration policy primarily reliant on reactionary methods such as arrest and deportation, '...“removes them from their income sources creates financial instability and further entrenches the indebtedness that impelled their migration in the first place.”<sup>164</sup> Andy Hall criticised Thailand's migration policies as 'half-hearted, nationalist, and national security-centric' and 'marred in deep-rooted corruption'.<sup>165</sup>

There are many other domestic policies that aim to address specific rights of migrants, to offer them social protections such as social security, healthcare, and complaint mechanisms. The registration and MOU processes were highlighted specifically due to the fact that they target registering irregular migrants and often entail regularising the largest numbers of undocumented migrants (even though utilisation of these mechanisms remains inconsistent). The registration and MOU processes are also intended to illustrate the sporadic nature of Thai migration policy, which continue to lack cohesion and demonstrate a failure to develop long-term, sustainable migration policy. In doing so, the

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<sup>163</sup> Slow, 2016.

<sup>164</sup> Wetzler, 2012, p. 81.

<sup>165</sup> Slow, 2016.

government would arguably be able to address their primary concern of the moment – human trafficking. Despite the ineffectiveness in the current policies, they demonstrate that the government does at a minimum recognise that migration is an issue requiring a state response.

In summary, despite these migration policy developments, exploitation and vulnerabilities of migrant workers remains prevalent. Furthermore, the pervasiveness of trafficking and forced labour within various Thai industries is often a direct result of deficiencies in current policy, such as insufficient regulation of recruitment agencies. Imprecise and inefficient policies prevent clear access to information regarding migration policies and migrants rights, making migrants susceptible to exploitative recruiters. Convoluted processes with high registration fees and excessive barriers perpetuate irregular migration, in which migrants potentially rely on smugglers to transport them into Thailand, multiplying their susceptibility to being trafficked or extorted into forced labour.

### **Labour Exploitation - Thailand's Fishing Industry**

Within the fishing industry, the workforce is almost 90% comprised of migrant workers.<sup>166</sup> Thailand is ranked as the 4<sup>th</sup> largest exporter of fish worldwide, topping over 6.5\$ billion USD in exports in 2014.<sup>167</sup> However, the higher demand globally for seafood products, coupled with practices of overfishing, has caused companies to spend more time out at sea, farther from the shores, all for less catch. As these factors merge, companies are prompted to cut costs - which leads to a dependence on migrant workers as these employers seek out the cheapest available labour.<sup>168</sup> Though these migrant workers are integral to the functioning of the Thai economy, too often the security of these individuals is placed in jeopardy due to the precariousness of migrant work. As native Thais seek better employment for higher wages, many industries rely on migrant workers to opt for the “3D jobs” – dirty, dangerous, and demanding. Without the development of robust, rights-based policies and industry regulations, migrant workers

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<sup>166</sup>FishWise, 2013.

<sup>167</sup> FAO, 2016.

<sup>168</sup> ILO, ‘Caught at sea’, 2013.



are vulnerable to harsh detention and deportation practices, exploitation through unprotected employment in the informal economy, as well as human trafficking, smuggling, predatory recruitment practices, forced labour, unsafe working conditions, and little to no social protections.<sup>169</sup>

The tenuousness of migration policy in Thailand is eminently apparent in the fishing and seafood production industries. Labour exploitation, such as forced labour in its worst form, has been well-documented in the Thailand over the past decade, but most recently and palpably in this industry. One of the most publicised and shocking reports was documented by the Associated Press in 2015, in which the award-winning exposés revealed global markets had been tainted with fish caught by slave labour on Thai fishing trawlers. Numerous reports from the victims, nationals from Cambodia, Lao PDR, Myanmar and Thailand, state recruitment agents lured them with promises of decent work, but then later sold them to Thai fishing boats – typically for 1000\$ USD each - where they were forced to work in extreme, slave-like conditions.<sup>170</sup> Most of these migrant workers were told they must work to pay off an inflated debt they owed to the company for their purchase. Conditions included 20 to 22 hour work shifts, forced to work without pay for years, intimidation by employers, lack of appropriate protective clothing, hazard working conditions, insufficient sleep and food, physical abuse and in extreme cases some men were beaten to death and thrown over the boats into the sea.<sup>171</sup> The most horrifying element was the discovery of a slave camp in Benjina, Indonesia, in which illegally registered Thai fishing trawlers docked and forced their crews to confinement in cages to prevent them from escaping.<sup>172</sup> The AP investigation discovered one Burmese man had been trafficked and forced to work on the fishing boats for 22 years.<sup>173</sup> Consequently, AP’s reporting culminated in the release of over 2000 slaves from the isolated island of Benjina.

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<sup>169</sup> Huguet, 2014.

<sup>170</sup> Mason, McDowell, Mendoza, 2015.

<sup>171</sup> Ibid.

<sup>172</sup> Ibid.

<sup>173</sup> Mason, 2015.

Another report in the series also documented forced labour and child labour in shrimp peeling factories in Samut Sakhon, Thailand, a major seafood-processing hub outside of Bangkok.<sup>174</sup> Conditions reflected that of the fishing boats – bonded labour to pay off recruitment fees, extremely long working hours, no off days, little sleep, and lack of access to medical care. The AP writes that workers depicted severe circumstances in these shrimp peeling ‘sheds’, ‘[a] woman eight months pregnant miscarried on the shed floor and was forced to keep peeling for four days while hemorrhaging’ and ‘[a]n unconscious toddler was refused medical care after falling about 12 feet onto a concrete floor.’<sup>175</sup>

The ILO, as well as numerous NGOs, have also documented the labour vulnerabilities intrinsic to the fishing industry. The ILO Special Action Programme to Combat Forced Labour released a comprehensive report in 2013 detailing all previous research that had been conducted to expose the rampant labour abuses in the fishing industry and how undocumented migrant workers were most vulnerable.<sup>176</sup> A Southeast Asian-centered project, the GMS TRIANGLE project – Tripartite Action to Protect Migrant workers within and from the Greater Mekong Subregion from Labour Exploitation – focuses on providing protection to regional migrant workers by safe-guarding recruitment channels and strengthening labour protections. Also in 2016, the ILO Asia-Pacific office instituted a targeted project – Combatting Unacceptable Forms of Work in the Thai Fishing and Seafood Industry – specifically designed to take action against forced labour in this industry. The NGO FishWise released a report in 2013, which demonstrated the pervasiveness of labour exploitation of migrant workers within the entire seafood supply chain, which is again, primarily comprised of migrant workers.<sup>177</sup> Most recently, a three-year long investigation into the Kantang Thai fishing port conducted by Environmental Justice Foundation (EJF) resulted in six people receiving 14-year prison sentences for trafficking migrant workers for labour on Thai fishing vessels.<sup>178</sup> EJF’s research

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<sup>174</sup> Htusan et al, 2015.

<sup>175</sup> Ibid.

<sup>176</sup> ILO ‘Caught at sea’, 2013.

<sup>177</sup> FishWise, 2013.

<sup>178</sup> White, 2017.

demonstrated how unregulated fishing practices and ineffective migration policies continue to facilitate these human rights abuses in the industry.<sup>179</sup>

This thesis will not delve into the regulatory efforts of the fishing industry particularly, as the usage of this example is only to highlight the correlation between weak and unenforced migration policies with continued exploitation of forced labour, and the fishing industry provides an example of how engrained exploitation can become without proper means to regulate migration and its irregular constituents.

### **3.3 Thailand's Current Political Climate – Relevant History**

In the upcoming security analysis, the current Thai military administration, the National Council for Peace and Order, will be examined as a securitising actor regarding migration in the country. Notwithstanding, how the NCPO came to power is an essential element in understanding their role in the securitisation process. The Kingdom of Thailand is structured as a constitutional monarchy, transitioning from an absolute monarchy in 1932. The country is not inexperienced with military takeovers – there have been 12 successful coup d'états since 1932, and seven attempted coups, with the most recent taking place in 2014. Martial law was instituted in Thailand 22 May 2014, with a military declaring a coup following shortly after. The commander in chief of the Royal Thai Army, and now the ruling Prime Minister, General Prayut Chan-o-cha, suspended the 2007 constitution and led a bloodless military coup to take over the government after six months of political unrest. The streets of Bangkok were filled with supporters and opponents of the Shinawatra-led government. Opponents called for the resignation of then-Prime Minister Yingluck Shinawatra, claiming she was a puppet ruler of her exiled older brother, former Prime Minister Thaksin Shinawatra, and rallying for an end to corruptive practices of the administration, while the other camp of mostly rural supporters fervently defended the Shinawatra administration.<sup>180</sup>

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<sup>179</sup> EJF, 2015.

<sup>180</sup> Harlan, 2014.

The military intervened with the mission to restore order to the country, after protests in Bangkok came to a breaking point – with 28 deaths and 700 injuries over the months of protest.<sup>181</sup> Under the conditions of martial law, similar to the “state of emergency”, security measures severely limit civil liberties and the power of a democratic government. The various branches of government lose functionality as power is transferred to the top military official. Following the coup, Thai citizens organised mass protests to demonstrate their opposition to the military takeover, however the NCPO still remains in power. The military rule over the past three years has seen a severe crackdown on freedom of expression, meant to quash opposition to the NCPO, as political dissidents, journalists and human rights activists have been detained for violations of the Computer Crimes Act and *lese majeste* laws.<sup>182</sup>

### ***3.3.1 NCPO & Migration Policy***

Despite what has been viewed as increasing authoritarian rule in the country, the NCPO has been extremely sensitive to the international criticisms of its anti-trafficking efforts and has since efforts to combat these human rights abuses. As previously mentioned, immediately proceeding the military coup in May, the June 2014 release of the US Department of State’s Trafficking in Persons (TIP) Report downgraded Thailand to the lowest ranking of Tier 3.<sup>183</sup> This downgrade can be attributed to a greater spotlight being applied to Thailand after the repeated exposure of labour exploitation and slave-like working conditions of Thai and migrant workers present in many of its industries, prominently the previously detailed trafficking and forced labour abuses in the fishing and seafood industry. Though these harmful practices were ongoing before the installation of the NCPO<sup>184</sup>, their lack of a qualified response and insufficient prevention efforts resulted in Thailand maintaining the lowest ranking again in the 2015 TIP report.<sup>185</sup> The 2014 and 2015 reports detail the government’s ineffective management of

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<sup>181</sup> Hodal, 2014.

<sup>182</sup> HRW, 2017.

<sup>183</sup> US TIP, 2014; also see fn 94 for US TIP rankings.

<sup>184</sup> HRW, 2010; ILO, ‘Caught at sea’, 2013; US TIP, 2015.

<sup>185</sup> US TIP, 2015.

trafficking cases, including regarding victim assistance and reparations, and cited the persistence of trafficking and abuses as reason to retain the low grade.<sup>186</sup>

Thailand regards the ranking highly, and as a Tier 3 ranking may result in withdrawal of US foreign assistance (non-trade related), the military government appeared to understand the urgency required of it to combat and prevent these grave abuses. The NCPO was further motivated by the issuance of a ‘yellow card’ by the European Union concerning illegal, unreported and unregulated (IUU) fishing practices by Thai companies, and if unaddressed, would necessitate a ‘red card’ that would trigger an EU embargo on Thai seafood products.<sup>187</sup> In light of economic sanctions and a loss of stature and soft power on the international stage, the NCPO has since vigorously instituted further anti-trafficking measures and industry-specific regulations in order to target traffickers, smugglers, and stem irregular migration.<sup>188</sup>

Though the NCPO has broadened migration-related policy developments, these are largely overshadowed by anti-trafficking efforts and are lagging in progress and institutional reform. Shortly after the installation of the NCPO, the highly discussed One Stop Service Centers (OSSC) were established in June 2014, open for migrant worker registration and renewals.<sup>189</sup> The ILO calculated 1.6 million migrants registered via OSSCs after the opening.<sup>190</sup> Given the continued levels of irregular migrants in the country, deficiencies are still present in the OSSC implementation, along with MOU and NV processes.

Combatting trafficking and managing migration has assuredly entered the purview of the NCPO since coming to power. However, the impetus for reform derives from fear of economic repercussions and a desire to maintain power. It is a missed opportunity to develop holistic migratory policies; policies that supplement anti-trafficking efforts with comprehensive, rights-based migration policy development which harness the economic

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<sup>186</sup> All yearly reports found at the US Department of State website: <https://www.state.gov/j/tip/rls/tiprpt/> .

<sup>187</sup> Neslen, 2015.

<sup>188</sup> EJF, 2015.

<sup>189</sup> NCPO Announcement No. 90/2557.

<sup>190</sup> ILO, ‘Review of MOUs’, 2015, p. 1.

power of migrant workers while addressing root causes that exacerbate vulnerabilities. The almost singular focus on anti-trafficking and criminalisation, without parallel augmentation of migration policy, reinforces the security-driven mentality utilised in the construction of these policies. In the following section the NCPO anti-trafficking reforms are contextualised in the security analysis, as these measures more often than not result in increased insecurity for migrant workers, as they themselves become targets in trafficking raids and mass deportations.

## **IV. SECURITISATION OF IRREGULAR MIGRATION IN THAILAND**

### **4.1 Applying Non-Traditional Security Framework**

There are two competing policy narratives forged in parallel. One element rests on the recognition that migrant workers are vital to the Thai economy, resulting in the formulation of regularisation measures, such as the MOUs and OSSCs. Detailed below, in contrast, is the other opposing construction of a culture of fear that has gained momentum under NCPO rule. With a basis in the anti-trafficking measures, this fear is propagated with severe crackdowns on undocumented migrant workers, resulting in arrests and mass deportations. In order to further understand this paradox, the non-traditional security studies framework is employed: the ruling National Council for Peace and Order behaves as the securitising actor, framing the referent object of ‘irregular migration’ as an existential threat in the interest of national security via numerous speech acts and corresponding efforts.

**Table 4.1**

NON-TRADITIONAL SECURITY FRAMEWORK	
<i>Issue Area of Securitization</i>	'Irregular' migration
<i>Securitizing Actor</i>	National Council for Peace & Order (NCPO)
<i>Security Concept</i>	National security; the Thai state as the referent
<i>Process</i>	Speech acts; emergency measures; cultivation of Fear

## 4.2 Securitisation Analysis

### Issue Area

Using the lens of securitisation may provide crucial insight into the NCPO's migration-related policy developments. Irregular migration in Thailand is the distinct issue area of focus in this security analysis. As demonstrated in previous sections, irregular migration – in forms such as migrant trafficking – does beget security risks. The securitising actor, the National Council for Peace and Order in this circumstance, has identified irregular migration as a threat. Invoking migration in a security context frames the issue as a barrier to the state's ability to ensure the safety and protection of its citizenry, constructing an urgency to prioritise this issue and justifying the use of extraordinary measures.

In democratic states, cases of successful securitisation must garner the target audience's approval in order to legitimise the administration of extraordinary measures.<sup>191</sup>

Acceptance of the threat and its proposed management does not necessarily demand democratic acceptance, as Buzan et al stipulate, '[accept does not necessarily mean in civilized, dominance-free discussion; it only means that an order always rests on coercion as well as on consent.'<sup>192</sup> Currently the NCPO is ruling outside of democratic processes as a military dictatorship and thus does not necessarily require the citizenry approval to legitimise its security priorities. The extra-political context of NCPO governance

<sup>191</sup> Buzan et al, 1998, pp. 26 – 28.

<sup>192</sup> Ibid, p. 25.

rationalises that the actor forgoes audience approval as they hold the means of security construction without the audience. Hence, this case argues given the authoritarian nature of the current administration and the inability of the Thai population to institute democratic practices on their own, the Thai audience is passively receptive to the NCPO's threat construction and management. Their silence, or inability to contest the measures, operates as coerced acceptance, lending a degree of legitimacy to the NCPO's actions.

Due to the constraints of this thesis, it was not possible to empirically test this receptivity among Thai people. It is somewhat enlightening to consider documented perceptions of Thai people regarding migration, as an indicator of the way this threat may be conceived within a democratic context. In an interview conducted with Aung Kyaw of Migrant Workers Rights Network in May of this year, the organisation's vice president believed that local integration of migrant workers was not much of an issue in Samut Sakhon; the port city outside Bangkok and home to many of the country's seafood processing factories, has maintained a migrant worker presence for the past 30 years.<sup>193</sup> This contributes to the idea that Thai perception of migrants is mostly positive, but it does not account for locations with low proportions of migrants and migrant workers and if attitudes remain consistent across locales.

A study conducted by the ILO Asia-Pacific Office, in conjunction with the TRIANGLE project, surveyed perceptions of migrant workers across Thailand, Korea, Singapore, and Malaysia, and revealed some discriminatory perceptions amongst the Thai people. Of the four countries included, Thai respondents had the lowest percentage of interactions with migrant workers. Less than 40 percent of Thai respondents believed that migrant workers make a net contribution to the economy, while over 75 percent agreed that migrants commit a high number of crimes. Strikingly, over 80 percent of Thai respondents agreed completely or to some extent that unauthorised migrants cannot expect to have any rights at work and that government policies to admit migrants should be more restrictive.<sup>194</sup>

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<sup>193</sup> Interview with Aung Kyaw, 2017.

<sup>194</sup> ILO, 'Public Attitudes', 2013.



More extensive research would be required to gain an accurate picture of the general perceptions people across Thailand hold in regards to migrant workers. However, the ILO survey indicates that some portion of the Thai population view migrant workers as a threat to their security and may support government action, given the opportunity to express that support.

### **Securitising Actors**

In this analysis, the NCPO is the dominant securitising actor, representing its own interests and broadly, those of the state. The NCPO is regarded as a state actor, however it is jointly a military actor, as the council is comprised of all military personnel and attained power by way of coup d'état. Therefore the approach of the NCPO in managing security threats is certainly from a traditional, state-centric perspective and its proposals emanate from this paradigm.

Upon falling to the lowest ranking in the 2014 US TIP report as well as collecting a 'yellow card' from the EU regarding fishing industry labour abuses, the NCPO has made combatting these human rights violations a top priority. The pronounced reaction of the NCPO following these harsh criticisms displays the influence of the international community in defining security in Thailand. In fact this pressure from the international community, in the wake of ubiquitous trafficking and forced labour exposures, was key in eliciting action from the Thai government. As such, the general international community can be regarded as a supplementary actor in the securitisation process, facilitating NCPO security measures. The NCPO perhaps began instituting security measures chiefly to appease the international community, but in doing so the council lends legitimacy to their rule and consolidates their power at a time in which they appear inefficient.

On the other hand, Chonticha Tangworamongkok, Program Coordinator for the Human Rights Development Foundation (HRDF) in Thailand, has a differing interpretation. HRDF provides legal assistance to migrant workers and their families, and Ms. Tangworamonkok said she believed from collaborations with the Thai government on

anti-trafficking that combatting the issue was genuinely a high priority for the government.<sup>195</sup> As combatting irregular migration and trafficking de facto encompasses the migrants involved, it is valuable to locate their place in this analysis. The NCPO, as a securitising actor, may veritably seek to be inclusive of migrants in its security measures. However, their actions, detailed below, tell a contradictory story; though migrants objectively are the primary stakeholders regarding migration-related security risks, the NCPO does not assure their security, but rather weakens it, in its threat management. The true motivations of the securitising actor are difficult to define at this stage, but the international community can very well be interpreted as a facilitating actor in the securitisation process.

### **Security Concept**

When identifying the security concept, or referent, which the actor labels as existentially threatened, it is here that NTS studies ask the question: whose security?<sup>196</sup> The issue, or threat, has been established as irregular migration, with the National Council for Peace and Order as the securitising actor. But what is concept is being threatened? The NCPO has framed the irregular migration as a threat to the security of the Thai state. By intimating a threat to state security, the NCPO validates its employment of emergency measures in order to safeguard the stability of the Thai state and thus its ability to govern effectively.

Other actors may view the same issue, irregular migration, in relation to differing views of security. Businesses, those implicated in employing trafficked migrant workers and those that are perpetrators of forced labour, may claim their actions are in the interest of economic security; they may choose to further facilitate these abuses, or can be leaders of reform. Civil society organisations, such as Migrant Workers Rights Network (MWRN) in Thailand, approach the same issue from a human rights and human security perspective, calling on the government to take action concerning irregular migration, but in the interest of protecting migrants and promoting their rights.

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<sup>195</sup> Interview with Chonticha Tangworamongkok, 2017.

<sup>196</sup> Caballero-Anthony, 2016, p. 16.

Varying perceptions of the same concept, in this case security, are all different sides of the same prism – each actor defines the need for security in a manner that reflects their particular conception of security, and the best means of achieving it. A democratic state, upholding of its citizens’ rights, must leverage its position in an effort to ensure each prismatic conception of security – security of the state, economic security, and the individual, or human, security of its citizens, especially those who are most vulnerable. The state, in this case the NCPO military dictatorship, is currently a monopoliser of power and security. While claiming to ensure security for all, it appears to be prioritising its own security and power at the expense of its marginalised migrant population.

### **Securitisation Process**

The process of securitisation is analysed in most cases by the examination of speech acts – acts which label the threat and appeal for the adoption of emergency measures.<sup>197</sup> As the NCPO has fully disclosed, irregular migration and its constituents (like smuggling and trafficking) are considered a top threat to the national security and stability of the Thai state. Here, select speech acts, documented via media outlets and NGOs, of the NCPO and corresponding emergency measures are outlined and their effects assessed to determine the degree and impact of securitisation.

### **2014**

Since their ascent to power in May 2014, the National Council for Peace and Order has reaffirmed yearly that irregular migration is a top security threat for the state of Thailand. Following the coup d’état and their establishment, the new government did not waste any time prioritising its security concerns. Less than a month after NCPO came to power, army spokesperson, Sirichan Ngathong, elucidated the junta’s stance concerning migrant workers: ‘We see illegal workers as a threat...’ and that undocumented migrant workers would be ‘arrested and deported’ - clearly framing these people as threats to the Thai state.<sup>198</sup> This declaration prompted a mass exodus over 18 days of more than 250,000

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<sup>197</sup> Buzan et al, 1998, pp. 26 – 27.

<sup>198</sup> *The Straits Times*, 2016.

Cambodian migrant workers from Thailand, most undocumented, for fear of an impending crackdown.<sup>199</sup> This flood of migrants was comprised of voluntary returns but also many deportees, as the NCPO carried out mass deportations. *The Phnom Penh Post* reported that over the first nine days of the summer exodus, 7,500 Cambodians were deported from Thailand.<sup>200</sup> The news outlet described the Thai-Cambodian border at Poipet, writing it ‘...resemble[d] a refugee camp full of temporary tents’ and that ‘deportees line[d] both sides of the border...effectively stranded.’<sup>201</sup>

After labeling the threat, ‘illegal workers’, the NCPO took to stabilising the perceived risk immediately. The abrupt and chaotic nature of the deportations and lack of infrastructure and personnel on the border denote application of emergency-like measures. By conducting sweeping arrests and deportations, proper identification of victims of human trafficking, smuggling, or forced labour amongst migrant workers is impossible. This approach not only damages the human security of the migrants, it also signifies deficient economic foresight on behalf of the NCPO. Industries began reporting labour shortages and decreased levels of production immediately following the exodus.<sup>202</sup>

## 2015

Buzan et al. stipulate that these threats also require ‘emergency measures’ to be enacted in order to achieve full securitisation.<sup>203</sup> Given the fact the NCPO seized power by force, by means of a military coup d’état and has since been governing via martial law and executive order, their very leadership acts within the context of emergency power. Furthermore, emergency powers were expanded on 31 March 2015, as formal martial law was replaced by section 44 of the 2014 interim constitution.<sup>204</sup> Section 44 grants the leader of the NCPO, General Chan-o-cha, the power to supersede all branches of government in order to preserve national security and regards any acts in the name

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<sup>199</sup> Dickson, 2016, p. 6; see also *The Mekong Migration Network*, the migrant’s rights organisation diligently documents arrests, detentions, and deportations of migrant workers at their website: <http://www.mekongmigration.org/>.

<sup>200</sup> Barron, 2014.

<sup>201</sup> Ibid.

<sup>202</sup> Konglang, 2014.

<sup>203</sup> Buzan et al. 1998.

<sup>204</sup> *The Telegraph*, 2015.

thereof as ‘legal, constitutional and conclusive’.<sup>205</sup> Rights groups, such as Human Rights Watch, saw the move as a further entrenchment of military rule.<sup>206</sup> Gen. Chan-o-cha was reported by Reuters as saying that section 44 would allow all military personnel to arrest and detain civilians without warrant.<sup>207</sup> This has set the climate for continued extra-political rule, outside the bounds of normal democracy, in which citizen and migrants are susceptible to derogations of their rights if national security is deemed under threat.

In September 2015, the Thai Prime Minister and head of the NCPO, General Prayut Chan-o-cha, addressed the United Nations General Assembly, delineating the issues that challenge, or threaten, the security of the Thai state. In this high profile speech, General Chan-o-cha advocated for a ‘sustainable solution to peace and security via the nexus of development and human rights.’<sup>208</sup> Gen. Chan-o-cha listed irregular migration and human trafficking, and explicitly trafficking of fishing industry workers, as transnational challenges of concern to the current government, situating these issues within the broader framework of security. This was the same year in which the Bay of Bengal boat crisis and exposure of fishing industry abuses came to a head, prompting the NCPO to allocate further resources to expand anti-trafficking measures.<sup>209</sup>

Earlier in the year preceding Gen. Chan-o-cha’s UN speech, the Thai Ministry of Labour released a statement titled, ‘Legal Action and Arrests of Employers and Businesses Using Illegal Foreign Labourers’.<sup>210</sup> The language utilised in the statement is in keeping with the security agenda tone established at the onset of NCPO rule. The Ministry of Labour deployed ‘policing’ inspection teams, in an effort to ‘investigate, arrest and proceed with cases for employers and businesses using illegal foreign labourers, as well as increasing rigidity to combat illegal foreign labourers in the workforce...’<sup>211</sup> The Ministry reported that in the two months in which inspections were conducted, cases were processed for 32 employers and 226 ‘illegal workers’, exhibiting the disproportionate criminalisation of

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<sup>205</sup> 2014 Interim Constitution of Thailand.

<sup>206</sup> HRW, 2015.

<sup>207</sup> Lefevre, 2015.

<sup>208</sup> *The Nation*, 2015.

<sup>209</sup> *Bangkok Post*, 2015; See also US TIP reports for specific measures.

<sup>210</sup> Ministry of Labour, 2015.

<sup>211</sup> *Ibid.*

migrant workers themselves. As discussed previously, migrant workers may easily fall into an irregular status, solely due to the ambiguity of government policies. Branding migrant workers as ‘illegal’ and arresting them alongside their employers are not conducive to ensuring the equal treatment and protection of the workers. Instead, labels like ‘illegal’ and ‘foreign’ reproduce the government stance that these people pose a threat.

Following the prioritisation of irregular migration designated by General Chan-o-cha, efforts were made throughout the year to target negligible employers, traffickers and smugglers. Resources were allocated to conduct frequent raids on suspected establishments possibly employing undocumented workers.<sup>212</sup> As evidenced in the speech of the NCPO and in their practice, migrant workers themselves are more often than not the victims of arrest, detention, and deportation. In one such raid in Chiang Mai, 65 undocumented Cambodian ‘illegal migrant workers’ were arrested after being brought to the city by illicit brokers, and both the workers and brokers were slated to face legal charges.<sup>213</sup> By the year’s end it was estimated that the Thai government deported more than 50,000 migrants to Cambodia, many of those potential victims of smuggling, trafficking, and forced labour that would not receive redress.<sup>214</sup>

## **2016**

At the 2016 Shangri La Dialogue, hosted by the International Institute of Strategic Studies, General Chan-o-cha gave the keynote address that concentrated on ways to achieve regional security in Southeast Asia. Similar to his UN speech, Gen. Chan-o-cha reiterated the threat of irregular migration, naming it as one of seven critical security challenges that require regional cooperation.<sup>215</sup> The same trend continued, and another 50,000 Cambodian migrants were expelled in mass deportations throughout the year.<sup>216</sup> In an effort to combat human trafficking and exploitative recruiters, raids are carried out

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<sup>212</sup> Ibid.

<sup>213</sup> National News Bureau of Thailand, 2015.

<sup>214</sup> *The Cambodia Daily*, 2015.

<sup>215</sup> IISS, 2016.

<sup>216</sup> *Khmer Times*, 2017.

but migrant workers continue to act as targets for detention and deportation.<sup>217</sup> NCPO anti-trafficking measures demonstrate a misguided aim that relies heavily on law enforcement tactics and criminalisation, but critically lacks equal emphasis on victim identification and reparations.

In 2016, the junta passed another emergency measure: Order No. 13/2016. Per the interim constitution of the time, this order allows select officers broad powers to combat threats to national security, including powers concerning immigration and human trafficking.<sup>218</sup> This order grants specific military personnel immunity and enhanced abilities regarding raids and arrests, arbitrary detention of migrant workers, and in some cases the use of lethal force. Order No. 13/2016 is another display of measures taken in the traditional security paradigm. The management of the threat of irregular migration routinely manifests as military intervention, which reinforces the state-centric, traditional conception of security. Resources donated to anti-trafficking efforts have materialised in one form as enhanced border control, but violence has erupted in certain cases resulting in the use of lethal force against migrants.<sup>219</sup>

These new measures however, awarded Thailand an upgrade to Tier 2 Watch List on the 2016 US Trafficking in Persons report, though this garnered a severe reaction from human rights organisations.<sup>220</sup> The 2016 report thoroughly documents the NCPO's anti-trafficking measures. These reforms included: amendment of 2008 anti-trafficking legislation to enact harsher punishments for traffickers; creating a special prosecution division dedicated to anti-trafficking, increasing trafficking-related investigations, prosecutions, and convictions; making efforts to bring government officials to justice for complicity or involvement in trafficking; and fortifying border control efforts. Impunity of trafficking cases still remains an issue, but there has been a slight increase in prosecutions, including the aforementioned Kantang case. As well, the 2015 case regarding the mass grave of Rohingya and Bangladeshi migrants, discovered in Songkhla

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<sup>217</sup> Sawitta Lefevre & Thegumpanat, 2016.

<sup>218</sup> *FIDH: Worldwide Movement for Human Rights*, 2016.

<sup>219</sup> Vichea, 2017.

<sup>220</sup> McCallum, 2016.

in southern Thailand, will see a verdict handed down for 103 suspected traffickers, including government and law enforcement officials, on 19 July.<sup>221</sup>

The 2016 TIP report notably adds that protection efforts for human trafficking victims remained insufficient; victim identification was weak, victims were oftentimes deported, and victim services were limited in capacity.<sup>222</sup> As NTS-Asia and Wetzler have argued, Thailand's anti-trafficking policy reforms have disproportionately focused on traffickers and smugglers, with much less attention granted to victim identification and development of complaint mechanisms.<sup>223</sup> The mass numbers of arrests and deportations of migrants should be regarded as emblematic of the NCPO approach to anti-trafficking.

It is significant to note that alongside anti-trafficking efforts, the NCPO have operationalised the OSSCs (2014) and offered periods of registration in order to regularise undocumented migrants. Nonetheless, supplementary to the security measures, these migration policies have also cultivated a climate of fear. Registration periods are always coupled with threats of deportation.<sup>224</sup> A recent, additional dimension has augmented this fear for migrant workers – in a policy promise to eliminate all illegal migrants by 2020, the NCPO has announced plans to deport the children of undocumented migrant workers.<sup>225</sup> Despite sustained criticism of policies such as these, the military government continues to link calls for registration of undocumented migrant workers with threats of deportation. Only a few months previous, the NCPO has deported more than 1000 migrants who failed to register in time during the last session, further demonstrating their commitment to maintaining the status quo and forgoing the human security of these workers for their own interests.<sup>226</sup>

The NCPO has confirmed, via direct speech acts and its use of emergency powers, that irregular migration constitutes an existential threat to the security of the Thai state. The

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<sup>221</sup> Lewis, 2016; Bangkok Post, 'Rohingya', 2017.

<sup>222</sup> US TIP, 2016.

<sup>223</sup> RSIS, 2013; Wetzler, 2012.

<sup>224</sup> *Bangkok Post*, 2017.

<sup>225</sup> *The Cambodia Daily*, 2016.

<sup>226</sup> *The Nation*, 2017; See also Vichea, 2017.



increasing militarisation of the NCPO approach to migration and anti-trafficking policy is evidently crafted in the military and state-centric traditional security constitution and indicates their primary motivation for reform lies in the preservation of national security, as migrants' security is alarmingly absent from policy implementation.

### **Outcome I – Degree of Securitisation**

The presence of securitisation of irregular migration appears obvious – the NCPO continues to employ security-based tactics with regards to human trafficking and irregular migration. Typical indicators marking the degree of securitisation include 'resource allocation, military involvement, legislation and institutionalisation'.<sup>227</sup> In the case of Thailand, most of these indicators are self-evident and easily identifiable.

Military involvement in the securitisation process is undeniable: the current administration is headed by a military dictatorship, thus any action propagated by the government regarding irregular migration inherently involves the military. Border crossings are becoming increasingly militarised, as indicated by the 2016 TIP report and news reports.<sup>228</sup>

Threat management requires increased resource allocation. The aforementioned reports revealing the elevated occurrence of raids and deportations denotes increased allocation of funds to local police and military units. Increased prosecutions of trafficking cases signify a prioritisation, likewise requiring more funds. The degree of securitisation may also be analysed by recording new legislation and institutionalisation of measures concerning the immediate security issue. As previously mentioned, Thailand has begun instituting a wave of new legislative reforms following its US TIP downgrade in 2014.<sup>229</sup> A commendable development also came in July 2016, as Thailand deposited its instrument for ratification of the ACTIP – the ASEAN Convention Against Trafficking in

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<sup>227</sup> Caballero-Anthony, 2016, p. 16.

<sup>228</sup> US TIP, 2016; Vichea, 2017.

<sup>229</sup> For more regarding Thailand's most recent updates regarding the countries anti-trafficking policies, prosecutions, protections, and prevention efforts, please refer to The Policy Committee on Human Trafficking and Illegal Fishing of the Ministry of Foreign Affairs of Thailand's report, 'Thailand's Country Report on Anti-Human Trafficking Response', 2016.

Persons, Especially Women and Children.<sup>230</sup> Anti-trafficking initiatives are slowly becoming a cornerstone of NCPO migration-related policy, however the administration is still young. This makes it difficult to assess the degree of institutionalisation regarding irregular migration as a threat and will need to be further observed, but developments indicate it is moving in this direction.

## **Outcome II – Impact on the Threat**

Framing irregular migration as a security issue has necessitated security-based responses to that threat, which have primarily manifested as an acute and vigorous focus on anti-trafficking measures. As this issue is developing at the time of writing this thesis, it is difficult to assess the long-term impacts of the NCPO's current anti-trafficking tactics. From the perspective of the state in safeguarding national security, the NCPO appears to believe they are addressing the issue appropriately, given the fact the administration continues to apply the same methods to manage the perceived threat. It remains difficult to objectively assess rising or declining levels of irregular migration and trafficking as these issues thrive outside regulatory channels. Nevertheless, Reuters has released a timely report just this May claiming that despite regulatory efforts, migrant smuggling along the Thai-Myanmar border has risen, alluding to the notion that current anti-trafficking measures are not as efficacious as believed.<sup>231</sup> Also telling, in March of this year the ILO has issued a harsh ruling accusing the NCPO of failing to end forced labour in its fishing industry, evidence that the military junta's collective anti-trafficking measures are not adequately addressing root causes and failing to accomplish their desired effect of stamping out human trafficking and irregular migration.<sup>232</sup>

As migrant workers continue to take advantage of regularisation processes, such as NV and the OSSCs, it is evident that irregular migrants are still present in the country. As raids and deportations generate panic amongst migrant workers, cross-border migration remains fluid – migrant workers resort to irregular crossings again once the threat of arrest has subsided. Mass exodus of fearful migrant workers directly impacts the

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<sup>230</sup> ASEAN, 'ACTIP', 2017.

<sup>231</sup> Lefevre, 2017.

<sup>232</sup> Lawrence, & Hodal, 2017.

industries employing them, as businesses experience labour shortages and decreased production levels.<sup>233</sup> Thus, as NCPO measures continue to stir up fear in these communities, they themselves generate a rising level of threat of irregular migration.

As the NCPO have recently promised a return to democratic elections next year, 2018, it would be enlightening to revisit the issue of securitisation presented by this thesis to examine if, in their interest of preserving national security, the NCPO was successful over the long-term in mitigating the threat of irregular migration.<sup>234</sup> Given the current climate and the continued employment of authoritarian, military-style stratagem, this thesis hypothesises that the ‘threat’ will only persist unless more integrated methods are employed, as current policy inflames the issue of irregular migration.

## V. CONCLUSIONS

By manufacturing irregular migration as a national security threat, calling for and enacting emergency measures to combat the issue, the NCPO has framed irregular migration as an existential threat. The NCPO enshrined their rule by way of a military coup d’état, thus installing themselves as a monopoliser of state power and key commander of the security agenda. Currently, the Thai people, under the rule of a military dictatorship, cannot access traditional democratic mechanisms and effectively behave as a coerced audience of the NCPO regime. Faced with increasing international pressure and warnings of economic sanctions, the military junta has forged an urgency that this threat – irregular migration – must be distinguished as a top priority, prescribing that further attention and resources be earmarked to combat the issue. Acting in its emergency capacity, the NCPO’s principal tool to manage irregular migration was the exercise of vigorous anti-trafficking ground operations – arrests, detentions and deportations. By virtue of the removal of irregular migration from the bounds of normal political fora whilst framing it as an antithesis to the security of the Thai state, the

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<sup>233</sup> Noreen, 2017.

<sup>234</sup> Thepgumpanat, & Tanakasempipat, 2017.

NCPO's collective measures have coalesced into a legitimate, top-down securitisation of irregular migration.

As a consequence of this securitisation, one security conception is assured at the expense of another: in this case the security of the Thai state is ensured at the expense of the security and dignity of its vital migrant population. However, it appears that moving forward, the threat management methods of the NCPO – its anti-trafficking ground operations – are forging a paradoxical dilemma for the securitising actor. The NCPO's primary motivation is to prevent and suppress irregular migration, and in effect trafficking and illicit employment of undocumented migrants, but their very methods obstruct them from this goal, as the threat has not been eliminated nor decreased.<sup>235</sup> The shortsightedness of these emergency measures, and their disproportionate reliance on law enforcement and criminalisation practices, reveals their basis in the traditional security paradigm.

Per the newly signed 2016 constitution, it is expected that the long-awaited transition to democratic elections will possibly occur late 2018, and thus it is important to keep abreast of the NCPO's security management tactics as it prepares for a possible return to civilian rule.<sup>236</sup> The implementation of supplementary measures are hopeful, like the ratification of the ACTIP and institution of the OSSCs, and indicate that the military government is beginning to recognise the necessity of a holistic, regional, and comprehensive migration policy if state and regional security is to be achieved. Thailand was chosen as a case study given all the elements were present for a securitisation analysis. The country analysis served to illustrate the nexus of migration, security, and human rights violations such as trafficking and forced labour. However, trafficking and forced labour are not exclusive to Thailand or to single industry.

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<sup>235</sup> See fn 232.

<sup>236</sup> Thepgumpanat, & Tanakasempipat, 2017.

## **Securitisation from a Human Rights Perspective**

The success of the NCPO's securitisation methods is arguably dependent on the motivations of the investigating analyst. This thesis unequivocally applies a human rights perspective in its securitisation analysis. Accordingly, while analysing if securitisation is definitely occurring, it is equally paramount to assess whose security is prioritised and whose is marginalised in that process. It is by virtue of this obligation that this thesis asserts that the individual, human security of irregular migrants and migrant workers is all but lost as a result of this securitisation process and directly due to the arrests, detentions, and deportations associated with the NCPO's vigorous anti-trafficking ground operations. By employing a security-driven policy to manage irregular migration, the human security of migrants, the biggest stakeholder, is at a disproportionate risk and in direct conflict with the principles of human rights.

In order to develop migrant-centric, human rights-based migration policy, including anti-trafficking measures, the issue of irregular migration must be desecuritized and re-introduced into the traditional political sphere. It is in the domain of democracy and normal political bargaining that all stakeholders, including migrants themselves, may be engaged to develop holistic policy that reflects the realities of the migration phenomenon. Comprehensive migration policy not only adds value to the security of the state but facilitates the prevention of gross human rights violations, such as the trafficking for the purposes of forced labour ubiquitous in the Thai fishing industry, and protects those most vulnerable. Not only is this in the interest of the migrants, but it presents economic benefits for states as well. As noted before, Thailand's aging population is predicted to induce an extensive labour shortage, meaning migrant workers will be increasingly vital to the functioning of the Thai economy. Now is the time to forge sustainable migration policy, based in human rights, with the aim to harness the developmental opportunity presented by migrant workers.

## **Recommendations**

### *Ratify International Protections*

In order to construct comprehensive, migrant-inclusive policy, Thailand should begin by ratifying all the international, ILO, and regional instruments presented in this thesis and to codify those protections into Thailand's national legislation. Establishing a more robust human rights framework will afford better protections to vulnerable migrants and migrant workers. Central to the study of non-traditional security is the understanding that state security and human security are not mutually exclusive; security for all referents is further realised when they are equitably engaged and respected.<sup>237</sup>

### *Lead Regional Collaboration*

Given the transnational nature of migration and migration-related security risks, a regional approach to policy development will be the most beneficial and reflective of the realities inherent in migration. As discussed in the RSIS “Think Tank” program, the ‘management of people, flows, and movements require international, and in the ASEAN context – regional, frameworks, norms, and mechanisms’ in order to properly harness migration for development that respects human rights.<sup>238</sup> As the ASEAN Economic Community becomes more integrated, it is in the best interest of the region to streamline labour protection laws so that equitable coverage is provided to all workers, including migrant workers. An ASEAN regional labour protection body would be an appropriate institution to regulate labour in the region and promote labour rights of all ASEAN citizens.<sup>239</sup> As the most recent 2014 *Thailand Migration Report* stresses, ‘...Thailand is well-placed to advocate for more comprehensive regional policy solutions’ and lead the region in reform.<sup>240</sup>

### *Engage Civil Society*

Civil society should always be included as a stakeholder in policy development, as they represent the marginalised and act as a societal check on governance. This thesis

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<sup>237</sup> Caballero-Anthony, 2016, p. 14.

<sup>238</sup> RSIS “Think Tank”, 2016.

<sup>239</sup> Sumano, 2015, p. 18.

<sup>240</sup> Hugué, 2014, p. 190.

explicitly calls on Thailand, and its regional partners within ASEAN, to seriously review all policy recommendations put forth by the ILO and the protections requested by NGOs, such as Migrant Workers Rights Network. It is ill conceived and shortsighted to reap the economic benefits of migrant work while not investing in and consulting the labour force in policy development.

### *Clarify and Strengthen Existing Agreements*

Increased criminalisation of human trafficking, forced labour, and other forms of labour exploitation, must be complemented with victim identification, aid, and reparation mechanisms based in human rights. Bilateral labour agreements must include clear recruitment policies with affordable fees, in order to combat exploitative recruiters and traffickers. These clarifications will encourage regular migration and lessen the need of migrants to access irregular pathways that increase vulnerability to trafficking. Re-registration, as well as healthcare and social security enrollment, should be streamlined and prioritised for reform. Amending the Alien Work Act to permit migrant workers to unionise would supplement the existing, limited capacity of labour inspectors, allowing workers to self-regulate and better expose employer abuses.

A transformation of migration policy is necessary in Thailand, but also at the regional and international levels. Nonetheless, practical reforms are not finite – migration is dynamic and shifting and it necessitates an approach and policies that reflect this. During a recent interview with *Frontier Myanmar*, migrants' rights activist Andy Hall voices the difficulties of reform, stating:

...[W]e must accept that to improve the conditions of migrant workers, the systematic corruption in Thai society, alongside the lack of rule of law and failure to afford workers basic respect, must be addressed on a societal or cultural level. Pressure must be sustained and continually applied on the Thai government from all quarters if change is to be systematic, sustainable and long-term.<sup>241</sup>

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<sup>241</sup> Slow, 2016.

## **Conclusions**

Securitisation precipitates measures that operate outside of democratic principles, which often manifest in a curtailment of human rights, as evidenced in the case of Thailand and its migrant worker population. When employing the lens of human rights, it is essential to be critical of securitising moves by state actors as the security of the most marginalised is frequently jeopardised as a result. Instead, desecuritisation must be stressed; security issues, and in this case the entire ruling apparatus of Thailand – the NCPO – must be reintroduced into the normal political sphere if true security for all is to be achieved.

There are security risks for states and individuals posed by irregular migration, such as smuggling or trafficking for forced labour. However, migration does not intrinsically engender a threat to state security; in fact, flawed migration policies may breed further insecurity. Furthermore migration, and markedly labour migration, does not oblige extra-political measures – quite the opposite. As migration becomes a normalised global phenomenon engrained in our reality, it must be addressed by way of democracy in order to forge comprehensive policies that benefit all stakeholders. Securitisation negates the economic opportunities presented by migration and fails to encapsulate the practical realities experienced by migrants.

As rapid globalisation proliferates capitalistic structures through all societal strata, global value chains will continue to seek the cheapest means of production in order to maintain economic dominance. Migrant work, or other means of cheap, exploitable labour, will become the rule, not the exception, as large multi-national enterprises migrate between countries in search of new modes and methods of production. Labour exploitation, and in its most severe and detrimental forms of modern slavery and forced labour, will remain pervasive in the absence of sustainable, human rights-based migration policies and protections.

Migration is an issue of transnational and global nature that, due to its ubiquity, should remain in the normal political sphere in order to engage all stakeholders in comprehensive policy development. Labour is our reality and our instrument for



survival. Moreover, in an increasingly globalised world, migration is also our reality. Upon migrating, no matter the purpose, migrants retain all the rights and dignity afforded to all humans. States of origin and destination bear the responsibility to respect, protect, and fulfill those rights, especially those rights linked to the enhanced vulnerabilities of migration and migratory work. Thus, as human rights are innate, then they must also be migratory - all humans deserve to live and work in dignity, regardless of locale.

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