

Chapter 6

Conclusion

6.1 Irregular Migration and Human Security of Migrant Workers

Human security in Myanmar was endangered by a series of threats, from military to pollution, human rights abuses to environmental degradation. These human insecurities have encouraged the transnational migration of labor. The lack of proper cooperation among Myanmar and its migrant-receiving neighboring countries over the years have also resulted in deepening the issues of human insecurity in both Myanmar and the receiving countries. Mon people, along with many other ethnic minorities, have often encountered difficulties in obtaining travel documents. This can be regarded as a result of nearly half-a-century-long conflicts between Myanmar military and ethnic minority armed groups that fought for autonomy.

These conflicts are inflamed by divide-and-rule separations of the colonial government (Smith, 1994). Although inter-ethnic harmony was badly subverted by the uninvited intrusion of British rule in the 19th Century (Smith, 1994), many local communities and societies in Myanmar have, historically, been multi-ethnic and still are. The findings in the thesis showed that Mons' efforts to safeguard their identity and freedom, in other words their "human security," endeavored them "irregular migration." Their choices have labeled them "burdens" or "threats" to countries of origin and destinations from a "national security" perspective. This proves that "a narrow perspective of national security on migration-related issues often leads to policies which often threaten to worsen human security of the people involved" (Wongboonsin,2004).

6.2 The Real Challenge

In a country like Myanmar where successive governments are known to have focused more on the expansion of the size of military than protecting the wealth and livelihood of the citizens, the question of “how safe and free are people as individuals” has been a constant concern of both the people of Myanmar and international society. It is a challenge for not only the new civilian government but also the people themselves to find out what human security really means to the Myanmar people, especially those who are in mobility every day. An estimated number of 1.5 million Myanmar nationals are living legally and illegally in Thailand alone and hence, the issue of mass migration is too conspicuous to ignore. Many of them have been living there for more than twenty years and reports on continued exploitations and abuses at work place demands more actions and cooperation to address the core problems and challenges.

Agreements between the two governments have had minimal impact in solving the issues of migrant workers, especially for irregular migrant workers who are constantly at risk and struggling in many unfortunate situations. While the governments focus on meeting international standards, the most basic problems of these migrant workers such as “illegality” and “denied basic human rights” remain unsolved. The so-called “end of long isolation” and economic sanctions in 2012 have opened many doors of opportunity for Myanmar.¹ All the excitement of change has certainly put tremendous pressure on Myanmar to implement broad reforms as the economy tries to catch up with the pace of political change (Pesek,2012). As the country continues to face challenges of irregular migration, especially the ethnic minorities, the political

¹ The European Union decided to suspend its sanctions against Myanmar for one year on 23rd April 2012. The United States Secretary of State Hillary Clinton announced on 12th July 2012 that the U.S. has eased sanctions against Myanmar and begun to allow its investors to do businesses in the country in a press briefing after the 19th ASEAN Regional Forum.

and economic reforms should consider the best interests of all the people that formed the union of Myanmar.

The case study of Mon ethnic people showed that Mon migrant workers chose irregular migration basically for three reasons: Mon people regard crossing the border as a “local commute” as the Southern part of Myanmar and Western part of Thailand were one “Mon” land at one point; the difficulty in obtaining legal travel documents due to decades of armed conflicts between Myanmar military and Mon revolution army (NMSP); the convenience in utilizing family-based brokers’ (Pwe-sars) networks that usually save migrant workers a lot of money. Irregular migration has been used as a mean to escape human insecurities, however, its illegal nature continues to challenge the human security of these people. It can be analyzed that the real challenge for the government is not just to reconcile with ethnic groups, rebuild the trust of its people and international community, it has to regain its lost labor force while creating a tranquil environment that can sustain its human and natural resources.

6.3 Social Networks: From Problems towards Solutions

The central questions that this thesis has explored are whether or not the benefits added to the Mon migrants’ standards of living sufficiently justify all the risks associated with their irregular migrations and what alternatives could migration frameworks and networks offer them to help mitigate some of these risks. These questions have led to the discovery of social networks between migrants and their family members, friends, monks, co-workers, employers, and especially with migrant brokers or Pwe-sars. Migration is not only active because of these networks but also redefined everyday as people move in different styles and patterns, combing cultures and beliefs in their mobility.

Social networks are integral part of everyday life in Mon state and for Mons working overseas. The study revealed three types of social networks: the Mon migrant workers' networks, Pwe-sars' networks and migrant- Pwe-sar networks. Most of the Mon networks in Thailand are led by Mon Pwe-sars, who are quite prominent in their communities. Some are wealthy traders, landlords, and teachers. Incidentally or not, they are either relatives or family members of migrant workers. These social networks help transnational mobility occur, support migrants in sending remittances, assist them in extending visas and passport renewal, or getting a work permit.

Although Pwe-sars bear a very controversial image due to the nature of their work, they are considered by the locals as indispensable for transnational mobility of migrant workers who have to arrange their migration in the clandestine or irregular character. However, it is not observed in this thesis that Pwe-sars helped migrant workers tackle their human insecurities by providing them with services to continue illegal movement. The actual role of the Pwe-sars is also questionable as migrant workers are not willing to reveal the actual identity of Pwe-sars. This could be the fact that migrant workers have fear over losing a reliable agent who is illegal but less costly and time-saving than legal agent companies. It is important that migrants have trust over the legal system and believe that their protection is guaranteed through legal routes.

Pwe-sars and their social networks could become an alternative for safer migration once these Pwe-sars are issued permits. Many authorities who cooperated in the interviews have argued this outlook as they believed that both migrant workers and Pwe-sars seemed to be enjoying the mobility business in the shadow. Both migrant workers and Pwe-sars are fully aware that being illegal can cost them much more as they continuously encounter series of life-threatening risks in migration. Interestingly, some migrant workers fear that if Pwe-sars become

legal, they would be under the radar and monitored by the government interminably, increasing the number of migrant workers. Government officials believe that issuing permits to Pwe-sars will empower all migrant brokers to do business in a legal, transparent and professional manner and that will encourage migrant workers to choose safer migration.

Currently, the use of Pwe-sars for migration is the highest compared to other migration agents in Mon state. Their accessibility and reliability are two major qualities that other migration agents cannot seem to beat. Labor brokerage is becoming increasingly popular in Myanmar where many companies are turning their usual commodity trading to brokering labor. Unlike many Asian countries where brokering labor is a strategy that economic and political elites have designed to deal with the dislocations of neoliberal globalization, labor brokerage has existed in Myanmar long before the country gained independence from the British in 1948.

While nations around the world are optimistic about changes in Myanmar that began in late 2010², many leaders of ethnic minorities are skeptical about whether the changes will fully support national reconciliation of the people of Myanmar and the human security of the people who have to arrange their movement in irregular character. Migration from Myanmar, including irregular, occurred through migrant networks. Some of these networks are supported by the State while some exist informally. This thesis has revealed that most of the informal networks are run by individuals or groups of Pwe-sars. Their illegality has exposed migrant workers to series of vulnerabilities while they remain as a reliable source of contact for migration.

The government, on the other hand, established the Overseas Employment Service as a branch of Employment and Training Section under the Ministry of Labor in 1990 as an attempt

² A general election was held in Myanmar on 7 November 2010, in accordance with the new constitution which was approved in a referendum held in May 2008. It was the first general election in two decades for Myanmar.

to counteract increasing irregular migration. Later in July 1999, the overseas employment Law was enacted, followed by the Memorandum of Understanding between Myanmar and Thailand in 2003 to cooperate in the employment of workers. Trading companies that did not have license to send workers overseas started registering their companies as overseas employment companies and as of April 2012, there are 137 registered companies that work with governments in labor brokerage. Labor brokerage and social networks are directly correlated as Pwe-sars and overseas job brokers manage to send migrant workers overseas through their social networks.

These social networks, whether they exist in formal or informal character, create abundance of opportunities especially in education, foreign (English) language learning, and cultural exchange. More than seventy percent of migrant workers in the survey have obtained further education and work experience through social networks. The problem of most social networks found in the survey is that they can be traditional individual-focused social networks where they focused on specific religion, ethnicity, and class. Although Pwe-sars in Mon State denied that they are biased against other ethnicities, non-Mon migrant workers believed that they received less information and assistance compared to Mon migrant workers who were using the same Pwe-sar.

In general, social networks in migrant communities seemed to be lacking accountability and required setting of clear guidelines, discipline, and grievance policies to avoid conflicts that can lead to racial discrimination. Very frequently, migration, especially irregular, is regarded as a social problem of transnational society that demands transnational solutions to fix it. Social networks can become a solution to many migration-related problems if the authorities cooperate and utilize these networks, combine strategies to create strong social safety nets for migrant workers and their families. These networks helped answer the central questions of this thesis,

that Mon migrants' standards of living do not sufficiently justify all the risks associated with their irregular migrations and migration frameworks and networks can offer them safer working environment, legal rights and protection to help mitigate most of the risks they encounter.

6.4 Irregular Migration: Costs and Effects on Transnational Labors

For many years, migrant workers from Myanmar have used fake names, work permits and enjoyed little rights in Thailand. They stayed invisible in plain sight, bearing all the consequences of "illegality." In most cases, Pwe-sars have been accused of the most serious crimes against these irregular migrant workers, like keeping their travel documents, taking two-thirds of workers' income for service fees, and associating with corrupted officers and informing police to arrest undocumented workers. By conducting personal interviews with Pwe-sars, migrant workers and some trafficked victims, this thesis revealed that labor contractors in Thailand puppeteered most of these horrendous cases.

Pwe-sar Daw Kay Thwe has smuggled more than a hundred migrant workers to Thailand through Three Pagodas Pass in Mon state between 1997 and 2002. Some of her clients ended up with contractors who locked up workers or threatened them until they worked off their debts (i.e., the money that contractors said they paid to smugglers for these workers). She was arrested by Thai police in September 2003 along with four Thai labor contractors that were working with her. A court in Myanmar sentenced her to seven years in prison and hard labor on charges of smuggling. Immediately after her release in 2010, she was approached by several Pwe-sars in Mon state who were apparently new in the business. She saw some of her old clients in her native Ywarlut village in Chaungzon Township whose living standards improved during the seven years she was incarcerated.

The whereabouts of many of her old clients remained unknown. Many people assumed that the old clients migrated to United States or Japan (i.e., the “dream destinations” according to the migrant workers) after obtaining legal passports and visas through Pwe-sars. Studies showed that illegal immigrants contribute both benefits and costs to the U.S. economy. At the most basic level, illegal immigrants purchase goods and services and contribute labor and tax dollars while requiring services such as healthcare, education and law enforcement. The participation of illegal immigrants in the U.S. economy also has more complex systemic impacts. For example, their participation can depress both wages for lower-skilled native U.S. workers and prices for all consumers buying U.S. goods and services. The evidence suggests that the overall costs imposed on the U.S. economy by illegal immigrants are equivalent to or outweighed by the benefits. However, this issue remains contentious in part because the costs of illegal immigration are not often borne by the people and institutions benefiting from illegal immigration (Davidson, 2006; Wolf, 2008).

Migration, as much as it brings many benefits, it brings some cost too. And irregular migration, like migration, will not disappear (International Council on Human Rights Policy, 2010). As long as States tend to control migration, they eventually invigorate corruption, smuggling and trafficking. The case study of Mon migrant workers showed that human security of irregular migrant workers can only be addressed properly when States: (1) understand conditions on which individuals decide to migrate; (2) make information and services available for safer migration; (3) inspect the credibility of migration service providers that include state-supported overseas employment companies, overseas job brokers, Pwe-sars, etc and their networks; (4) monitor migration trends and routes by utilizing migrants’ social networks; (5) provide direct assistance and cooperation to migrant workers.

6.5 Legal Protection: The Last Resort for Migrant Workers

National policies and legislation towards irregular migration need to be improved and updated in order to reflect on current issues. In most cases, migrants would not point at law or consider law as a major factor in their migration decisions. Yet, their decisions to migrate, integrate or repatriate are all affected by the law. Law not only influences their decisions, it affects their activities, defines their rights, and security. For many ethnic nationalities, their religious and cultural identities and familial relationships are delineated by law. States amend laws that shape individuals' incentives, opportunities as well as constraints. If Myanmar, the country of origin for these migrants, provides more opportunities and incentives, the fewer individuals will want to migrate because of the powerful emotional links that holds people in their native land.

All states seek to limit immigration and to enforce those limits through legal and extra-legal techniques (Schuck,2008). Legal migration can promote a migrant from the status of “alien” to a “citizen” that has the authority to vote. For instance, in United States, a legal migrant can naturalize easily and a U.S-born child of both legal and illegal immigrants enjoys a constitutionally protected birthright citizenship (Schuck, 1998;185-86). The law defining the categories of legal immigrants and the law enforcement processes that are used to exclude illegal ones in effect determine who will constitute the future stock of Americans (Schuck,2008). In the United States, as in other states, the legal barriers to immigration, and in that sense to citizenship, have become more restrictive as a matter of both formal law and informal practice (Hailbronner, Martin and Motomura, 1998).

An IOM report published in 2009 suggests up to 10% of Myanmar's population, an estimated 50 to 55 million people, is currently overseas. Further, between the period of 1988 to

current day, it is expected that more than three to four million migrants from Myanmar have been smuggled out of the country to Thailand and on to Malaysia and elsewhere (Hall,2012). News on deaths, deportation and imprisonment of migrant workers has become frequent and regular and trafficking has become notorious in the region. There were even cases where people volunteered to be trafficked, wrongly believing that they would be able to start a new a life outside Myanmar that way.

Thailand economic development, with a strong reliance on Myanmar migrants who make up five to ten percent of the workforce, has notably been accompanied by limited developments in formal migration channels with Myanmar. Myanmar's consular assistance programs to overseas migrants, particularly irregular workers, remains limited. Embassies have previously prioritized collection of high rates of tax from regular migrants and denied consular assistance to irregular workers on the basis they left Myanmar in breach of immigration laws. Services for official documents or lost or stolen passports continue to be inefficient, non-existent or expensive. There has also been no clear policy from the Myanmar government and its embassies to prioritize protection of Myanmar migrants against the gross exploitation they often suffer or provide basic translation services to workers and non-governmental organizations assisting workers.

Embassies are often implicated in the unregulated broker networks they approve for regularization processes that place workers into positions of debt bondage and abuse. After decades of illegal migrant workers smuggled into Thailand, Thailand and Myanmar began the commitment to legal worker "import" in 2011. This has contributed to ending two decades of labor exploitation of labor in Thailand, given employers' dependence on millions of migrants and policy-makers who did not prioritize legal migration channels so as to ensure a profitable

and irregular status quo (Hall,2012). At the end of 2011, Myanmar's Deputy Labor Minister Myint Thein made two trips to Thailand to engage on migrant protection.³ Such high-level engagement in the issue brought many positive reactions from the migrants.

Among the achievements that MOUs between the two governments have made, the most striking one has been the transparency that agent companies have to adopt along the process. Private Thai companies assisting Myanmar migrant workers with the nationality verification (NV) process in Thailand and Myanmar must register their company and service plans with Thailand's Ministry of Trade. However, crucial issues still need to be resolved. The registration for a worker, together with health insurance, should officially cost between 2,980 and 3,880 Baht per year, with each change of employment costing 900 or 1,000 Baht. Currently, workers are paying between 4,780 to 6,000 Baht to the officials before they can enter NV process. These costs are:

- biographical registration request (Tor 38/1) from the Department of Provincial Administration by Employer/Establishment and the worker (80 Baht)
- a health check up (600 Baht) , health insurance (1,300 Baht) per year with the Ministry of Public Health
- application for a work permit request at the Department of Employment (100 Baht), work permit per year (900 ~ 1,800 Baht) depending on the province and sector of work
- request to change employer, kind of work or work location (100 Baht) and the change of employer fee (900~1,000 Baht).

³ In his speech, he mentioned his eagerness to ensure that all migrants from Myanmar became legal through NV (Nationality Verification) process³. Five additional NV centers were opened in Thailand in January,2012 to reduce costs and increase speed.

High cost is sometimes a major barrier for migrant workers in seeking legal protection. The actual fees were higher than the authorities' price list because most employers could not arrange nationality verification on their own and usually turned to agencies familiar with the process. Now there are more than 90 such agencies across the country which is a drastic increase from 12 a few years ago. By July 2012, about 700,000-800,000 Myanmar people have completed the nationality verification process in Thailand and become registered migrant workers, who are entitled to many legal rights and protection. However, many other migrant workers have no chance to get such protection because they cannot scrape up the fees.

There are other obstacles that block migrant workers from gaining access to protection. Most migrant workers do not have sufficient education that directly correlates to their rights-consciousness. Seventy percent of Mons who grew up with working parents in Samut Sakhon could not proceed to higher education because of their statelessness. In the meant time, they have very little opportunity to get a good legal counsel that would help them go through complicated labor registration and dispute resolution processes. Social discriminations against migrant workers are deeply-rooted and migrant workers are exposed to unfair treatment at workplaces frequently. Most important of all, migrant workers cannot stop working to take leave to do the requirements for NV process or even the early stages of application. And most employers take advantage of this fact and force migrant workers to waive their labor rights and refuse to sign labor contracts.

Proper supervision and punishments for such violations and abuses are missing and therefore, migrant workers continue to struggle in the vicious cycle of torture. In June 2012, Thailand's Department of Labor Protection and Welfare instructed provincial labor officers to hold meetings with employers of Myanmar workers to discuss ways to improve their working

and living conditions. The Department's Director-General Arthit Issamo stressed the issue of migrant workers' rights by working on issuing documents stipulating the workers' rights and benefits in the Myanmar language as well as providing Myanmar translators to help workers who want to file complaints to Thai authorities. According to the Director-General, the employers are obliged to facilitate their migrant workers to undergo the nationality verification process and are responsible for the legal protection of these migrant workers (Carusarnpisit, 2012).

Earlier in April 2012, the ASEAN Inter-Parliamentary Myanmar Caucus (AIPMC) called on the Association of Southeast Asian Nations (ASEAN) to ensure it works swiftly to implement a legally binding ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers. It also called on the governments of Thailand and Myanmar to improve coordination with each other and civil society organizations to ensure the effective implementation of the 2008 Anti-Trafficking Law and to ensure legal mechanisms are drafted and implemented to ensure the rights of migrant workers are protected. Meanwhile, the Task Force on ASEAN Migrant Workers (TFAMW) for the governments of Thailand and Myanmar and ASEAN have called on the urgent need to step up efforts to ensure the effective protection of migrant workers' social, labor, economic, and political rights.

Advocates for migrant workers in Thailand have strongly suggested that ASEAN should adopt a binding Regional Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers urgently. Like AIPMC, they supported the TFAMW's call for ASEAN Committee of Migrant Workers (ACMW) to consult and incorporate its recommendations for a comprehensive and binding ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers in its upcoming drafting sessions. Migrant workers communities strongly

suggested that they need a legal protection that will not jeopardize their position as transnational migrant workers and to provide assistance especially for their children's education.

Migrant workers form an integral part of the Thai economy and workforce, with hundreds of thousands of Myanmar migrant workers employed in various sectors of Thai industry, including fisheries, manufacturing, domestic and construction work, hotels and restaurants, and agriculture. As Thailand has become more prosperous, fewer Thai people are willing to work in jobs which are commonly known as “dirty, dangerous, and demeaning,” and Myanmar nationals have arrived in Thailand in increasing numbers to fill the labor shortage (AIPMC, 2012). For many Mon migrant workers, they see their migration as mutually benefiting to the Thai society and their causes. As Oxford University's Forced Migration Studies professor Dr. Alexander Betts argued, despite the existence of international human rights norms that should, in theory, protect such people, there remains a fundamental normative and institutional gap in the international system.

6.6 Summary

The current political state of Myanmar interprets that democracy is a common goal for both the military-turned-civilian government and pro-democracy forces. Although the West has lifted most of their sanctions and rekindled their diplomatic and economic ties, the daily flow of migration associated with their Pwe-sars is still largely present at the border and piles of passport and labor visa applications can be found at agents' offices. Until Myanmar reaches its goal, which is to reconcile and reunite its ethnic groups and the presence of full democracy, many of its human resources outside the country are likely to remain there and the fervent migrant workers will still be preyed by smugglers and human traffickers. Myanmar migrant workers in

Thailand have experienced both illegality and series of complicated legalization processes by the governments. What these people need is not a set of new treaties and tests of policies, but rather a soft approach of legal framework that ensures their (irregular migrants) rights.

Migrant workers are afraid to become legal as they have long witnessed “report and deport” process. Thailand has a national interest in identifying these individuals and incentivizing them to come forward out of the shadows by enforcing NV process. Because migrant workers are obligated to pay taxes to avoid facing penalties for breaking the law, many learn Thai and in many cases English as well. And since the migrant workers pay taxes, the government is obligated to provide security background checks, pay back taxes, and regularize their status. It would be impossible for the government of Thailand to identify and round up one million of the current undocumented people and put the economy to halt. It would also be unrealistic for them to deport every other illegal Myanmar migrant worker back to Myanmar and encourage smugglers and traffickers along the process. Naturally, there are fears of millions of other illegal migrant workers flooding into the country if the current illegal migrant workers in Thailand are to be granted amnesty. There have been suggestions that the most workable plan for both Myanmar and Thailand is to allow these illegal migrant workers to apply for citizenship if they are able to pay fines for being illegal, have been paying their taxes properly, have a good criminal record, and speak both languages.

At this moment, such plan does not sound feasible for many ethnic groups in Myanmar. The basic foundation for national reconciliation is trust and while it is being built, Mon and many other ethnic nationalities from Myanmar will seek for ways to coexist with other nationalities outside Myanmar. Migration will continue even though it may be at a different pace. The most important key to finding sustainable solutions for both legal and illegal migrants are

the social networks by and for the migrants. Many have lived in obscurity for many years and they have associated with Pwe-sars and smugglers to maintain their mobility. The Pwe-sars that migrant workers rely on so much need to break free from being “illegal” in order to facilitate safer migrations. Instead of asking Pwe-sars to prove how many people they have sent or who hired them, matters easily subject to fraud and so simple that they risk appearing to reward illegal immigration, the government should enforce a system where these unauthorized Pwe-sars can earn their new legal status. The criteria for regularization should be forward-looking, easily proven, and consistent with what the society consider as important. Rather than maintaining the chaotic and poorly functioning system, Myanmar must create a system that is safe, fair and orderly and then the system will positively encourage and allow migrant workers to be legal.