

The Fight Against Child Trafficking

Breaking the Cycle of Structural Violence

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First published 2023

ISBN: 978-1-032-31280-4 (hbk)

ISBN: 978-1-032-31293-4 (pbk)

ISBN: 978-1-003-30903-1 (ebk)

Chapter 3

The apparatus of child protection

“Letting die” the trafficking victims

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DOI: 10.4324/9781003309031-6

Funded by IEE - Université Libre de Bruxelles



3 The apparatus of child protection

“Letting die” the trafficking victims

On my destroyed shelters
On my crumbled beacons
On the walls of my boredom
I write your name

– Paul Éluard, *Liberty*¹

What could be worse than what I’m living right now?

– Anonymous child traffickee, March 2020

Introduction

The first part of this study has foregrounded the construction of the child trafficking norm on the global level, and its meanings-in-use by regional actors, concluding that the grasping of child trafficking through a norm cluster of correlated notions would be in greater consistency with the reality of exploitation and the anti-trafficking policies deployed by practitioners. The first apparatus analyzed in correlation to the governance of child trafficking in the EU and ASEAN is that of child protection. When speaking of the governance of child traffickees, two dimensions come to mind: the governance of their migratory journey, and their protection. The purpose of the present chapter is to initiate the analysis of the child trafficking apparatus through the examination of a paradox pertaining to the protection of children: the simultaneous acceptance of a universal norm of child protection, and the frequent vulnerabilization of trafficked children who have been taken into care. This discrepancy raises a set of interrogations about the politics of “making live” or “letting die” (Foucault 1976; 2003)², and the clashes that shape the manner in which the issue is settled for identified trafficking victims.

Children’s special rights to protection are codified in international law and have trickled down to regional and national legislation (Part 1). Beyond legislative obligations and guidelines, interviewees confirm that it is a given among all stakeholders that vulnerable children must receive protection (e.g. Interview 21). In a similar dynamic as the one described by Galtung relating to peace (Galtung 1969), the use of the term “child protection” in itself produces a common basis for protection

measures to be implemented. The apparatus of protection for trafficked children is imagined at the level of transnational instruments, and some inter-state organizations and NGOs strive for coordinated global action. Child protection mechanisms against trafficking exist within national states, between them, and at the level of regional cooperation. The actions of the spatially, socially and thematically heterogeneous organizations and institutions enacting child protection unfold in the form of an apparatus (*dispositif*), in the Foucauldian sense of the term. Protection takes the form of reticular, protean networks, which invest diverse, dispersed, and numerous spaces in the European Union and ASEAN.³ This protection apparatus is set up to provide “make live” interventions. Framed through the lens of biopolitics, “make live” interventions are recognized as a matter of urgency when a vulnerable population no longer has the means of sustaining their own lives appropriately. As far as trafficked children are concerned, their experience of exploitation and possible associated maltreatment endangers their psychological and physical health, as well as their future means of livelihood. The biopolitics of protection, where it succeeds, is certainly worth pursuing. There are examples of solid, universal child protection systems: in Belgium, for instance, a trafficked child whose right to protection is recognized before the age of 16 is typically granted permission to stay indefinitely once they reach majority (Pang 2000, 17); in France, the Child Welfare Services (*Aide Sociale à l’Enfance*, ASE) is in principle mandated to care indiscriminately for all minors in need of protection. Yet, even in protection apparatuses clearly geared towards the universal protection of children’s rights, testimonies abound of trafficking victims who are routinely denied their rights. At what level does the disconnect between a seemingly protective apparatus and the lack of protection experienced by trafficking victims operate?⁴ A common understanding of child protection regimes in countries such as France and Belgium is that it is well-designed and sufficiently broad to cater to the needs of all children, including the more difficult cases of unaccompanied trafficked migrants. In this perception, children who are not taken into care fall through the cracks because they are either invisible, their needs have been unarticulated, or they have been dealt with through different regimes, such as migration schemes of family reunification (see Chapter 4). Studies have examined the protection regimes under this angle, stressing internal discrepancies and malfunctions, often due to lack of training, personnel, or funding (e.g. Lavaud-Legendre and Tallon 2016; Dhervilly 2017, Interview 3, Interview 7). The protection apparatus is generally examined with the presumption that it is *per se* beneficial to trafficking victims and that potential harm lies in marginal inefficiencies or lack of means. The literature, however, rarely questions the structural components of protection apparatuses that might be conducive to the production of harm for children under their care.⁵ Likewise, Foucault studied the historical circumstances favoring the development of biopolitics, understood as a choice to improve the health and wellbeing of populations. He had, however, little to say about the manner in which this choice could be activated, or about the politics of “let die” orientations.

How is it that global society, the regional organizations of the EU and ASEAN, and many of their individual member states, proclaim themselves eager to protect trafficked children, and at the same time routinely deny them the long-term

protection that localized norms would require⁶? What frontiers between protection and non-protection are reified in the apparatus? What are the driving forces behind choices to “make live” or “let die” children recognized as trafficking victims? How do the processes and institutions created to “make live” incidentally produce “let die” situations for trafficking victims? How are these children integrated into the protection apparatus together with other fragile populations, and in the social fabric of the destination countries as a whole?

The heart of the matter examined in this chapter revolves around the internal tension between “make live” objectives and “let die” practices unfolding in the global protection apparatus and its manifestations in Member States of ASEAN and the EU. For all its variations and reticular structure, commonalities can be observed: this chapter explores the nodes in which the protection apparatus deviates towards unintended consequences or biopolitics of selection, resulting in non-protection mechanisms for children identified as trafficking victims. It argues that the biopolitics of child protection apparatuses frequently deviate to structural violence for trafficking victims. The biopolitics of the child protection apparatus, where trafficking victims are concerned, is analyzed along the lines of their politics of selection (3.1), the material, psychological, and symbolic liminal spaces it produces (3.2), and the fabrics – that is, the mechanisms – as well as the fabric – namely the intrinsic structure of the protection apparatus – that amplify the initial vulnerability of children (3.3).

3.1 Politics of selection

A biopolitics of protection necessarily involves drawing limits and producing choices. The criteria to determine the populations concerned by specific protection measures are set through normative, procedural, and systemic selection procedures. This section will engage with the politics of selection performed through the protection apparatus, which determines who the community is preserving and through which processes.

3.1.1 Normative selection

Normative selection pertaining to the protection of child trafficking victims operates at two main levels: the perceived legitimacy of a child’s claim to protection, and the type of rights the child’s situation entitles him or her to, depending on the administrative category he or she is deemed to fall under. The legitimacy of a trafficked child rests upon a set of objective and subjective normative choices. Subjective criteria have to do with the determination of the trafficking situation, which is delicate to establish. Even when the determination of the child’s trafficking status is not contentious, age constitutes a criterion for the attribution of protection against trafficking. Although age is an objective biological fact, the threshold of majority differs across countries,⁷ and at times even within countries.⁸ The lack of harmonization, despite its international legal definition, creates protection vacuums (Interview 17). The determination of age is also often

controversial, especially for older children. Whether a suspected victim of trafficking is under or over 18 is a crucial element to trigger specific anti-trafficking protection obligations on the part of public authorities: as explained in Chapter 1, a person who *consents* to exploitation is not considered a trafficking victim, unless he or she is a minor. The age of the presumed trafficking victim also has an incidence on access to special rights, which may vary not only between majors and minors, but also between minors of different ages, depending on the jurisdiction. In Belgium, for instance, recognized trafficking victims below the age of 12 are issued with an identity document that allows them to be registered as aliens, and are preferably placed in a foster family; children between the age of 13 and 18 are issued with a limited residence permit,⁹ and are thought to be best accommodated in small-scale reception centers (European Migration Network 2009, 69). Beyond problems of endemic corruption and governance failures, the initial determination of the minority of a child is skewed. It may be impossible to determine whether a victim of trafficking is a minor or not, if he or she does not possess reliable documents and oral testimonies corroborating his or her age. The declarations of children regarding their age might be vague, simply because a number of children do not know precisely how old they are, either because they have never possessed identity documents, or because of different cultural reference systems. In Afghanistan, for instance, age is counted according to past periods, not years (Interview 3). In cases where the minority of the child is not obvious, forensic and medical tests are used. They have been favored in the European Union in past years to ascertain the age of children. The methods most frequently used to confirm the age of an individual around the world are bone scans and teeth prints based on the 1959 Greulich and Pyle standards, which were established using data collected on a cohort of 1,000 white children born between 1917 and 1942 of upper socioeconomic families in Cleveland, United States (Roberts and Slaby 1974). Initially intended to detect certain developmental pathologies in youth, skeletal age assessments have received severe scientific criticism for use in age determination of young migrants. As many trafficked children identified are unaccompanied minors, often adolescents, the boundary of age is highly problematic and political. A high percentage of foreign minors undergoing these tests (88% in France) are between the age of 15 and 18 (CNCDDH 2014). Yet, the validity of the tests has been called into question due, first, to their significant margin of error, particularly as they do not allow to distinguish clearly between the age of 16 and 18 (Chaussain and Chapuis 2007; CNCDDH 2014). Second, although the Greulich-Pyle atlas appears to be reliable for Caucasian and Hispanic ethnic groups, it does not produce reliable results for others (Mansourvar et al. 2014), and it is yet unclear whether other techniques might be more promising.¹⁰ Third, it does not take into account personal data that can influence ossification, such as the socioeconomic situation of the person, medical conditions that could have influenced their development, psycho-affective evaluations, and the declarations of the trafficking victim (van Zeebroeck 2008; Jacques 2009; Weyembergh, Clesse, and Nayer 2013, 707), contrary to UNICEF's recommendations to do so. Despite these known flaws, the tests continue to be used. In its decision n° 2018-768 QPC

on 21 March 2019, France's Constitutional Council for instance acknowledged that skeletal age assessment tests used to determine the minority of unaccompanied migrant children contain a "significant margin of error", but ruled that they are nevertheless in compliance with the country's Constitution. In practice, children undergoing a skeletal age assessment test are often declared to be precisely 18 (Interview 3). A crucial component of the protection apparatus is thus highly problematic and produces structural violence for the children who go undetected, or are detected as trafficking victims but are classified as adults.

The legitimacy of the victim does not only operate on objective criteria – which, as noted above, can nevertheless be flawed or distorted. Trafficked children are often involved in illicit activities, such as petty crimes, trafficking of various nature, forgery, prostitution, etc. The status of the trafficked child is thus regularly cloaked in criminality, leading to a problematic intersection between the criminal angle and the protection angle. The status of the trafficked child is charged with representations associated in collective representations to assimilated categories (e.g. irregular migrants, prostitutes, criminal networks, etc.), transforming the child into an object of control rather than a subject of protection. These anxieties about the control of socially unacceptable forms of activities or beings¹¹ nourish the dichotomy between victims and criminals that the trafficking rhetoric is premised on. Within this dichotomic rhetoric entrenched in administrative categories, the protection apparatus needs to be understood in relation to its conceptualization of victimhood. Assumptions about the degree of suffering and legitimacy of protection claims rank certain children subjected to trafficking as desirable protectees, and others, in particular racialized, older boys, as a threat to the security of the nation. There is a difficult reconciliation of the idealized image of the suffering child with the panel of trafficking situations with which real children are confronted in real life.¹² Investigating the relations between gender, class, and race in a Thai neighborhood famous for its prostitution, Sébastien Roux stresses just how much the construction of the issue as "sex tourism" overshadows its complexities. He notes that, "confronted to real life situations, compassion is expressed with difficulty"¹³ (Roux 2012, 130). This problematic recognition of the legitimacy of victimhood unfolds most starkly when confronted with situations of intra-family trafficking for domestic exploitation (Interview 26), or to the agency of children choosing to enter exploitative labor, especially where boys and adolescents are concerned (Interview 17). The perceived legitimacy of trafficking victimhood is conveyed through cultural and social representations of children and violence. These representations produce discourses on trafficking victims, which crystallize hierarchies of victimhood: a six-year-old girl subjected to sexual exploitation is seen as a legitimate victim, whereas a 16-year-old boy toiling on a fishing vessel might not be, or at least not as much. Hierarchical representations feed into the political ambivalence towards trafficking victims. Media representations of the "migrant crisis" in Europe construe a myth of the "invasion" (Héran 2018) of "fortress Europe" by migrant families and their children, who are often constructed as a social problem (Beaud and Pialoux 2003).

Rhetorics around the legitimacy of trafficking victims are complex. The trafficked child is at the intersection of representational social categories: associated with certain forms of organized crime, the transnationally trafficked child, often an irregular migrant, experiences violence twice, first through his experience of exploitation, second by the destination country, which tends to proceed through a “transfer of illegitimacy” (Bigo 1996) and “vectoral transformation” (Aradau 2008b) in its laws, policies and practices. These levels of representational construction of the Other bleed into each other, creating confusion on the frontier between legitimate and illegitimate trafficking victims. The bordering of acceptable and unacceptable subjects of protection has performative effects on the children concerned. Indeed, the borders of legitimacy collide with the borders of rights. The manner in which a child is classified by the protection apparatus defines the level of protection he or she can claim.

3.1.2 Procedural selection

Normative selection sets the stage for procedural selection to operate. The literature on anti-trafficking is relatively silent on the procedures of the protection apparatus. Lavaud-Legendre and Tallon’s detailed and informative research into the protective practices in the direction of trafficked minors in France, from their detection to their care (Lavaud-Legendre and Tallon 2016), is a rare instance of a detailed mapping of the protection apparatus. While the challenges experienced by anti-trafficking professionals are clearly exposed, the potential adverse effects originating in the very structures of the protection apparatus’ procedures are not questioned. The research conducted for this project in contrast suggests that the procedures meant to lead trafficking victims towards protection proceeds with selection biases that are incongruent with the objectives sought. This section examines examples from three stages of a trafficked child through the protection apparatus, the investigation and administrative decision-making procedures, and the gathering of the child’s statement.

The question of time is central in procedural selection: time devoted to identification and investigation of possible trafficking situations, and the time of the inquiry into the case. I have engaged with the difficulties of detecting trafficking victims elsewhere in this research. Suffice to say here that identification of trafficked children is arduous, whether it is determining whether petty crime or exploitative work amounts in fact to trafficking, or precisely assessing a child’s migratory journey and his or her connection with a potential accompanying adult. Accurately determining whether a child travels with a relative for the purpose of a vacation, to reunite with family, to study, to work in an exploitative situation, to flee danger at home, or for a combination of several of these motives, necessitates time, finesse and experience. Remember that a child moving for exploitative child labor is *ipso facto* considered to be trafficked, even in the absence of coercion, fraud or duress. In other words, the consent of a child who arranges to travel from Cambodia to Thailand to sort fish in a harbor under exploitative circumstances is irrelevant, as is the consent of his or her parents. That child should be cared

for by the protection apparatus. The first points of contact of trafficked children are, however, often insufficiently trained to detect cases, be it at border crossings, homeless shelters, police stations, or hospitals. More importantly still, they often lack the time to conduct a proper investigation. According to Section 29 of Thailand's Prevention and Suppression of Human Trafficking Act, B.E. 2551 (2008) (as amended) in cases where it is concluded that the person may be a potential victim of trafficking, further investigation must be conducted within 24 hours with the possible extension of seven days. The trafficking law does not provide a specific timeframe for identifying a victim. In practice, however, Thai authorities often rush to conclude investigations within 24 hours to determine whether someone is a victim of human trafficking (Interview 28). The gateway to protection is therefore very brief, especially considering that initial identification by the police determines the classification of the case and the referral of the child to protection. In substance, insufficient time dedicated to identification procedures subtracts "legitimate" victims from the protection apparatus. Time is of the essence for efficient protection to be put in place on several counts: if identification procedures are too short, the police or other investigators might overlook the trafficking situation; if identification is too lengthy, the children concerned might be moved or disappear of their own accord. To reinforce the degree of protection for trafficked children, a swift, signposted roadmap has been put in place in Paris between all the stakeholders prone to detecting a trafficking situation. Officers of the judicial police specialized in detecting trafficking situations – through repeat offenses, for instance – have very clear gateways and interlocutors, which allows them to take charge of the minors within a 24-hour window. French public authorities are looking into extending this mechanism to other relevant cities on the national territory (Interview 7). Once a presumed trafficked child enters the protection apparatus, time can, again, be an element of protection or fragilization, depending on how swiftly the apparatus takes the minor under its care. As previously mentioned, a high proportion of detected minors are adolescents. While their minority entitles them to special protection measures, once they reach majority, they fall under the less protective regimes applicable to adults. A magistrate and senior director of an anti-trafficking unit in France stresses that time is of the essence in the procedures to regularize a young person's stay. If the child has turned 18 at the time he or she is taken into care, he or she will not benefit from protection, even if he or she was a minor at the time of the occurrence of the trafficking offense. She stresses, however, that provided the child has been identified as a potential trafficking victim and therefore as being in danger, there is an effective and rapid exchange of information between the Prosecutor's office and the French Office for the Protection of Refugees and Stateless Persons (OFPRA) (Interview 7). By accident or by design, time can fragilize trafficked children by excluding them from the protection apparatus. In 2016–2017, reports revealed that judges in the United Kingdom in charge of ruling on the cases of unaccompanied minors, some of them suspected trafficking victims, were found to be consciously waiting out the clock until they reached adulthood. Once their possibility to claim protection vanished, they were sent back home, with the associated risk this removal entailed (Interview 4).

This scandal shows just how crucial implementation of laws and policies is. Most interviewees stress that there are sufficient good laws and policies in place. The problem is rather in their performance (Interview 7, Interview 17, Interview 21). Beyond the rules that are established, the concrete procedures that are implemented by stakeholders play a determining role in the success or failure of the protection apparatus. The lack of training, and importance thereof, has been discussed elsewhere in this book and is regularly pinpointed by gray literature and white papers.¹⁴ Insufficient human and financial resources, as well as sloppiness in anti-trafficking investigations,¹⁵ have been designated as seriously impeding the good functioning of protection mechanisms. Downright counteraction to protection rules has also been observed, creating a problem of access to the protection apparatus.¹⁶ The difficulty to accessing protection unfolds in many obvious, but also more subtle, ways. One such structural impediment to the access of rights is the procedural set-up for gathering the testimonies of minors subjected to trafficking. The derailing of protection due to language barriers starts at the level of referral mechanisms. Myanmese representatives of a workers' union in Thailand testified that a key obstacle to denouncing exploitative situations is the lack of access, for foreign workers, to services in their language, or to translators (Interview 12, Interview 14, Interview 18). This was corroborated by other actors as being a general feature in the ASEAN region (Interview 12, Interview 17, Interview 18), but also in the European Union. Recalling a case of Thai minors trafficked to the United Kingdom, one interviewee explained that in such cases of transnational trafficking, it is very hard for the local authorities of the destination state to properly identify the trafficking situation, for lack of tangible elements, and insufficient knowledge of the context of the country of origin. It would have been more efficient to cooperate with either the embassy – although the interviewee mentioned the risk of corruption – or civil society organizations working in Thailand. “The bare minimum would be for the victims to be able to speak in their language” (Interview 17). An increasing amount of collaborations are being organized between source and destination countries, which facilitates the possibility for potential victims to speak out. Jacqueline Bhabha recounts the case of a six-year-old girl from India sold by her parents into domestic servitude, identified as a potential trafficking victim and refugee at JFK airport in New York. The central obstacles to the delivery of a refugee status to the little girl were both substantive and procedural. The substantive legal doctrine is premised on an adult-centered conception of persecution, understood as resulting from state oppression, such as torture or imprisonment. Procedurally, the child could not present a compelling testimony, as she spoke no English and was too young to raise significant elements. An immigration court is not an appropriate place to elicit a young child's distressing and intimate story (Bhabha 2016, 137–38). Such a testimony requires special expertise, an appropriate environment, and the possibility for the child to speak in their own tongue.

The management of time and language therefore produce selection and result in *de facto* barriers to the access of trafficked children to the protection apparatus. These procedural selection biases create structural violence by transforming “make live” opportunities into “let die” situations for vulnerable children in

need of care. These systemic incongruences and incoherencies are embedded in an apparatus that, on first look, is well-designed and protective, yet produces haphazard results. Depending on the personal knowledge, engagement and beliefs of individuals in charge of the case during the various stages of the route towards protection, a trafficked child may or may not gain access to protection, due to procedural selection biases that generate inconsistent implementation.

3.1.3 Systemic selection

The relations between each of the links in the protection apparatus, in other words, its systemic set-up, are an essential element of its good functioning. This section analyzes the selection processes underscored, first, by systemic priorities, taking the example of funding structures and the favoring of the criminalization angle over protection, and second, by systemic cooperation mechanisms, at the national and transnational levels.

Prioritization in the protection apparatus can be examined under the angle of issue areas and funding. Although protection has become a crucial component of anti-trafficking instruments (see “Part 1. Global Governance of the child trafficking norm: Constructions, politics and meanings-in-use”), criminalization is still prioritized. The international legal framework itself is ambivalent: the Palermo Protocol forcefully *requires* signatory states to allow trafficking victims to partake in criminal proceedings, but only weakly *advises* them to “*consider* implementing measures to provide for the physical, psychological and social recovery of trafficking victims in persons” (art. 6(2)(3)). Prioritization of criminal proceedings over protection can proceed from strategic and political choices, from systemic reticence towards a full acknowledgment of trafficking victims’ human rights, and from lack of proper information on the part of frontline practitioners. Despite reiterated public concern, “GRETA reported police arrested and prosecuted child victims of forced begging and criminality without screening for trafficking indicators” in France (United States Department of State 2019, 199). In Thailand, although “NGOs push a victim-centred approach, trying to help the victims to get as much benefit out of the process as they can” (Interview 19; see also Interview 17), “the police addresses human trafficking because they want to arrest traffickers and brokers. They don’t think much about the victims, they don’t care about the victims’ trauma” (Interview 19). Several interviewees confirm that protection is an area in which stakeholders tend to clash (Interview 11). Alignment is much stronger on the criminal angle: criminality is seen as the common threat to be mitigated. “Governments [in Southeast Asia] want to be seen like they are tidying things up in general. Criminality is more of a focus than the human rights concern”.¹⁷ Speaking off the record, two leading international organizations with specialist knowledge on anti-trafficking and privileged contacts with the governments of Southeast Asia, contended that a major sticking point in the region, with regard to the protection of trafficked children, is the situation of trafficked refugees. Thailand doesn’t recognize the non-refoulement principle of the Geneva Convention. Given the current political context in the region, this creates

a complicated situation for the Rohingya refugees, half of whom are children (Interview 11). These refugee children are very vulnerable to traffickers yet are addressed as irregular migrants by the government (Interview 19). NGOs work on convincing the Thai government that “Rohingya people can also be victims of human trafficking” (Interview 19), but the stance of the Thai government, at the time of research, is to return them to Myanmar.

The Thai government will not want to take care of them indefinitely. Myanmar refuses to accept them back, as they will not recognise their nationality. [This creates a] back and forth between both governments and a battle about who will take responsibility. The best interest of the child determination goes out of the window a little sometimes, because [both governments] try to release themselves from the responsibility of the care of the child.¹⁸

The corollary, then, is that the criminal angle determines the priorities established in the anti-trafficking protection apparatus, from a thematic as much as from a budgetary perspective. The funding made available by central authorities to the protection system has selective effects. How does the available budget impact child trafficking survivors? As already mentioned in Chapter 2, Section 2.2.1), the consistency, coherence, durability and amount of funding have determining effects on the possibility to implement successful anti-trafficking measures. International donors tend to prioritize funding for the poorest countries. In Southeast Asia, these countries are Vietnam, Cambodia, Laos, and to a certain extent, Thailand. Schematically the poorer countries are primarily source countries, whereas the richer countries such as Malaysia and Singapore tend to be destination countries, according to the interviewees (see e.g. Interview 11, Interview 14, Interview 12, Interview 21, Interview 26, Interview 30). Thailand stands out as a hub at a geographical and socioeconomic crossing in the region. Whereas Malaysia is categorized as one of the richer countries of the region by donors, and therefore is not a funding priority, NGOs stress that funding anti-trafficking projects in Malaysia would be highly beneficial to all countries in the region: providing protection for trafficking victims in the country, and working on the demand coming from Malaysia, would allegedly stem trafficking flows in Southeast Asia (Interview 17). The mirror effect, then, is that choosing recipiendary countries over others can have the effect of making it systemically harder for some trafficked children to access protection schemes, depending on the location they are trafficked to. Where national funding is concerned, there have been frequent reports of underfunding from the central government to local councils in charge of implementation, or from funding obligations not being honored. Local councils and municipalities in France were forced in 2011 to engage in proceedings towards the central government, in order to recover the funds needed to fulfill their statutory responsibilities of child protection for unaccompanied migrant children. This battle has been a hot topic in France for some time. After years of sustained criticism from municipalities and associations, accusing the government of not wanting to be in charge, the Senate published an information report in 2017. Its conclusions are

emphatic: the period of protection and evaluation presents a heavy burden for the local authorities (*départements*); the flat-rate compensation offered by the State does not take account of the duration needed for the evaluation and covers barely a tenth of the costs supported by local authorities (Doineau and Godefroy 2017, 39–42). Despite an increase of €132 million of additional credits announced in the 2017 finance bill, Senators continued to ring alarm bells, specifying that the €1,250 granted per unaccompanied minor by the State didn't come close to the €40,000 of reception costs incurred by local authorities for a minor per year.¹⁹ A new decree increasing state aid came into force during the summer of 2019.^{20, 21}

In the Netherlands, challenges have also been mounted in response to child-protection violations by the state: officials refused child support to undocumented parents until an appeals tribunal ruled that this violated the local authority's duty of care toward the children.

(PICUM Bulletin 12/09/2011, cited in Bhabha 2016, 246)

Likewise in Southeast Asia, budgetary constraints also put a strong limitative cap on protection measures for trafficked children. In Vietnam,

National authorities did not devote adequate funds for victim protection, encouraging provincial governments to use their own funds for trafficking programs to further decentralize this responsibility, and relied heavily on civil society to provide protection services with limited in-kind support.

(United States Department of State 2019, 500)

Similarly, In Thailand, voices insist that the special rights of children are increasingly recognized. In June 2018, the IOM organized a workshop on unaccompanied minor children with UNICEF and representatives of six countries (Vietnam, Myanmar, Cambodia, Laos, Thailand, Malaysia), focusing on child migrants, children in detention, and trafficked children. Across the countries present at the conference, in theory, once migrant children are recognized as victims of trafficking, they enjoy more rights than other migrant children, and usually the same rights as national victims of trafficking. However, due to the budgetary framework of Thailand, for instance, the shelters dedicated to trafficking victims do not benefit from long term financing from either local or regional government. The IOM explains: “in shelters for women and children, it's not that they wouldn't accept an unaccompanied migrant child victim of trafficking, but they're not set up to finance it in the long term”, which constitutes a limiting factor to protection.

There might be ways around it, but at provincial level, people are not sufficiently aware of it, so they're reluctant to take unaccompanied minor children under their care, even though Thailand is a signatory of the UN Convention on the Rights of the Child.

(Interview 21)

Another source anonymously reports, in particular concerning trafficked refugee children:

sometimes the safe context of return gets lost when weighed against practical considerations such as budget, shelters being above capacity, or not wanting to bear responsibility of having a child to look after until his majority. (...) The system is meant to be temporary; they don't want to care for them, because they don't want to cash out indefinitely.²²

The systemic prioritization of certain thematic issues, which translates into budgetary terms, hence structurally selects beneficiaries of protection, and excludes other not-less-legitimate victims.

These cases also starkly highlight a predominant systemic element at play in the protection apparatus: stakeholders' cooperation and their sharing of responsibility.²³ At the level of intra-state cooperation, processes of screening for trafficking and referral of children to protective services remain "cumbersome and complex" (United States Department of State 2019, 500 about Vietnam) due to red tape in most states. However, and as noted above regarding the pilot program in Paris: multiagency work and close cooperation between front-line stakeholders are the object of increasing efforts (see e.g. Rigby 2011 on multiagency cooperation in Glasgow, UK). In the Parisian case, despite clear pathways, referral mechanisms are fraught with inefficiencies. Stakeholders in particular are not always aware of what they should do when confronted with a child trafficking case. In France, the divisions of tasks in terms of protection are roughly made between the Child Welfare Services (*Aide Sociale à l'Enfance*, ASE), which has a duty of care towards all isolated minors, the *Comité contre l'esclavage moderne* (CCEM), and NGO *La Cimade*, which takes charge of judicial representation of victims. In practice, however, the referral mechanism is not used efficiently by the stakeholders, and authorities lay the responsibility to act at each other's door – for instance, the police place the responsibility upon the prefecture, and vice versa (Interview 3). At the level of inter-state cooperation, it is complex to coordinate with counterparts across borders, in states with different administrative découpages and different anti-trafficking mandates across national authorities. Successful coordination of protection efforts is dependent upon the level of trust and depth of ties between states. The level of integration of the European Union's member states facilitates judicial and police cooperation. Frameworks are in place for the criminal prosecution of traffickers, but there is little in the way of common protection mechanisms (Interview 5, Interview 6, Interview 7). In the geographical region of Southeast Asia, a plurality of systemic stakeholder relation programs have led to the creation of bilateral agreements to coordinate anti-trafficking: the Bali process, the ASEAN region, and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) in the Greater-Mekong Sub-region. Recalling a case of child trafficking victims from Cambodia, Myanmar, and China identified in Thailand in 2013, my interlocutor from the Japan International Cooperation

Agency (JICA) summarized: the children from Cambodia and Myanmar were admitted to shelters and were able to stay for a long time because of the agreements between the countries; the others were sent back to China because nothing was in place (Interview 25), with the potential endangerment that such a swift return procedure can have on the children concerned. Respondents from the IOM detailed the different systemic relations between the states in the region, and the corollary effects on protection. There is a very strong bilateral engagement between Thailand and Myanmar, for instance. The countries revised their Memorandum of Understanding (MoU) on the cooperation for combating the trafficking of human beings and their Standard Operating Procedures (SoP) in 2018. They contain specific provisions catered to the needs of child victims. The two countries hold biannual bilateral case management meetings, during which they go through the individual cases of people in shelters and who are due to be sent back to Myanmar. The stage of the legal proceedings is evaluated when appropriate, and a family assessment plan is drawn up for each child, to evaluate whether it is safe to return with their family, or if other solutions should be sought. The interviewee considered Thailand to be very interested in the children who have been in their care. When the meetings take place in Myanmar, the Thai delegation apparently follows up in person on the welfare of the children that were previously in their care. To accompany these bilateral case management meetings, caseworker visits are held. Caseworkers from Myanmar will come, usually one or two weeks before the meetings, to visit the Myanmar nationals across the various shelters in Thailand. Because higher numbers of victims are identified from Myanmar than from other countries in the region, the collaboration with Myanmar is seemingly much stronger and has been in place for a longer time. Such a process also exists between Thailand and Laos, but takes place less frequently, around once a year. Regarding the cooperation between Thailand and Cambodia, the IOM recently supported the development of SoPs. It is very different than the ones with Myanmar, and is considered to be in a learning process. At the moment, observers mention that they are too specific, which has made the protection process very complex in many regards. A new SoP, intended to be much more flexible, was signed at the end of 2018, and the IOM has worked on an Action Plan with both parties, to make sure that they can operationalize the SoPs (Interview 21). At the inter-regional level, between the European Union and Southeast Asia, little coordination is in place at a regional level and bilateral agreements function on a case-by-case basis, as mentioned above regarding the case of Thai minors trafficked to the United Kingdom. Overall, there is a marked tendency at a systemic level, and particularly at the level of inter-state relations, to devolve responsibility to other actors. The boundaries of a given state's responsibilities are the object of renewed negotiations. Where stateless children are concerned, the country of destination is due to take responsibility. Yet, States often prove reluctant in finding resources to own up to that duty and try to pass on the obligation to other actors, for instance NGOs, even when they don't have the mandate, the funding, or the institutional set-up to fulfill it (Interview 21).

The systemic distribution of protection responsibilities in the apparatus therefore has direct and indirect exclusionary effects on children potentially placed under their care. The selection can be the mirror effect of “positive”, “let live” selection mechanisms: a happy few benefit from efficient and concentrated action, while those circumscribed to less privileged geographical, social, normative categories are left behind. It can also occur through negative selection inferred from blame games and stakeholders passing the buck of responsibility. In both instances, the effect is that “make die” situations are created through systemic selection biases.

This section has shown that the stakes of determining a trafficking victim’s access to the child protection apparatus are administrative, operational but also political. It has explored the politics of selection, which structurally create “let live” and “make die” situations within the protection apparatus, by drawing lines between “categories” of persons. It has shown how, even in apparatuses designed to care for trafficked children, exogenous and endogenous tensions come into play. The exogenous tensions proceed, for instance, from overt disagreements over the manner to ensure the rights of child trafficking survivors from an operational standpoint, in particular when the age or the nationality of the child cannot be established with certainty (Interview 21). The endogenous tensions arise from derailments of the internal logics of the normative, procedural and systemic set-ups. The entire protection apparatus, therefore, in parallel to the immense benefits it can provide to trafficked victims when actioned correctly, also routinely produces violence towards already fragile children by further depersonalizing, objectifying and excluding them. Based on the idea of social justice, it is premised upon structurally violent politics of selection which affect not only children at the border of rights, but also those that should be cared for under the criteria established by the protection apparatus itself.

3.2 Liminal spaces

What spaces do the politics of protection, and their associated selection biases, produce? Where and how are trafficked children enabled to speak, grow, partake in society, once they enter the protection apparatus? Their status of children in distress prompts the protection apparatus to theoretically grant trafficking survivors access to highly protective rights, including when they are irregular migrants (e.g. Interview 7, Interview 21). There is a declared will to include these children into the ordinary system, to avoid boxing them into a separate space. Yet, symbolically and physically, these children are kept at arm’s length of society, muzzled and under surveillance. Critical security studies have denounced the externalization of border controls, without access to correlate rights for migrants, under the terms “remote control” (Guiraudon 2002), to insist on the distanciation, and “ban-opticon” (Bigo 2007), to stress the selective surveillance towards those kept at bay. This section investigates the manners in which the protection apparatus creates interior liminal spaces, invisibilizing, controlling, circumscribing, and ultimately excising trafficked children under its care.

3.2.1 Voicelessness

The voice of children is not one often listened to by authorities. Children's words are considered with prudence, their veracity often doubted, their agency frequently overlooked. Trafficked children's voices are even less audible. Their speech is difficult to elicit. Trauma and poor mental health inhibit their ability to coherently recount and accurately describe events (Armsworth and Holaday 1993; Reisberg and Hertel 2003). The weight of trauma in the children's testimony is insufficiently understood, to the point that UK barristers and legal experts testifying to the House of Lords in 2019 asserted that "the best interests of young people are rarely being considered and upheld in the immigration decisions" concerning unaccompanied migrant children, including trafficked children (House of Lords 2019). Additionally, because of their status as minors, foreigners, or individuals often involved in illegal activities, and their categorization as victims rather than agents, their speech is given less credibility and has a lesser audience, which often results in them being silenced. The tendency to forego trafficked children's accounts of – and opinion on – their own journey seemingly contravenes article 12 of the UNCRC, which holds:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

This chapter has previously established that, structurally and procedurally, the protection apparatus is not well-designed for trafficked children to be heard. It is ill-equipped to build trust (Interview 3), break cultural taboos (House of Lords 2019), and help children become aware of the exploitation they have sustained (Interview 7, Interview 17).

Voicelessness is a by-product of defects in the protection apparatus. It is also a choice, which takes the form of what we will term "violent muzzling" on the one hand, and "benevolent muzzling" on the other. The violent muzzling of trafficked children occurs as a result of coercion and fear. Stakeholders in Southeast Asia recount the insistence felt by trafficking survivors, on the part of public authorities, to go through the investigative process and testify during the prosecution. NGOs, on the other hand, are more inclined to listen to the victims and take their choices into account, whether this amounts to going home, to staying, to testifying in a trial or not (Interview 26). The Thai Anti-Trafficking Act of 2008 as amended in 2015 and 2017 encourages victims of trafficking to directly go to the police, by guaranteeing their protection from retaliation by potential traffickers and from prosecution through a good-faith clause. Whistle-blowers are similarly protected

by the law. Yet, in practice, trafficking victims and NGOs have been prosecuted in courts for defamation complaints by employers, or for crimes of *lèse-majesté*. The police, who are the stewards of the good-faith principle and of the subsequent protection of victims and whistle-blowers, often fail to fulfill this mission (Interview 19). The pressures exerted on trafficking survivors by public authorities to testify in court on the one hand, and the desultory protection offered by authorities against abusive employers, on the other hand, are reliant on similar mechanisms as the ones driving coercion in trafficking trajectories. The consequences nurture a well-founded fear of speaking out on the part of the victims.

Benevolent muzzling operates out of several orthodoxies, embedded in the structure of the global normative apparatus, intended to protect the child, but which have been pinpointed to create harm, if applied blindly and unduly stymying the child's voice. "Child trafficking can never be in the best interest of the child" is the first postulate upon which the protection apparatus is premised. The argument goes that children have an overwhelming right to be protected from exploitation. This sentiment is expressed even more starkly where sexual exploitation is concerned.²⁴ Yet, even though children must be protected from harm, issues such as labor exploitation of children are rarely as simple as they are portrayed. A senior specialist of anti-trafficking schemes in a frontline international NGO explains that adults come to Thailand from Cambodia or Myanmar, for instance, and bring their children with them, send for them to come, or have children once in Thailand. A number of these families are subjected to trafficking, and their children are exploited in Thailand alongside them, to work in agriculture or do domestic work. In some instances, however, these children manage in parallel to go to school, something they wouldn't necessarily have been able to do had they stayed in their context of origin (Interview 23). Such life stories are frequently recounted in Europe as well (Interview 4, Interview 5) and present clear counterpoint stories to univocal conceptions of victimhood. While there can be no justification for continuing a child's trafficking situation, it is crucial to mitigate the solution against the desires of the child and the overall context. Indeed, removing the child completely from their context and sending the family back home or to a shelter is in practice the preferred solution, but is most probably not in their best interest. Possibilities to access a safer, adapted work environment for the parents and maintaining the child's schooling would be much more adequate, although practitioners seem to be struggling to scale such solutions up.

Second, the idea that "it is in the best interest of the child to be with their family and/or in their country of origin" is overused when considered in context. In Thai law, trafficked children must be returned to their country of origin. It is, however, often not appropriate to return the children to their original context. Beyond the current situation in Myanmar, which presents a clear case in point of the dangers of return for trafficked children,²⁵ family tracing is rarely conducted properly. A Vietnamese boy of 14 years old, trafficked to Thailand to work on a fishing vessel, pleaded with an NGO in July 2019: "I want to go home but please don't let me go home alone. My mother works in a different village. No one waits for me at home" (EJF 2019, 36). There are frequent cases of children who are sent back to Laos or

Myanmar, although their parents are still working in Thailand, and although the relationship with the parents is functional (Interview 20). At the opposite end of the spectrum, the postulate that it is necessarily in a child's best interest to live with their family ignores the reality of families' possible direct involvement in the trafficking and exploitation of children. The decision to "cash out" their children can be driven out of "desperate utilitarian strategy" (Bhabha 2016, 161) and the necessity to survive (Shelley 2010, 180). It is also a strategy to improve livelihoods: "trafficking their daughters is one way that Southeast Asian families generate funds to make capital improvements to their home and their land" (Shelley 2010, 54). With this operating context in mind, IOM staff indicates that they

always have to be careful about how the IOM engages with government counterparts. We always try to bring them back to frameworks (MoUs, SoPs, etc.), asking if they have spoken to the child, if they have asked them about their preference.

They recounted that they had recently been confronted with familial trafficking of children in a management meeting between the IOM and regional government counterparts. One of the cases involved a child whose parents had been involved in the trafficking process. Heavy evidence suggested that the mother had sold her child into marriage (Interview 21). Such instances clearly do not present a safe situation for the child to return to.

The third postulate holds that "adults know best, and must protect children, even from themselves". This issue is particularly delicate. A recurring difficulty for anti-trafficking professionals, in particular in familial exploitation of children, is to trigger protection measures and convince children to stay within the protection apparatus. A French senior government official explains: "the minors are either detected and don't want to enter the protection system, or, when they agree to be protected, they leave after a couple of days. There is a complete ascendancy of the family, especially in the case of minors forced to commit offences" (Interview 7). Speaking about children identified as being trafficked into sexual exploitation in Thailand, one practitioner explains: "they don't want to enter the [protection] system. Pimps take good care of them nowadays. Previously they were tortured and held against their will. Now, subjection is psychological, so they don't realize that they are being exploited" (Interview 17). Both interviewees testify that, through processes of rehabilitation and psychological support, "they end up understanding that they are victims" (Interview 7, Interview 17). The initial protection against the will of the child, and subsequent process of persuasion, raises thorny ethical questions: how to take account of the opinion of the child? Is it easily discounted as being invalid because of the adherence of the child to the system that exploits him or her? Does the process of persuasion not risk replacing one form of psychological subservience with another? How does one make sure to respect the child's agency, while balancing it with the predicaments of the protection apparatus? Where must the limit be drawn between forced protection and voluntary exploitation?

Protection professionals are faced with difficult balancing acts, between protection requirements, pragmatic considerations of a child's best interest, and respect for the views of the child. What is apparent from the practices of the protection apparatus, is that the child's voice is rarely collected, and even less taken into account. The protection apparatus tends to operate along the line of sets of orthodoxies that are not necessarily commensurate with the best interest of the child, which in turn is a question of perspective on the situation. This is problematic, as it excises the child from choices about her or his own destiny, symbolically letting die their voice and agency, and pragmatically leading to potential errors in appreciation of their best interests. Steps are being taken in some jurisdictions to attempt to correct the voicelessness of children and reassess more precisely what their best interest entails in practice. In November 2019, Adrien Taquet, Secretary of State for Child Protection, declared during a television debate that, up until recently, in France, biological connections tended to be favored; laws passed in 2007 and 2016 placed the best interest of the child back at the center. These positive evolutions of the law have not necessarily seeped into political practices yet (Gaessler 2019). New forensic interview techniques are emerging to enhance children's capacities to reveal abuse, exploitation, and provide accurate information about their past experiences. The National Institute of Child Health and Human Development (NICHD) protocol²⁶ is for instance used with success in Canada and Nordic countries in investigative interviews with children (Baugerud and Johnson 2017). There is also increasing awareness of the factors limiting the child's revelations of trafficking and exploitation – the presence of a “family” member, for instance (Interview 7) – while on the contrary the child's presence in an adequate location, in the presence of highly trained professionals, is more conducive to truthful and precise information. To this end, France currently has around 60 special units spread over its territory, and intends to deploy at least one in each of the 101 departments (Taquet in Gaessler 2019).

3.2.2 *Shelters*

Protection comes from the Latin word “*protegere*”, literally an action of sheltering, covering, and preserving. Shelters are the ultimate symbol of the protection apparatus, as well as the prime spaces that identified trafficking victims are brought to. A circumscribed, closed-off space, it is designed to cut children off from danger and negative influence, to offer them a safe haven to recover and reconstruct their life prospects. Shelters are in-between spaces: temporally, they are transitional; physically, they are cut off from ordinary areas of sociality. “The gaze that is turned towards them is rooted in an egocentric relationship of the centre-periphery type: it is interested in the details of the internal life of the periphery only insofar as these details call into question the centre itself”²⁷ (Agier 2003, 69 about humanitarian sites). The exceptionality of these spaces at the margins of society translates, first, into the specificity of their organizational rules, and second, into their ambivalent function of care and control.

Shelters catering to child trafficking victims are part and parcel of the protection apparatus in both regions examined. Among the countries of mainland

Southeast Asia examined for this study, Thailand stands out as having the most developed protection apparatus. The leader of an NGO specialized in child trafficking observed a positive trend in the Thai government's efforts to combat human trafficking in recent years. He recounts that the government has in particular put effort into better screening for the recruitment of migrant labor, which elicits some of the most acute forms of trafficking in the country. It has also significantly increased government funding towards anti-trafficking measures, and taken more proactive actions on the ground to increase first-stage identification of potential trafficking victims. The NGO works with the welfare protection centers dedicated to the victims of trafficking, and has noticed that the processes of screening inside the shelters have improved, to ascertain that the people lodged there are indeed trafficking victims (Interview 27). In terms of organization, under the national Anti-Trafficking in Persons Act, B.E. 2551 (2008), the Ministry of Social Development and Human Security (MSDHS) is the governmental agency responsible for enforcing the protection rights of victims of trafficking. At the time of investigation in 2018-2019, it oversaw 76 government shelters spread across the country. In addition, interviewees mentioned eight shelters, operated under the Division of Anti-Trafficking in Persons (DATIP), that are specifically dedicated to the care of anti-trafficking victims. When foreign trafficked children are identified as such by the police, they are sent to one of the four shelters providing services to female victims and children, or the four catering to male victims,²⁸ where they are "protected to the extent that they will be ready for the trial. Eventually, they will be sent back to their countries" (Interview 25). In theory, this opens up the possibility for them to access services and the opportunity to receive compensation. The intention is to create a one-stop center where trafficked children would go (Interview 21). Boys are allowed to stay in the shelter with their mother, if they are accompanied, until the age of 12. After that, they are expelled, as they are considered a "risk" for the women and other children living there, due to the close proximity of the residents of the shelters, according to the director of a center visited by a UNHCR official in 2018 (Interview 11). It is unclear to interviewees where the boys between 12 and 18 go, once they are dismissed from the shelters (Interview 21, Interview 24, Interview 25) (Liberty Asia 2017a). Strikingly, none of the interviewees mentioned the Pak Kred Reception Home for Boys,²⁹ which exists since the 1960s in the Bangkok area and caters specifically to boys between the ages of 6 and 18. Within the liminal space of Thai shelters, it is thus unclear to what extent trafficked boys are taken into care, or excluded, for lack of targeted policies, prejudice, lack of space, or other restrictions impeding their protection. Generally, access to shelters in the protection apparatus appears to be challenging for children, and in particular for boys, across both regions. Myria, the National Rapporteur on human trafficking in Belgium, noted that minors detected as being victims of trafficking in principle receive accommodation in special centers, such as the Esperanto center in Wallonia, "which is specially designed to take in and take care of presumed child victims of human trafficking" (Myria 2019, 23). However, the model of the Esperanto center should be replicated and consolidated, to cater to the reception of these minors, which at the moment is

insufficiently adapted to their needs. The National Rapporteur indeed stresses the lack of access of these children to care and protection in shelters:

We have found that, in practice, very few presumed child victims of trafficking benefit from the procedure. Hence, in 2016, out of the 133 victims of trafficking newly supported by the reception centres, only seven of them were minors. Six of them were young girls who were the victims of sexual exploitation (including four Nigerians, one Bulgarian and one British girl). A young Vietnamese man was the victim of labour exploitation.

(Myria 2018, 46)

The specific impediments to protection of children, as compared with adults, were the need for special facilities, and the difficult balance to strike between the need for protection and the respect for children's rights.

Shelters are ambivalent spaces. Protection and rights appear in principle as tautological terms. Yet in practice, the very spaces destined for protection can be synonyms for wrongs. Spaces of protection, they are also confined spaces, separate from the rest of society. Although the Palermo Protocol does not obligate States to provide identified trafficking victims with support, there is widespread acceptance that children identified as victims of trafficking should not be prosecuted or held in immigration detention centers. The European instruments go further than Palermo, insofar as they require States Parties to provide trafficking victims with basic assistance, unconditional to their cooperation in criminal proceedings, and on a non-discriminatory and informed basis (CoE Convention 197, Article 12§6; Directive 2011/36/EU, Article 11§3). In ASEAN, protection frameworks are much less explicit. The *ASEAN Practitioner Guidelines* stresses victims' need for prompt protection and shelter, the COMMIT framework specifically binds signatory States to "ensuring that persons identified as victims of trafficking are not held in detention by *law enforcement authorities*"³⁰ (COMMIT MoU, article 16), and bilateral MoUs replicate this notion (e.g. Cambodia-Thailand MoU, article 7). The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), which was written in 2015 and entered into force in 2017, adopts a similarly prudent position on the matter of protection: "each Party shall *consider* adopting legislative or other appropriate measures that permit victims of trafficking in person to remain in its territory, temporarily or permanently, *in appropriate cases*"³¹ (article 14(4)); "each Party shall *endeavour* to provide for the physical safety of victims of trafficking"³² (article 14(5)). It incorporates an even more conservative stance regarding detention than previous regional instruments: where previously States were asked to *ensure* that trafficking victims are not held in detention (albeit solely by law enforcement authorities), in ACTIP "each Party shall not *unreasonably*"³³ hold persons who have been identified by its competent authorities as victims of trafficking in persons in detention or in prison" (article 14(8)). This wording leaves the door open to (more or less disguised) forms of detention, and presents a retrogression from the Palermo Protocol, just as "the AICHR [ASEAN Intergovernmental Commission on Human Rights] and the ADHR [ASEAN Human Rights Declaration] constitute

a significant backward step from the content of the UN human rights documents” (Bacon and Narminio 2024).³⁴ Beyond the imperative to shelter trafficking survivors from further exploitation and violence, the enclosedness of the centers is also a manner to control and discipline the children under the care of the protection apparatus. Gallagher and Pearson, in a 2008 report for AusAID, already concluded that it is “current practice in South East Asia [that] trafficked women and children, provided they are formally identified as such, are typically *detained*³⁵ by welfare agencies” (Gallagher and Pearson 2008, 11), thereby stressing the enclosure and physical control of children’s bodies in the liminal space of the shelter. Over a decade later, the situation has not budged much. As suggested by the backpedaling of ACTIP on the issue of detention, and confirmed by interviews, “shelters are *de facto* prisons. Children for instance are not getting proper education, they are separated from their family” (Interview 21). The shelters are closed spaces, allowing very limited freedom of movement to the children (Interview 11), who are not allowed to exit (Interview 25). The argument goes that, because of their exposure to re-trafficking and retaliation, such measures of *de facto* detention are appropriate for their protection. The UN Human Rights Committee’s *General Comment No 27: Freedom of Movement* states that “restrictive measures”, of which forced protection in shelters constitutes a subset, “must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument among those which might achieve the desired result; and they must be proportionate to the interest to be protected” (para. 14–15). And indeed, academics have stressed repeatedly that proportionality depends on a balancing act between the intensity of the measure and restrictive measures, such as “situation[s] of detention or absolute control over the victim” (Nowak 2006, 837). Proportionality, in particular where the detention of children in shelters weighs so heavily on their future prospects, completely goes out of the window. The harmfulness of the detention in shelters, and the objective of control of the body through this tool of governmentality, is even more evident when considering that children are, firstly, and as stated above, not allowed to exit the center, but are not given an informed choice to accept or not.

A child who refuses to stay in a reception centre for trafficked persons and insists on the right to work in order to support his or her family is liable to be denied the right to remain, to be incarcerated as a “flight risk” pending decision making, and eventually, as a matter of conscious government decision, to be sent home.

(Bhabha 2016, 160)

Whilst Jacqueline Bhabha does not specify the scope of application of these practices, it is a phenomenon that has been observed in Thailand during this research. The IOM emphasizes that if children don’t want to go to a shelter, they are simply treated as “illegals” (*sic*) and expelled (Interview 21).

The enclosed space of the shelter is thus an ambivalent one. Despite rhetorics of protection, the evidence suggests that practices in shelters are at times in stark

contrast with the preservation of the human rights and dignity of the trafficked children placed under their care. Where the protection apparatus practices forcible placement in the liminal space of shelters, it produces “let die” situations for the children concerned. They are rendered invisible by being excluded from the social fabric, both symbolically and physically, and turned into objects of control and discipline in a non-space stripped of sociality. The only options for trafficked children are: to be held in a detention center, to go to a shelter (UNHCR), or to be expelled. The protection apparatus is designed to be a regime of exception, providing the tools to accede to the normalization of the human security of a child, during a time-bound transition. It seems, however, to only rarely have positive and durable effects on children, and tends to be a form of emergency treatment that becomes perennial. The protection apparatus offers trafficked children two disciplinary possibilities in the short- and medium-term: to stay in shelters in conditions of (simili) detention, or to disappear altogether.

3.2.3 Exclusions

The intersection between the disciplinary function of protection, migration, and security creates the conditions for symbolic and physical exclusions of child trafficking victims from the apparatus. Public authorities, the media and, to a certain extent, academia, purport a prevalent – and simplistic – dichotomy: that of a tautologically protective protection apparatus caring for the victims harmed by trafficking networks. Arguing against this rhetoric exonerating responsibility from public authorities, I will demonstrate in this section that reality is more complex. The protection apparatus carries certain practices of proactive and passive exclusions of children amounting to “let die” mechanisms. Three types of exclusion from the protection apparatus will be examined in this section: disappearance, detention, and deportation.

Authorities are oblivious to a majority of trafficked children, for lack of detection, as has been established previously, but also for lack of administrative existence. According to UNICEF, four out of ten children under five in the world have not been registered at birth (UNICEF 2013). In Laos, this lack of birth registration concerns half of the families (Interview 17). This legal and administrative non-existence constitutes a violation of the fundamental rights of these invisible children, and in practical terms, hinders their possibility for safe migration and protection. This little-known fact has dramatic consequences, including increased vulnerability to trafficking, in the first place, and to misidentification as trafficking victims in the second place. Representatives from the UNHCR spoken to in the framework of this study stressed that a number of Rohingyas “have never been declared at birth, making them especially vulnerable to trafficking” (Interview 11). In addition to those phantom children, a number of trafficked children “disappear”. These disappearances have made headlines on several occasions in the past years, following the declarations of Brian Donald (Criminal Intelligence Unit, Europol) to the press in January 2016 stating that 10,000 refugee children had gone missing:

It's not unreasonable to say that we're looking at 10,000-plus children. Not all of them will be criminally exploited; some might have been passed on to family members. We just don't know where they are, what they're doing or whom they are with.

(Townsend 2016)

The “disappearance” of these children is particularly high in times of crises and at border crossings, as the regular reports on the disappearance of children at the Ukrainian borders (Fallon 2022) since the onset of the Russia-Ukraine war in February 2022 reminds us. The countries that “lost” the highest number of children in the period 2014–2017 were Italy, Hungary, Bulgaria, and Germany (European Migration Network 2018, 49). In other countries such as France this is a rare event: trafficked children at times leave care centers to return to exploitative families, in the case of intra-community trafficking of Roma children for forced theft and begging, but the administration generally keeps track of their whereabouts (Interview 7). Children from China, Nigeria, and in particular Vietnam figured most prominently among those disappeared children (Interview 3; ECPAT UK and Missing People 2018; Einashe and Terlingen 2019). Over the years, reports have warned about the increased risk of disappearance of trafficking victims out of the care system. In the UK, civil society organizations estimate that “60 per cent of children known or suspected to be trafficked had gone missing from care [and] none had been traced” (Dottridge 2010, 50). Overall, “in 2017 child trafficking victims went missing on average 7.2 times each, [...] an increase from an average of 2.4 times in 2014–15” (ECPAT UK and Missing People 2018, 5). This amounts to “nearly 30 times the rate of other children, and almost double the rate of other looked after children” (Hunter 2018). These repeat disappearances starkly highlight the heightened vulnerability of trafficked minors. More strikingly still, it suggests that, although the protection apparatus is progressively more sophisticated over time, local authorities at the same time increasingly fail to safeguard these vulnerable children. Europol, and the press, frame this issue mostly as an issue of strong, organized criminal networks (“pan-European gangs”) targeting young refugees to traffic them for labor or sex exploitation (Townsend 2016). *The Observer* and Dutch radio Argos launched a special investigation into the disappearances of the more than 60 Vietnamese children from one of the two protected shelters, or *Beschermde Opvang* shelters, dedicated to child trafficking victims in the Netherlands, between 2014 and 2018. It concluded that “Dutch police and immigration officials suspect the children end up in the UK working on cannabis farms and in nail salons” (Einashe and Terlingen 2019). Although the role of criminal networks in the European Union appears to be a more prevalent vector of trafficking than in the ASEAN region (Interview 21, Interview 26, Interview 27), and well-documented studies assert that “exploiters regularly outsmart the child-welfare staff, even in relatively well-supported child-welfare systems” (Bhabha 2016, 140), such framings tend to overstate their initial role, downplaying at the same time the other factors leading to the disappearance of these children out of the protection apparatus. The issue of disappearance is

indeed more complex, and is intrinsically linked with the exclusion patterns of the protection apparatus. Due to insufficient transborder tracking mechanisms and a lack of streamlined data (Dottridge 2010; European Migration Network 2018, 51), one such reason is administrative disappearance, whereby public authorities lose information on the children's whereabouts. Another reason is the escape orchestrated by trafficked children themselves, for varied motives, including not having reached their final destination, fear of negative response from the asylum system, or impending deportation following a negative asylum decision (European Migration Network 2018, 48–50). Internal emails from the Dutch organization Centraal Orgaan Opvang Asielzoekers (COA: Central Agency for the Reception of Asylum Seekers) and the police “detail the lengths the Vietnamese children go to in order to escape the shelters – they often study maps, sharpen knives to open windows, and tamper with fire alarms” (Einashe and Terlingen 2019). Reasons for fleeing the protection system are complex. Some are examined throughout this chapter and have to do with the intrinsic structural violence of the protection apparatus, which is, ironically, not so protective at all. The consequence of the voluntary disappearance of a child from care facilities may, in addition, lead to a more direct exclusion from public protection. The European Migration Network, in its study on EU Member States, specifies that “the disappearance of an unaccompanied minor may in some (Member) States³⁶ result in their status or permit to stay being terminated or withdrawn” (European Migration Network 2018, 51). This includes countries such as Sweden and Finland, which promote an image of flag bearers of human rights and social equality.

Detention of trafficked minors is another worrying type of exclusion from the protection apparatus, in reason of its concealment and unconstitutionality. France promotes a strong universal protection imperative for children. Some older adolescent migrants, who look like young adults, are withheld in administrative detention centers (Interview 3). Although detention in this form might appear as a rare dysfunction, it is worrying in two respects. First, adolescents form an important share of trafficking victims in France, who are difficult to identify in the first place, and there is a bias towards declaring individuals as majors based on contestable age tests (see *supra*). Second, there appears to be a battle between judicial and executive institutions, which is trending towards mounting fragilization of young asylum seekers, among which trafficking victims are thought to be disproportionately represented due to their particular fragility. In early 2017, detention was up 18% compared to the previous year, with civil society organizations warning against an increase in the administrative detention of Dublinized³⁷ asylum seekers, among which trafficked persons, including minors. “This increase in the use of detention has led to thousands of abusive confinements” (La Cimade 2017, 12). In 2017, several power struggles took place between civil society organizations and the government. In the spring of 2017, France's Council of State provided important case law in an interim relief order. A Nigerian complainant, a recognized victim of sex trafficking, had been detained even though she wished to file an asylum application. The Court ruled that it was not possible to place persons in detention who were denied the right to seek asylum because they were Dublinized.³⁸ The

Ministry of Interior's appeal to the Council of States was rejected. Faced with a judicial defeat, the Ministry of Interior counter-attacked. A few months later, the Council of State's interim ruling on detention was overturned by the National Assembly's publication of a law enabling to place Dublinized asylum seekers in detention. On 27 September 2017, the Court of Cassation ruled that the detention of Dublinized persons was not applicable, in the absence of a definition by law of the risk of flight. The government reacted quickly. On 7 December, the National Assembly adopted a new law, further tightened in Senate, which was definitively adopted in second reading on 15 February 2018. The list of 12 types of situations determining the presumed risk of flight is so broad, that "it is clear that most Dublinized persons will be eligible for detention" (La Cimade 2018), and, eventually, transfer – the politically correct term for deportation – within the statutory period of 45 days, and possibly to their country of origin through a process of "ricochet" deportation. In practice, however, if the situation has not been settled with the country of entry within the 45-day timeframe, asylum seekers tend to be simply released (Interview 3). In addition, in France's cities of

Pau, Rennes or Melun, courts have indeed cancelled expulsions to the country because of systemic failures and the high risk of human rights violations. In several decisions handed down by the Administrative Court of Toulouse, in particular, the increased risks of rights violations for victims of trafficking have been taken into account.

(La Cimade 2018)

In practice, the legislator does not necessarily offer trafficked minors unconditional aid, due to the co-existence of the possibility to stay within the country – for a limited duration – and to be deported. This case study in a country sporting very advanced mechanisms of protection and care for trafficked children shows the fragility of the protective apparatus, subjected to institutional tensions, politicization, and the personal strife of stakeholders. The subjection of trafficked children to detention and deportation places them in a circle of vulnerability. According to the UK-based Immigration Law Practitioners Association, "the question is not whether re-trafficking takes place, but how fast" (ILPA 2006, cited in Aronowitz 2009, 158).

This section has observed the symbolic and physical liminal spaces to which trafficking victims are assigned. A number of trafficked children are excluded beyond the fringes of the protection apparatus not because of dysfunctions in the system of protection, but due to structural mechanisms of neglect and strategy that are constituent parts of the protection apparatus. There would be much to say about the politicization of these processes of exclusion – it is in itself the object of possible further investigation. Suffice it to say for our purpose that the protection apparatus operates along the lines of a double-speed system, in which the imperatives of protection are in tension with mechanisms fragilizing already vulnerable children. This acknowledgment of the complex and dual functionings animating the protection apparatus leads to trafficking victims fleeing "let die" situations they are consigned to.

3.3 The fabric(s) of vulnerabilization

Although it seems oxymoronic to think of protection measures as creating pockets of violence, we will argue further that, not only does the protection apparatus fail, in most instances, to protect the children placed under their care, as demonstrated above. It also generates violence against them, and contributes to increasing their existing vulnerability – something I have termed “vulnerabilization”. This section will explore the fabric (the structure) and the fabrics (the processes) of vulnerabilization in regard to trafficked children, which are created, in the protection apparatus, by failures in the policy design, by policy variation, by the impediments to building an exploitation-free future, and by stigmatization.

3.3.1 *Policy variation*

The variation of policies across synchronic-syntopic, diachronic, and diatopic dimensions has been found in this study to lead to protection gaps for trafficked children.

In a synchronic-syntopic dimension, policy coherence is not always a given. This variation can manifest in failures in the initial policy design, in inconsistencies between policy design and its implementation, or in policy gaps and mismatches. Policy gaps with regard to child trafficking concern, for instance, the absence of labor laws protecting work in specific sectors. A senior specialist of trafficking at the ILO notes that “the lack of protection around domestic labour has the unintended consequence of putting children much more at risk, because there is no labour framework around which to complain, nor to deal with any ‘lesser’ abuses” (Interview 26). In addition to laws criminalizing trafficking and protecting victims, it is therefore tantamount to have a strong national canvas of sectorial rights, to avoid children falling through the cracks of the protection apparatus. There is a shared responsibility to integrate these multiple dimensions into the trafficking framework. International organizations and standard-setters have a role to play, to point to the crucial dimension of such policies in creating an effective system protecting trafficked children. Indeed, the interviewee adds:

I feel very strongly that if you have a labour protection framework that doesn't protect domestic workers, you should not be able to get a decent mark on the United States Department of State Trafficking in Persons (TIP) report.³⁹ If you have an entire sector with no minimum rights protection or maximum working-hours protection, you should not get a Tier 1 marking on the TIP report.

(Interview 26).

Yet some countries do receive a Tier 1 marking, despite these gaping holes in worker protection. To avoid the policy variation between anti-trafficking regulations and labor laws, which lead to an increased fragility in sectors such as domestic work, “basic systematic and sectorial tests should be taken as a litmus test,

to estimate how serious a particular country government is on evidence-based anti-trafficking initiatives”. According to this ILO representative, this is a crucial step in improving the protective reach of anti-trafficking, and one that has been advocated for a long time by the United States government. However, the message “hasn’t gone through”, and she recognizes that “this is not the kind of place that the U.S. is going to go in a hurry” (Interview 26). Synchronic-syntopic policy variations are not necessarily as clear-cut as rights gaps. They can also be nested in small discrepancies, which nevertheless create important vulnerability chasms. Differences in the age of compulsory schooling and the minimum working age can create policy variations of this nature (Interview 31). To continue with the example of Thailand, the law stipulates that primary school (Prathom Suksa) and the first three years of lower secondary school (Mathayom Suksa) are mandatory. With primary school starting at age six, these nine years of compulsory schooling keep children in school until they are approximately 15 years old. The Labour Protection Act B.E. 2541 (1998) establishes, in its Chapter 4, the authorized working conditions of minors. Children in Thailand are authorized to work from age 15, in most industries including agriculture and domestic work, but excluding marine and fishing work, which has recently been forbidden for minors. Where minors are authorized to work, stringent limitations on working hours and conditions apply for children until they reach the age of 18. Liabilities and penalties for violations of child labor provisions were increased under the Labour Protection Act (No.5) B.E. 2560 (2017). Adopted at the time of government crackdown on trafficking, the amendment targeted the prevention of child labor exploitation. Children appear to be well sheltered from exploitation, however, because compulsory schooling is not determined by age but by level of education, depending on the time of the schoolyear a child is born, there can be a gap of nearly a year between the time they end compulsory schooling and the time they are legally authorized to work.

The diachronic variation in ASEAN and the EU can be felt at a macro-level with regard to the shift of attention to the issue of child trafficking. Although attention to child trafficking in ASEAN was high in the 1990s, it dwindled in the 2000s and was replaced in the 2010s by a regular crackdown on migration. Yet the attention on migration has been intertwined with a focus on forced labor in sectors such as fisheries. Likewise, in France, in the 2010s, the tightening of migrant reception policies had direct consequences on the trajectories of child migrants, and therefore their vulnerability to trafficking as well as their possibilities of gaining access to protection. These variations create a degree of unpredictability and lack of follow-through, which has direct consequences on the possibility to implement durable, efficient anti-trafficking tools. The combination of diachronic and diatopic variation creates even more uncertainty. The crackdown on the Thai fishing sector, although beneficial in some respects, has also shifted the problem of child trafficking for exploitation in the fisheries to other locations. Interviewees suggest that the cohort of children formerly trafficked in the fisheries have simply moved to other economic areas that are less in the crosshairs of the international community (Interview 12, Interview 22, Interview 31). A recently published report based on

research conducted in 2018 and 2019, shows that exploitation in the Vietnamese seafood sector is booming, with children as young as 11 working on sea. “Far from looking to better control the sector, Vietnam is aiming for \$10.5 billion in exports from seafood products in 2019, up by 23% compared to 2017 figures” (EJF 2019, 4). It would be too simplistic to infer only from this sharp rise in the Vietnamese seafood sector, at the time when its neighbor and direct competitor Thailand was in the middle of hurdles to clean the same sector up, that when exploitation and trafficking in the seafood and fisheries sector has decreased in Thailand, it has increased in Vietnam, through a phenomenon of communicating vessels. To the author’s knowledge, no precise study has been conducted to analyze the transfer of market shares between the seafood sectors of Thailand and Vietnam, nor the link between exploitative practices and the booming of the sector in both countries.⁴⁰ The simultaneous trajectories, however, pose the question of the effectiveness of diatopic policies, especially in interconnected markets and geo-political spheres: how far can anti-child trafficking policy change go, if it is limited to just a few countries? Beyond diatopic labor policy inconsistencies affecting protection, diatopic protection policies also increase the vulnerability of trafficked children. Trafficked girls identified as such in Malaysia and returned to their home country are requalified as non-victims once in Vietnam,⁴¹ impeding their access to the existing protection schemes in Vietnam (Interview 17).

Policy variations of the three kinds described above escalate the vulnerability of already fragile children prone to trafficking by interfering negatively in their need to migrate for work. It thus vulnerabilizes children with regard to trafficking by increasing migration costs, driving migration trajectories underground to irregular channels, barring access to protective mechanisms linked to regular migration (i.e. standard contracts, official complaint mechanisms, pre-migration training, etc.), increasing vulnerability to deception in recruitment, making it more difficult to return home even in cases of qualified exploitation. The result of variations in policy across synchronic-syntopic, diachronic, and diatopic dimensions thus loses children through the cracks of the breaches it contributes to widening in the protection apparatus.

3.3.2 *Glass walls*

The very structure of the protection apparatus, however, generates vulnerabilization in itself. How is it indeed that society proclaims itself eager to protect trafficked children, and at the same time routinely denies them access to durable solutions that last into adulthood? Trafficked children entered into the protection apparatus are often caught in cycles of vulnerability due to the very conceptions of rescue and remediation premised on immediacy and ephemerality. These glass walls, very much like the glass ceilings posing barriers to professional advancement, are unacknowledged impediments for trafficked children to moving forward and to building a sustainable future for themselves and their family.

The social integration process of trafficked children, provided they are officially recognized as such, is a matter of quarrel between public authorities

(Interview 25). The assistance to repatriation is enshrined in the Palermo Protocol, ACTIP, and Directive 2011/36/EU. Repatriation has long been documented as being the preferred long-term solution for destination states (Bhabha and Alfiev 2009; Bhabha 2016), despite the fact that it has been evidenced to frequently cause increased harm, violence and re-trafficking for victims (see e.g. Jobe 2010; Gentleman 2011; Surtees 2013, 186).⁴² When child victims are not repatriated, or before they are repatriated, the protection apparatus in the countries of this study offer them the possibility – in some systems verging on obligation, as demonstrated previously in this chapter – to reside in a shelter. Although the structure and initial purpose of the shelters appear to be quite similar, differences can be observed in the services provided within the shelters and the solidity of the shelter network between countries. For instance, the protection system in the Netherlands appears to cater to developmental needs of children: “All shelters provided medical and psychological care, schooling, language and skills training, and legal assistance; some also provided self-defence classes and most had facilities accessible to disabled individuals” (United States Department of State 2017, 297). However, the funds dedicated to such rehabilitation programs are fluctuating, and rarely sufficient, even in the only country out of 167 surveyed in the world that scored an “A” on the Walk Free Foundation’s Global Slavery Index 2018 (Gjerdingen 2019): “The government fully funded (...) 50 shelter beds [and] provided €800,000 (\$917,430) to the shelters, a significant decrease from €1.6 million (\$1.83 million) in 2017” (United States Department of State 2019, 346). Similarly, the United Kingdom’s House of Lords Committee on Human Rights finds: “Before a child reaches the age of majority, it is clear that a solution must be found, but as indicated in the presentations from many contributors to the conference, including the young people, this is clearly not occurring” (House of Lords 2019, 170). In ASEAN, access to shelters is not always granted to trafficking victims, and even when it is, emphasis is rarely on “helping the children to regain a life after trafficking” (Interview 25). In Thailand, shelters “do not provide proper education” to children (Interview 21); in fact, they “cannot do anything while they’re in the shelter” (Interview 17). The meagre attempts at preparing life after the shelter in ASEAN Member States are reported to often amount to attempts at convincing them to leave the work they were exploited in, especially when it concerns sex trafficking victims (Interview 25), leading victims to fear being forced into “programmes of re-education instead of protection” (Interview 17 about shelters in Lao PDR). While the intentions behind it are often benevolent, simply intimidating children to find a different route to securing their livelihood is not enough. “Some of them don’t have education or skills, and once they are in an industry, they think it’s the only way to survive. (...) Just because they are under 18 doesn’t mean that they don’t need to work” (Interview 25). The search for a livelihood traps most trafficked children in Southeast Asia into exploitative labor. “I want to go to school but I can’t go to school if I have no food”, attests a 15-year-old trafficked Vietnamese fisher (EJF 2019, 36). For these children, “just going back to school is not an option”, nor is “sending them back to their parents” (Interview 25). Their rehabilitation process demands a solid, thought-out social integration

plan. In practice, however, they are simply kept in shelters for several months, even several years. Adults are reported to be usually sent home within six months (Interview 29); children stay up to three to five years in a shelter to be witnesses in court, sometimes longer (Interview 20). As explained by the UNHCR, the case of refugees is even more complex. According to anti-trafficking legislation in Thailand, the people identified as trafficking victims should receive the legal right to stay and work in Thailand. The period of stay is initially granted for a period of two or three years, renewable. The law was crafted with the intention that people who have access to these rights will go home after a rehabilitation period of one or two years. The situation of refugees is different, because they cannot go home. There is a small group of Rohingya in Thailand who are identified as trafficking victims and who are not allowed to freely move around Thailand to look for work. “I wonder whether part of that reluctance comes from the fact that they will never go home”. The Thai government is indeed more likely to implement the rights of trafficking victims from Laos, for instance (Interview 11). These shelter detention mechanisms build glass walls around the possibility of trafficked children reintegrating, by affecting their physical and psychological health – notably inducing a “low self-esteem” (Interview 20) and depression (Interview 11) – their family and social relations, their education, and their financial situation. “The remedy side is where most problems lie. It is disempowering the victims even further. They are detained in uncomfortable places, creating dependencies and preventing them from moving on”, testifies an NGO working closely with trafficking survivors from the fisheries sector in Thailand (Interview 18). “The laws to protect victims of trafficking make it very difficult for them to return [to normal life]. They cannot leave the shelter for the duration of the trial, which can take a long time. I doubt whether this really amounts to protection” (Interview 20). Voices converge to warn against the increase of debt that trafficking victims incur during shelter detention (i.e. Interview 17), with no improved opportunities for securing their livelihood when they exit. “Keeping them in the shelter and away from employment opportunity is not conducive to their overall rehabilitation process” (Interview 25).

Some stakeholders argue that the financial compensation that can be obtained following a trial and remediation process constitutes a tool of reparation and aid to moving forward. The implementation of such measures, however, suggests otherwise: far from reinforcing protection, they reinforce the “let die” mechanisms at play in the protection apparatus. There are no standard procedures to calculate compensation for trafficking victims in criminal proceedings in ASEAN countries. In Thailand, for instance, compensation is set on a case-by-case basis by a Multi-Disciplinary Team composed of the public prosecutor, the Department of Social Development and Welfare, the trafficking victim or his representative (NGO, lawyer, etc.) and the child’s psychologist or social worker. The financial remedies that Thai courts summon traffickers to pay their former victims usually hover around THB 50,000 (roughly EUR 1,400), which equates to three to six months of the average earnings in Thailand, or eight months of the Thai minimum wage⁴³ (Interview 17). The feeble compensation is not commensurate with neither

the damages incurred through the trafficking experience (the suffering endured by the victim; the amounts lost due to debt bondage, insufficient or inexistent salaries), nor the financial losses incurred by the victims within shelter detention, due to their impossibility to work. In addition to bringing low financial gains, the length of remediation procedures plays against its protective aim. It takes often three to five years to receive compensation (Interview 17). This duration is linked to the trial period, and can even be much longer, depending on the jurisdiction. In Cambodia, for instance, “victims were theoretically eligible for restitution, although it was extremely difficult to obtain due to a legal requirement delaying payment until after the completion of the trafficker’s jail term” (United States Department of State 2019, 128). In practice, the length of court proceedings and asset tracing processes provides the possibility for perpetrators to dispose of their assets before the compensation order is enforced (UN-ACT interview cited in Liberty Asia 2018b, 44), voiding the court decision. Indeed, another element of fragilization is that, even when a court order has been pronounced in favor of compensation, the victims face legal and practical barriers to the obtaining of the sums. Traffickers may not own assets under their name, tracing assets is a complicated task, and the enforcement systems are burdensome for victims to navigate in the ASEAN countries, including in Thailand and Cambodia, which have nevertheless made great strides in constructing robust legal frameworks containing the possibility for trafficking victims to obtain compensation. Whereas in Thailand “compensation” from the government in the form of shelter, health access, and repatriations is under the government’s responsibility and works well, it is the victim’s responsibility to obtain remedies from traffickers. The Human Rights and Development Foundation (HRDF) is advocating for the Thai government to support trafficking victims in the enforcement of remedy verdicts (Interview 19). Likewise, in Cambodia, judges explicitly place the burden of assets tracing onto victims (Liberty Asia 2018b, 44). In both countries, there is a general lack of knowledge on how to trace assets on the part of the stakeholders involved, including public authorities. When offenders’ assets are traced and confiscated by public authorities – the Anti-Money Laundering Office, in Thailand – the government is not required to ring-fence the amounts to compensate the trafficking victims (Liberty Asia 2018b, 4). The process of assets tracing can further put the trafficking victims at substantial risks of harm,⁴⁴ being even at greater risk of being threatened by traffickers (Interview 17). The victims require assistance from lawyers or NGOs, who have themselves limited resources and capacity. The chances of victims of receiving remedies, even following a court order stipulating so, are therefore slim.⁴⁵

If there is a lack of enforcement of protection and remediation *within* national jurisdictions, building glass walls around the trafficking victims who are not empowered to move forward, they face another obstacle to their protection due to the difficult harmonization of laws and enforcement procedures *between* countries. An international NGO working on anti-trafficking policies in Thailand, Laos, and Myanmar found that many of the recognized child trafficking victims returning to their home countries don’t know the results of their court decisions.

This is seemingly due to internal communication problems within and across countries. Hence, a court decision pronounced in Thailand is meant to be communicated, by the court, to the Ministry of Justice, who will then contact the Ministry of Human Security, and send the result to the partner in the victim's source country, who will need to track the victim to communicate the decision. Trafficking victims mostly come from destitute areas and live in shabby houses with poor communication infrastructure. Public authorities do not manage, or don't make sufficient efforts, to inform them of the court decision in the destination country (Interview 29). This reinforces "let die" mechanisms by impeding access to psychological and financial remediation, thus building glass walls around former trafficking victims. The harmonization and implementation between neighboring countries in ASEAN is a concern raised by many international stakeholders. The Japan International Cooperation Agency (JICA) and the Thai government set up a joint project to trace Laotian trafficking victims sent home by Thai authorities, and evaluate whether the protection provided by both the source and destination governments was adequate. The research found that, despite the existence of MoUs between Thailand and Lao PDR defining a framework for repatriation and reintegration, there was no follow-up reporting on trafficking victims. The support from the Laotian government to their nationals who had suffered trafficking was not adequate: once identified as trafficking victims, they are stigmatized and ostracized by their own communities, making them uncomfortable to stay. "From the perspective of the Thai government, the process is not really cost-effective" (Interview 25), as they fear renewed attempts at irregular migration to Thailand. And indeed, difficulties to resettle home starkly impede trafficked children's ability to build a future devoid of vulnerability and exploitation.

Despite great strides to build robust legal and policy frameworks at international, regional, bilateral, and national levels, trafficked children face multiple obstacles to escaping cycles of vulnerability and to building a sustainable, exploitation-free future for themselves. Whereas previous research has found that "assistance to trafficked persons is typically short-term, victim-oriented, and remedial in nature" (Bhabha 2016, 149), I argue that the protection apparatus largely fails at fulfilling even those objectives. Education, training and financial remedies remain largely inaccessible, therefore marking a failure by the protection apparatus to make good the trauma and general damage incurred through exploitation and trafficking. This further fuels cycles of debt and exposure to trafficking, not only barring the children from building long-term empowerment by erecting glass walls around them, but pulling them into cycles of vulnerabilization. Where the protection apparatus is meant to protect, fallacies in the implementation currently fabricate harm, not least by branding victims for a long time.

3.3.3 Stigmatization

The stigmatization of trafficking endures beyond the trafficking experience. In the ASEAN region, bilateral MoUs between the countries push the system to sanctuarize former child traffickees under the status of victims. In concrete terms,

if a Laotian child has been recognized as a trafficking victim in Thailand, the Thai government will send official information to the government of Lao PDR regarding the case. The child will subsequently be the subject of check-ups for their entire life (Interview 17). While the protection apparatus intends this to be a guarantee of continuing care, accounts from the field tell a different story. A representative from Save the Children in Thailand recounts the journey of several child and adult trafficking victims from Myanmar. After a couple of years spent in shelters in Thailand, the victims were sent back to their country of origin. Public authorities told the victims that the compensation couldn't be sent to them at that time. Following a very long and complicated procedure, public authorities went to the village in person to hand over the compensation to the former trafficking victims, performing a very public, very visible ceremony. Instead of bringing protection and relief to the trafficking survivors, it stigmatized them in the eyes of their community members. More worrying yet: it encouraged the brokers, who were in the village, to continue their activities, vulnerabilizing the former victims, as well as new generations of potential traffickees (Interview 20). Although this case occurred in the years 2006–2009, it was recounted as being emblematic of the mechanisms of stigmatization still at play nowadays. Stigmatization plays out at several levels. In the community of origin, the ostracization of trafficking survivors can proceed from the stigma around the criminal or sexual activity the exploitation may have been linked to. Ostracization can also derive from the pecuniary expectations it raises among community members, due to a belief that victims receive a lot of money, when, often, compensation is never handed out. “Laotian victims are stigmatised and ostracised in their own communities; they do not feel comfortable living there anymore” (Interview 25).

In the community of destination, stigmatization takes the guise of prejudice in protection mechanisms. The personal beliefs of individuals in charge of triggering protection measures towards trafficked children play a key role in their access to care. Prejudices can be observed in overt disagreements on the boundaries of the child trafficking definition. There is an on-going debate between policy-makers in Thailand regarding the definition of child trafficking. Actors disagree on the current state of affairs, which leaves out the second criterion of the trafficking definition in the case of children, implying that the consent of children is irrelevant as long as the two other criteria, the action and the purpose to exploit, are present (see Chapter 1). The reason for this debate is that “the second criterion is problematic when it comes to children, because some people think that at a certain age, people are aware of the decisions that they are making” (Interview 16). Prejudices and stigmatization can also be observed in more covert situations. In the day-to-day case management of unaccompanied minors and potential trafficking victims, ethnographic studies have demonstrated the institutional ambivalence, between care and control, towards people in the protection apparatus, as well as the weight of personal beliefs in the attitudes of compassion or suspicion deployed in the assessment of the veracity of stories of abuse (Kobelinsky 2012). In judicial hearings: “we usually know in advance what the result of the hearing will be, depending on the judge” (Interview 3, regarding hearings in France). In the identification of victims by the police in

Thailand, practitioners suggest that personal beliefs about who is a legitimate victim (see 3.1.1), as well as biases towards migrants, create important prejudice in the protection of trafficked children (Interview 17, Interview 28).

Stigmatization of trafficking victims has been observed in France, in Thailand, on a systemic level in Laos, and in most of the countries analyzed in this study, in their context of source and destination countries. Representations of otherness are complex and diffuse. “While professionals cannot completely omit their judgment, they try to ensure that their personal assessments do not influence their interactions with asylum seekers” (author’s translation of Kobelinsky 2012, 172). The protection apparatus must thus strike a difficult balance between strict guidelines, to avoid as much as possible the interference of personal prejudices on protection decisions towards traffick-ees, and flexibility, to adapt the “best interest of the child” principle to the great variety of child victims’ situations. A dualism is suggested by these stigmatizations between legitimate labor, forced labor, and voluntary exploitation, which furthermore anchors a dichotomy between national and foreign victims, between men and women. In so doing, trafficking equates the exploitation of inferior immigrant categories, “racializing” and “genderizing” the categories of free and forced labor (on “racialization” of forced prostitution, see Andrijasevic 2014). These repeated attitudes introduce a systemic bias towards stigmatization and vulnerabilization of trafficked children. To correct the vulnerabilization created by these mechanisms, the apparatus must mitigate its intrinsic ambivalence towards trafficked children.

We need to change our view of the victim, to no longer see them as potential offenders, but as victims. In order to do this, we must get rid of our protectionist thinking, which sees a foreigner as someone who wants to come to Belgium to earn a little more than in their own country and who is prepared to do whatever it takes to achieve that, including prostituting themselves or stealing.

(author’s translation of Weyembergh, Clesse, and Nayer 2013, 763)

Conclusion. “Better the devil you know”

“I can see why young people run away to their trafficker. It is ‘better the devil you know’”, explained a child who went missing from a care facility (ECPAT UK and Missing People 2018, 4). Trafficked children not only slip through the cracks of the protection system involuntarily, they do so of their own free will. The issue appears more straightforward when it comes to intra-family trafficking:

the minors are either detected and don’t want to enter the protection system, or, when they agree to be protected, they leave after a couple of days, even when they understand the exploitative dimension of the activity they are forced into. There is a complete ascendancy of the family, especially in the case of minors forced to commit offences.

(Interview 7, about children trafficked for labor exploitation in the Roma community in France)

The defiance towards public authorities goes beyond such specific circumstances. In all case study countries, there seemed to be a generalized fatigue from – and distrust of – the protection apparatus. A legal advisor referenced the case of a child she had recently assisted, who left the procedure after having testified and provided evidence, thereby renouncing their rights to protection from trafficking. The lengthy and cumbersome processes are thought to be at fault, as well as the context of tension these already fragile minors are maintained in. Traumatized by their experience of trafficking and exploitation, by the inability of their parents to protect them, by their experience of a wired-up place, and by life in difficult conditions, they are fragile and need specific support (Interview 3). NGOs cited endemic corruption in Thailand, the apprehension of being “re-educated” in Laos, and the fear of Chans and Kachins of being brainwashed and tortured in Myanmar’s government protection centers (Interview 17) as causes of distrust towards public authorities. Self-exclusion from the protection apparatus does not spring out of thin air. Grass-roots organizations suggest that “the number of people who have been *negatively* impacted by trafficking raiding far exceed those that have been *helped*” (Interview 26, recounting the experience of Empower in Thailand). The instability and inefficiencies in the protection apparatus are causing the children’s defiance towards government “assistance”. Victims are disincentivized to come forward by word-of-mouth from former victims, who advise younger migrants and trafficees to never enter the burdensome protection apparatus. In the eyes of many trafficking victims in ASEAN, it is much preferable to be considered irregular migrants. In Thailand, when trafficees from Cambodia, Lao PDR or Myanmar refuse the status of trafficking victims, they are transferred to a detention center and sent home within five days, which is of extreme speed, compared to the lengthy meanders of the protection system. This gives them the possibility to come back to Thailand and find work more rapidly, to avoid circles of increased indebtedness and fragilization (Interview 17).

When large numbers of trafficked children refuse to be helped, and consider the risk of renewed exploitation as more desirable than the care offered by public authorities, it is a statement of failure of the protection apparatus. This observation disturbs the representations that European countries have of their protection apparatus. It marks a stark contrast between the protection apparatus that countries such as the United Kingdom or France, which are strong human rights norms entrepreneurs in the international arena, have the sentiment of having created, and the antinomically harmful protection mechanisms that have sparked from it. For all its varied practices, and the unequal importance attached to human rights in the different contexts observed (see e.g. Bacon and Narminio 2024 on ASEAN and human rights), the protection apparatus nevertheless operates biopolitics of selection that fragilize trafficked children instead of protecting them. In contradiction to the (self-)image held by Western European states as being progressive and protective of human rights, the “let die” situations that intended “make live” mechanisms exacerbate, suggest that the protection apparatus rests on structures, sites, and process that are producing structural violence, thereby vulnerabilizing trafficked children beyond their initial exploitation. Whereas it is widely assumed

that children are the one group around which most societies can uncontroversially mobilize, the practices of “protection” deployed by states translate their ambivalence towards the full acknowledgment of the human rights and needs of child trafficking survivors. The core problems that have come to the fore in the on-the-ground experience shared with me by the many and diverse stakeholders who participated in this study are the internal tensions between “make live” objectives and “let die” practices. Despite the good intentions and hard work of many actors in the field and the general political will to protect and assist trafficked children in general, the current protection apparatus, despite its apparent robustness, strays far from its objective of protection. This chapter has indeed laid bare the profound and structural ambivalence of the protection apparatus. Trafficked minors are considered to be in need of protection because they are vulnerable and, at the same time, are convicted of offenses or considered as non-desirable, “illegal”, and, as such, are excluded from child protection mechanisms. They are recognized as having the right to education, yet at the same time are prevented from building a future for themselves due to lengthy protection procedures and limited access to schooling. They are recognized as having agency, while at the same time they are often silenced by the protection apparatus. They are considered as having the same rights as nationals, yet are symbolically and physically enclosed and excluded from the rest of society. Finally, they are considered to have a right to human security, yet are stigmatized, vulnerabilized, and maintained in exploitation by the very institutions meant to pull them out of trafficking. From subjects of care, the protection apparatus turns them into objects of control and discipline.

At the heart of the architecture of control of child traffickees is their circumscription to liminal spaces, at the margins of the ordinary public spaces of liberal democracies. Their categorization into reductionist political and legal categories is not unconnected to this ostracization from the public space. A norm cluster could already create more fluidity between the categorizations that these children are reduced to, and vie for better integration in the public space. The systemic and large-scale system of confinement upon which the protection apparatus hinges, comes in that respect close to the workings of the migration apparatus. The detention of foreigners has indeed been shown to be central to policies aimed at managing migration (Bernardot 2012; Clochard and Migreurop 2017). The next chapter will explore the ways in which trafficked children are governed within the migration apparatus.

Notes

- 1 Paul Éluard’s poem is an invitation to conduct a reflection, throughout this chapter, on the “make die” mechanisms (see *infra*) at play in the protection apparatus and mechanisms of resilience that can be put in place at both the individual and structural level to resist processes of vulnerabilization.
- 2 The expressions of “letting live/making die” in conjunction with the rights of sovereigns, as well as “making live/letting die” associated with practices of government, originate in Foucault’s lectures at the Collège de France in 1975–1976 (for a detailed discussion, see Foucault 2003, 239–74).

- 3 All nations globally do not provide comprehensive protection for children. However, both ASEAN and the EU sport a relatively coherent protection apparatus. Recognizing the difference in degree and nature between the two regions' protection apparatuses, and between those of both regions' individual member states, the analysis is relevant due to the systemic incorporation of protection in anti-trafficking schemes at local, national and regional levels.
- 4 As has been established in the General Introduction of this work, testimonies of child traffickees were not collected directly but through NGOs representing their rights, and directly working with them.
- 5 Jacqueline Bhabha's *Child Migration and Human Rights in a Global Age* is one such study that critically examines flawed processes upon which prosecution and protection of trafficked children rests. Bhabha for instance notes that policies appear at times to be contradictory: claiming to provide protection but not guaranteeing access to facilities and services in practices, and framing family reunification almost systematically as "best interest" for the child without checking whether the environment of the child is safe, or if it is prone to family exploitation (Bhabha 2016, 160).
- 6 Please refer to Chapter 2 for a study of the differences between how the EU and ASEAN approach the human rights element of the child trafficking norm.
- 7 According to the most recent data from Youthpolicy.org (last accessed 19 June 2020), the age of majority is set at 16 in Myanmar (up from 15 in 2020), Cambodia, and Vietnam, at 18 in Malaysia and Laos, and 20 in Thailand. Harmonization of laws between countries, including on the age of majority, is necessary to strengthen the protection of victims (Interview 17).
- 8 The IOM office in Thailand commissioned solicitors to look into the national legal framework. They found that there are contradictions between several laws on the age of majority: some laws say that children are individuals under 18, others put the threshold between 13 and 15, others under 20 and "less than married" (Interview 21).
- 9 The residence permit issued to third country nationals from outside the European Union is called a "Certificat d'Inscription au Registre des Etrangers / Bewijs van Inschrijving in het Vreemdelingenregister" (CIRE/BIVR), also known as "Carte Blanche". See Appendix 6 to the Royal Decree of 8 October 1981.
- 10 For a medical review of skeletal age assessment techniques, and a discussion of new developments, see Saint-Martin 2014.
- 11 See e.g. Andrijasevic's article "Sex on the move" for a critical reading of heteronormative and patriarchal anxieties built into the social arrangements of immigration regulations (Andrijasevic 2014).
- 12 For a more detailed analysis of the performative role of language on trafficked children, see Section 2.3.
- 13 Author's translation.
- 14 See discussion in Section 2.3 and Dhervilly 2017. A recent Written evidence titled "Human Rights of Unaccompanied migrant children and young people in the UK" of the House of Lords' joint committee on Human Rights noted: "It is vital that the issue of child trafficking is made part of all pre and post qualifying training for the entire safeguarding workforce. This must cover the social work, health, teaching, law enforcement and border agency workforces. Currently frontline safeguarding staff have little or no training in identifying or working with trafficked children. CFAB [Protecting children and uniting families across borders, a UK-based charity which identifies and protects children who have been separated from family members due to conflict, trafficking, abduction, migration and asylum] have recently trained nearly 1,000 frontline child protection staff in London. At the outset of training 75% had not heard of the NRM [National Referral Mechanism] and 70% were unable to confidently identify trafficked children" (House of Lords 2019, 16).
- 15 The victim identification frameworks put in place by the Thai junta in 2015 are undermined by several procedural selection biases: Victim identification efforts suffer from "false assumptions that only undocumented migrants can be victims of exploitation",

- “rel[iance] on dubious paper records and unverified information from senior crew or employers to monitor practices and working conditions”, and “often focus on the more overt or objective conditions of exploitation, such as forcible confinement or physical mistreatment” (Murphy 2018, 7).
- 16 Joshua F. was 13 years old when he became an orphan and was turned out of his home with his younger sister. He was trafficked, exploited and tortured on several occasions. He arrived in Italy around age 15 and attempted to cross the Alps to France. “On his first four attempts, border police sent him back to Italy after he told them his age and tried to explain his situation, even though by law they should have accepted his declared age and, under the procedures the border police director described to Human Rights Watch, should have referred him to child protection authorities. On his fifth attempt, police let him continue into France. They did not contact child welfare services; instead, he and another boy walked all night to reach the town of Briançon. Volunteers at a shelter there gave him first aid and arranged for his transport to the departmental capital, Gap, where unaccompanied children undergo age assessments to determine whether they will be taken into care. In Gap, he received a negative age assessment for reasons he still does not understand. ‘There were things written there I did not say’, he told us. With the aid of lawyers, he asked the juvenile judge to review the negative age assessment and was expecting a ruling in mid-September 2019” (Human Rights Watch 2019). This story is a clear instance of refusal on the part of the authorities to abide by the laws of their country and grant the child the protection he should have been entitled to.
 - 17 Statement made off the record by a senior human rights specialist working in an international organization.
 - 18 Ibid.
 - 19 See written question n° 03146 by Mr. Jean-Marie Morisset (Senator, Deux-Sèvres – political group Les Républicains), published in the official journal of the Senate on 8 February 2018, p. 509.
 - 20 Order of 28 June 2019 taken in application of Article R.221-12 of the Code of Social Action and Families (Code de l’action sociale et des familles) and relating to the flat-rate participation of the State in the sheltering and assessment phase of persons declaring themselves to be minors and temporarily or permanently deprived of the protection of their family (France’s Official Journal of 18 July 2019).
 - 21 The protection of trafficked children under the general umbrella of child protection services complicates the exact determination of state aid attributed to them. An additional complexity is the budgetary division between the different services in charge of the protection journey. The local authorities are typically responsible for the period of initial protection (“mise à l’abri”) and investigation into the situation of the child, whilst the ASE takes charge of the longer-term protection of the child.
 - 22 Statement made off the record by a senior migration specialist working in an international organization.
 - 23 The relations between the different stakeholders operating in the anti-trafficking field have been examined in Chapter 2. This section will examine stakeholder relations from the angle of the systemic selections these relations create.
 - 24 Studies on the difficulty of reconciling the universalist aspirations of international law with the realities affecting exploited children have been foremost conducted on the issue of child sexual exploitation. Heather Montgomery sketches a critical cross-examination of the complexities of matching the abhorrence towards child sexual exploitation with the realities affecting children in prostitution in Thailand (Montgomery 2001). Working on Thailand as well, Sébastien Roux demonstrates that images of exploitation in prostitution do not correspond to the daily realities and self-perception of sex workers (Roux 2012).
 - 25 As mentioned in Interview 11 and explained elsewhere in this book, the situation of Myanmar – and particularly Rohingya – trafficking victims in Thailand is particularly

- complex, due to the absence of a recognized refugee status, and political sensitivities around the issue of long-term protection for child victims.
- 26 The NICHHD protocol can be downloaded in multiple languages on a dedicated website: <http://nichdprotocol.com/the-nichd-protocol/> [last accessed 01/07/2022].
 - 27 Author's translation. Original text in French reads: "Le regard qui est porté vers eux s'enracine dans un rapport égocentré du type centre-périphérie : il ne s'intéresse aux détails de la vie interne de la périphérie que dans la mesure où ces détails mettent en cause le centre lui-même".
 - 28 The four shelters for female victims (and their children) are located in Phitsanulok, Nakhon Ratchasima, Nonthaburi, and Surat Thani; the four shelters catering to male victims are located in Chiang Rai, Pathum Thani, Songkhla, and Ranong (D. Rousseau 2019).
 - 29 The Pak Kred Reception Home for Boys, also known as Baan Phumvet, currently hosts 67 boys (as of 18 June 2020, information accessed at <http://www.pkrboyhome.org/>). Its mission statement is "to provide relief and protection to Thai and foreign boys between the ages of 6–18 years experiencing problems, such as coming from a broken family, being abandoned, orphaned, stray, begging, or having lost family". Its mission therefore extends far beyond the caring for trafficked boys. The Baan Phumvet center for boys (previously officially labelled a "detention" center), the Nonthaburi center for women, and the Pathum Thani shelter for men are located in and around Bangkok; the rest of the shelters are spread across the Thai territory. In July 2022, when the book was sent to press, it was unclear whether there had been an evolution in the number, location, function, and operation of these shelters.
 - 30 Emphasis added.
 - 31 Ibid.
 - 32 Ibid.
 - 33 Ibid.
 - 34 For a more detailed analysis of the ASEAN context, see Chapter 2, Sections 2.1.2 and 2.1.3. As stipulated before, it would be a category error to compare ASEAN with the EU with regard to human rights promotion. In some respect, it is quite remarkable that ASEAN has gone beyond the criminal angle in ACTIP and engaged with (albeit weak) human rights codification, seeing its historical set-up and core values. Indeed, "the codification of human rights in ASEAN is in itself counter-intuitive, given the grouping's core principles, non-democratic governments and wariness of institutionalisation. However, driven by ASEAN's three norm entrepreneurs in the early 2000s, an incremental process of community-building aiming at fostering 'caring societies' (ASEAN Vision 2020, 1997; ASEAN Bali Accords II, 2003) gradually led to the creation of human rights instruments". Yet "the non-interference doctrine remains at the heart of the grouping's relations" (Bacon and Narminio 2024), and could explain the weakening of the UN Palermo Protocol provisions in ACTIP.
 - 35 Emphasis added.
 - 36 These EU Members States are: Austria (if the unaccompanied minor is still in the asylum procedure, i.e. before status determination), Estonia, Finland, Croatia, Luxemburg, Sweden, Slovakia, and the United Kingdom.
 - 37 The term "Dublinized" refers to asylum seekers whose asylum claim are considered by an EU Member State, in this case France, to fall under the jurisdiction of another Member State. Regulation 604/2013/EU of 26 June 2013, known as the Dublin Regulation, indeed establishes criteria and mechanisms intended to share the responsibility of asylum procedures amongst EU Member States. It stipulates that asylum seekers should register their asylum claim in the first EU country they arrive in. The decision of that country is considered final across all EU countries.
 - 38 In the same period, following the application of migrants and associations for summary proceedings regarding impediments posed by public authorities to migrants' access to

food and sanitation in the Calais “jungle”, the interim relief judge of the Administrative Court of Lille ordered the competent authorities to provide migrants in the camp with decent living conditions.

- 39 The United States’ annual Trafficking in Persons report is considered to be one of the most influential instruments, with the effect of motivating countries to (appear to be) doing better on anti-human trafficking (Interview 26).
- 40 The direct correlation between profitability and exploitative practices on global value chains is a question that will be explored in greater depth in Chapters 5 and 6.
- 41 Vietnam indeed denies trafficking of Vietnamese nationals, in an attempt to show that the country is not concerned by human trafficking (Interview 17). For an analysis of countries’ attitudes towards anti-trafficking and inter-state cooperation, see Chapter 2.
- 42 For an analysis of the link between immigration control objectives, securitization, and the handling of trafficked children, see Chapter 4.
- 43 The minimum wage in Thailand varies across provinces. At the time of the interviews in Thailand (end 2018), stakeholders referred to a minimum daily wage amounting to THB 200 (Interview 17). The government of Thailand had, however, officially increased this amount in January 2018, effective from 1 April 2018 onwards, to a range of THB 308 to THB 330, according to provincial economic indicators. Under these new amounts, the compensation following trafficking trials is dwarfed even further.
- 44 Information gathered during an unofficial discussion with the Office of the Attorney General of Thailand, during an “Academic seminar on laws and practices for victim of human trafficking assistance” (Bangkok, November 2018).
- 45 Anti-Slavery international recently published a report on access to remedy for migrant workers in Mauritius (Anti-Slavery International 2021). Although beyond the geographical scope of our study, the report presents some interesting findings that could be useful to businesses globally, on how to support meaningful access to remedy for migrant workers.