

Illegal Heroes and Victimless Crimes

Informal Cross-border Migration from Myanmar

Winston Set Aung

ASIA PAPER
December 2009



Institute for Security &
Development Policy

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Illegal Heroes and Victimless Crimes: Informal Cross-border Migration from Myanmar is an Asia Paper published by the Institute for Security and Development Policy. The Asia Papers Series is the Occasional Paper series of the Institute's Asia Program, and addresses topical and timely subjects. The Institute is based in Stockholm, Sweden, and cooperates closely with research centers worldwide. Through its Silk Road Studies Program, the Institute runs a joint Transatlantic Research and Policy Center with the Central Asia-Caucasus Institute of Johns Hopkins University's School of Advanced International Studies. The Institute is firmly established as a leading research and policy center, serving a large and diverse community of analysts, scholars, policy-watchers, business leaders, and journalists. It is at the forefront of research on issues of conflict, security, and development. Through its applied research, publications, research cooperation, public lectures, and seminars, it functions as a focal point for academic, policy, and public discussion.

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Research for this publication has been supported by a grant from STINT (The Swedish Foundation for International Cooperation in Research and Higher Education).

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ISBN: 978-91-85937-72-1

Printed in Singapore

Distributed in Europe by:

Institute for Security and Development Policy
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Distributed in North America by:

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Executive Summary

In the course of cross-border migration from Myanmar, many who are involved in the migration process such as migrants, their families, money lenders, brokers, transnational money transferors, etc., intentionally or unintentionally maintain the status of illegality. However, with the objective to negotiate their own way into the new livelihood space to secure their share of development through migration, they see their exercises in maintaining illegality as licit behavior, which is considered legitimate, given the social context in which they live. The gap between what is considered illegal by the state and as illicit by the people gets wider. It is easy for those who are involved in the migration process to define the thin line between illegal and illicit behavior – from their own social perception – which can never be identified or recognized by the existing legal system in any country.

Strong social connections and networks of some ethnic groups that have been in existence for a long time between Myanmar and its neighboring countries have fueled cross-border human mobility in both directions, regardless of legal border restrictions. Migration is often seen by the countries of destination as a threat to national security and by the country of origin as a problem to be solved. These negative perceptions got worse when cross-border migration became more dynamic, taking place in various informal/illegal forms. Most studies attempted to highlight push and pull factors of this dynamic cross-border migration from Myanmar, as well as the living and working conditions of Myanmar migrants living abroad and their remittances. However, there are very few studies that shed light on the course of cross-border migration from Myanmar from the view of migrants, their families and their home community, and its implications on them.

Millions of Myanmar migrants are working under undesirable and vulnerable conditions in foreign countries far away from their families. Most of them got into such situations voluntarily, in order to improve the livelihood of their families, and to provide education and health care for their children at home. Although most of them are illegal migrant workers, they are far from being criminals. They are making important sacrifices and live “borrowed

lives” in order to send money back home to help their families. They are just ordinary people trying to make ends meet, and for their extraordinary sacrifices, they are considered heroes by their families.

Most people in the countries of destination normally hear a single story about illegal migrant workers. There are endless stories of illegal migrants portraying them as people who are sneaking across the border, stealing the jobs of local people, committing crimes, etc. Most people have been so immersed with negative media coverage that migrants have become one thing in their mind, the bad guys. It may not be fair if the bad behavior of few unscrupulous illegal migrants is considered representative of the millions of them working under very hard conditions, simply to provide bread and butter for their families back home and contributing to increased production and economic development in the country of destination.

Although the acts of professional traffickers – who are committing serious crimes of human trafficking across borders that have a series of negative social impacts, not only on trafficked victims, but also on the families of those victims – are perceived as illicit, the acts of local brokers who facilitate voluntary cross-border migration of ordinary people (exploring job opportunities across the border) at a reasonable fee, and finding appropriate jobs for them (through their social connections in the country of destination), are not considered illicit by most local people. Far from being thought of as criminals, their services create *win-win* situations and are considered essential, and their actions – that may have flouted the state’s rules and regulations – cause no victims.

This paper highlights the perception of each and everyone involved in the course of cross-border migration from Myanmar in each step they, internationally or unintentionally, maintain the status of illegality. It also attempts to identify the implications of cross-border migration on migrants’ families and their community in the country of origin. Interviews and questionnaire surveys conducted in different projects in 2008 and 2009 in different places in Myanmar and neighboring countries, coupled with qualitative and quantitative analyses, attempt to enhance the reliability and representativeness of the findings in this paper.

Introduction

Hundreds of people from Myanmar¹ willingly choose to break the immigration laws of neighboring countries on a daily basis by entering through various border crossings. Do they view their actions as crimes and see themselves as criminals? They are well aware that they break the laws but do not think of their venture as illicit. It is obvious that there is no clear line between illicitness and the laws of states and that there is a clear gap between legal and social perceptions. Laws and regulations in each country can sharply draw the distinction between what is legal and illegal but people may see them in a different way. This is more obvious in the borderlands.

The authorities of both countries of origin and destination countries have tried to control the illegal mobility of people for decades but have not been successful. Governments of receiving countries view migration as a threat to national security, while sending countries see migration as “a problem” to be “solved”. Policies on migration as well as memoranda of understanding signed by national authorities to date reflect this negative assessment in that they seek to control and restrict migration, have few provisions protecting migrants and have less interest in making migration an enterprise that is beneficial for migrants and their families.² It is obvious that migration is always viewed as a problem and it is taken for granted that illegal migrants and brokers who facilitate illegal migration are criminals.

On the other hand, families of migrants and the social environment from where migrants come from see migrants as heroes, who are making important sacrifices, in a vulnerable position, in order to support their families.

¹ The name “Myanmar” is used throughout this paper because that is the official name of the country accepted by the United Nations and is commonly used since time immemorial in the country especially when using the Burmese language. The use of the name “Myanmar” in this paper does not represent a political statement of any kind.

² Muanpon Juntopas, Winston Set Aung, Saykham Voradeth, Yaowalak Aprichartollop, Masao Imamura, *Labour Migration from Mekong Region: a feasible option for livelihood diversification for the poor?*, The Sustainable Mekong Research Network, Project Number 6591, 2008/09.

There are, indeed, powerful legitimizing discourses that reject state definitions of criminal and illicit behavior. This is a typical example of the contrast between what states consider legitimate (“legal”) and what people involved in cross-border networks consider legitimate (“licit”).

With their social networks established across borders for a long time, most migrants try to find various ways to reach the countries they are aiming at and/or to travel back and forth. For some of them, it is just a normal visit to their families living far away and they do not consider such action as illicit. Such visits are normally sponsored by a family member, who is an illegal migrant in the country they are visiting, and are facilitated by various brokers whom are viewed as people giving a helping hand for smooth transportation. Migrants as well as migrants’ families visiting migrants defy all the restrictions imposed by the national scale³ and are guided by a cognitive map that includes the world beyond the state border. This is traditionally evident in many places even though these migration cases are serious crimes of human smuggling according to the laws of states; and those who are directly or indirectly involved in such facilitation (who may not even think of it as smuggling) can face prosecution. Since human smuggling and migration (even voluntary) can be the origin of human trafficking, even the authorities of countries of origin tend to put in place strict regulatory

³ It is the State’s scale measuring whether it is legal or illegal from the State’s and legal point of view. Willem van Schendel argues that three kinds of scales are most relevant: “scales we almost lost” or pre-border webs of relations, “the state scale” which is most often being renegotiated or contested, and finally, “border-induced scales”, i.e. cross-border webs of influence that spring up because of the border’s existence. See Willem van Schendel, “Introduction: The Making of Illicitness”, in Willem van Schendel and Itty Abraham, eds., *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization* (Bloomington: Indiana University Press, 2006), pp. 1–37. He also states that studying illegal flows in borderlands provides special insights into how territoriality and transnationality are negotiated in everyday practices and how people “scale” the world they live in. For borderlanders, the state scale is not overarching and does not encompass the more “local” scales of community, family, the household, or the body. On the contrary, to them it is the state that, in many ways, represents the local and the confining, seeking to restrict the spatiality of borderlanders’ everyday relations. See Willem van Schendel, “Spaces of Engagement; How Borderlands, Illegal Flows, and Territorial States Interlock”, in *ibid.*, pp. 38–68.

measures to block all kinds of suspected cases. However, laws and regulations to block and control such unauthorized emigration and immigration may disrupt traditional routes and methods of clandestine entry, which may result in the emergence of professional trafficking, which may turn out to be a bigger challenge and may cause much more harm than simple voluntary economic migration going through informal channels.

Existing studies of migration focus more on why migrants move from their countries of origin, what are their motives, what are the push and pull factors, what is the situation of migrants in the countries of destination and how they live and work there. There still are few studies on how the movements take place, the perceptions of those involved, and what implications these movements have on the household and community level of the countries of origin.

Hence, this paper attempts to move away from question of “why move” and “how live” to how movements take place, what makes migrants and their families and communities perceive illegal migration as a socially legitimate process and how the migrants and the migration process contribute to the household and community level in the case of Myanmar. The paper focuses more on Myanmar’s out-migration because its out-migrants (most of whom are illegal workers abroad, especially in Thailand) are significantly larger and more vulnerable than in-migrants (most of whom are investors/businessmen from neighboring countries such as China) and furthermore why Myanmar’s out-migrants’ contributions to the household and community level are more prominent in the case of Myanmar, where 75 percent of the population live in rural areas⁴ and 32.7 percent lives below the national poverty line.⁵

⁴ Source: The Central Statistical Organization of Myanmar.

⁵ Source: *The World Factbook*, The Central Intelligence Agency.

Informal Cross-border Migration from Myanmar

Although there are obvious flows of in-migration from neighboring countries (mostly from China and Bangladesh) to Myanmar as their country of destination⁶ and/or country of transit⁷, Myanmar has always been a major sending country in the Greater Mekong Sub-region.⁸ Although the exact number of out-migration from Myanmar cannot be properly documented due to the sizeable informal flow of people across Myanmar's porous borders,⁹ it is estimated that 10 percent of its over 50 million population is currently abroad, out of which there are around two million in Thailand alone, and 0.5–1 million in Malaysia.¹⁰ Myanmar migrants in Thailand and in Malaysia are

⁶ Most Chinese migrants from Yunnan province of China migrate to Myanmar as their country of destination with the purpose to do business or trade. Majority of their investment are not properly documented as they do business informally under the names of their local partners in order to avoid complicated process and high costs related to registered foreign investment. As a result, it is estimated that around 50% of population in Lashio, a city in Northern Shan State of Myanmar and 20% of population in Mandalay, the third capital of Myanmar, are Chinese. See Winston Set Aung, "Informal Channels of Labor Migration in Myanmar: Causes and Impacts", paper presented at the Follow-up Regional Policy Dialogue on Transborder Migration Policy Implementation and Monitoring: Its Effectiveness and Current Policy Gaps in the GMS, Mekong Institute, Khon Kaen, Thailand 15–17 November 2007; Myat Thein, "Labor Conditions in Myanmar", 17 November 2003 (unpubl. paper).

⁷ There are cases of migration from Bangladesh to Malaysia and Middle-East countries, China to Thailand, etc., transiting Myanmar (Source: Interview with Anti-Trafficking Unit, Muse and Lashio in August/September 2009).

⁸ The Greater Mekong Sub-region comprises six countries which Mekong River passes through. These countries are China (Yunnan and Guansi provinces), Thailand, Vietnam, Myanmar, Cambodia and Lao PDR.

⁹ Myanmar is neighboring to China, Thailand and Lao PDR on the east side and India and Bangladesh on the west side.

¹⁰ International Organization for Migration, *Situation Report on International Migration in East and South-East Asia: Regional Thematic Working Group on International Migration including Human Trafficking* (Bangkok 2008), available at <http://www.iom-seasia.org/resource/pdf/iomsituationreport.pdf>; Ana Revenga, Pierre Yves-Fallaquier, Jennica Larrison, Carmen de Paz Nieves, *Labor Migration in the Greater Mekong*

mostly illegal and are unskilled workers, whereas those in the Middle East countries such as Dubai are semi-skilled ones. Others (semi-skilled, skilled and professionals) are dispersed in many countries such as Singapore, Japan, Korea, Great Britain, and the United States. These figures are in contrast to official statistics according to which only 485,925 number of work permits were issued for Myanmar migrants in Thailand in 2007, while 99,020 Myanmar migrants were officially registered in Malaysia in 2006.¹¹

Among various destinations of Myanmar migrants, Thailand and Malaysia are the most popular for unskilled and semi-skilled workers, due to proximity and the costs associated with migration. The flows of people from Myanmar to Thailand mostly pass through borderlands. Border crossing can either be legal, if migrants legally enter into Thailand with 1-day or 7-day border passes and over-stay illegally for work, or illegal if they pass a border crossing where there is no immigration checkpoint on either side and stay illegally for work. However, most Myanmar people go to Malaysia legally by international flights arranged by various overseas employment agencies in Myanmar.¹²

Malaysia as a job destination among Myanmar people became popular not long ago after the enactment of the Overseas Employment Law in 1999 in Myanmar. Since then, overseas employment agencies were established, which triggered Myanmar people's move to Malaysia. Thailand is the major destination for Myanmar people of Shan, Mon and Karen ethnicity whereas Bamar (the dominant ethnic group of Myanmar) choose Malaysia.¹³

Sub-region – synthesis report: phase 1, World Bank Report No. 40773 (2006); Muanpon Juntopas, Winston Set Aung, Saykham Voradeth, Yaowalak Aprichartollop, Masao Imamura, "Labour Migration from Mekong Region: a feasible option for livelihood diversification for the poor?", The Sustainable Mekong Research Network, Project Number 6591, 2008/09.

¹¹ International Organization for Migration, *Situation Report on International Migration in East and South-East Asia*.

¹² Although a majority of Myanmar people go to Malaysia legally through employment agencies, there also are quite a number of people going there illegally by boat through Penang.

¹³ There are also many Bamars in Thailand and other ethnicities in other countries. However, the flows of Shan, Mon and Karen people from Myanmar to Thailand are more significant. The flow of Bamar unskilled workers to Malaysia is also

Unlike the flows of people from Myanmar to Malaysia, flows, especially from the Shan, Mon and Karen states to Thailand began a long time ago. In most villages in these states, many young adults had migrated to Thailand. To migrate to Thailand and over-stay illegally for work are considered normal practices and widely common among those living in these areas. They have established strong social ties and connections with their relatives, family members, or the people of the same ethnic group in Thailand and such social networks across the border make it easy for people to travel back and forth between the two countries through various illegal channels.

During the survey conducted in a Mon village, which is situated not far from the town of Zinkyeik, the head of a household and his wife had just returned from a trip to Thailand bringing back a newly born baby of their son who is working in Thailand.¹⁴ It is a common practice that Myanmar migrant couples send their children back to their grandparents in Myanmar, mostly a few months after birth, and continue working in Thailand.¹⁵ In this case the grandparents are financially well off because their son and daughters have been working in Thailand for quite some time and regularly send remittances back home, so they could afford to bring their grandson back home personally. In most cases, Myanmar migrant couples in Thailand have to use illegal brokers to bring their babies back to Myanmar.

It is obvious that those grandparents flouted the citizenship laws and visa regulations of both states, and defied the restrictions imposed by the national scale. However, they did not think of this practice as illicit. These grandparents proudly mentioned how happy they were to have had a good time in Thailand (illegally) for one whole month visiting many places and being able to bring back their grandbaby, of whom they were going to take care of while their son and daughter-in-law were working in Thailand. The grandparents knew that it was not legal to go to Thailand without legal documentation, but they rejected the idea that this made their venture illegal or illicit. Those who

significant.

¹⁴ The survey was conducted by Asia Development Research Institute in 2008 in Myanmar and was funded by the Sustainable Mekong Research Network.

¹⁵ Surveys conducted by Winston Set Aung in 2009 on Myanmar migrants in Mahachai, Sumot Sakhorn Province of Thailand.

live in the borderland have established strong social networks across the border and often ignore the states' practices and continue to scale their world in ways that do not coincide with state borders. Their scales often spill over the spatial limits set by the state's territory.¹⁶

¹⁶ van Schendel, "Spaces of Engagement; How Borderlands, Illegal Flows, and Territorial States Interlock."

Informal Means of Funding Migration Costs

In Myanmar, the cost of illegal migration to Thailand¹⁷ ranges from US\$250 to US\$400 per person, whereas the cost of legal migration to Malaysia ranges from US\$1000 to US\$1500 per person.¹⁸ Since the Gross National Income of Myanmar is just US\$386 per year,¹⁹ the cost of migration is considered to be very high. As a result, the decision to migrate is made not only by the migrant but also by their families. In most cases, the aim is to diversify the families' means for a better livelihood and to find new sources of cash income, social security and resilience to adversity that comes with rapid economic transition, which also alters patterns of the use of and access to natural resources. Families are involved in the decision-making process, because they share the burden of migration cost. The cost increases tremendously, and consequently, the financial burden on the family increases, as it is often funded by borrowings at usurious interest rates, which is commonly the case in Myanmar.

From the survey on 320 households conducted in 2008,²⁰ it was found that nearly 60 percent of those going to Malaysia in the *case* group, that is, households that had a migrant family member had to rely entirely on borrowings from informal money lenders to fund the cost of migration for a family member and nearly 87 percent of them had to borrow at the interest rate of 120 percent per annum.²¹ This is mainly because those households do

¹⁷ The migration to Thailand is normally crossing the border legally and then over-stay in Thailand illegally for work. Hence, this migration process is considered illegal migration in this paper.

¹⁸ Source: Interviews with overseas employment agencies in Myanmar and Myanmar migrants in Thailand.

¹⁹ Source: UN Data, accessed from: <http://data.un.org/CountryProfile.aspx?crName=Myanmar>.

²⁰ The survey was conducted in the dry zone and Mon state of Myanmar in 2008 by Asia Development Research Institute with the funding of the Sustainable Mekong Research Network.

²¹ During the survey, *case* group (i.e. households having a migrant family member) and *control* group (households having no migrant family member) were divided to assess the impact of migration on households.

not have enough collateral which is the main requirement to have access to formal bank credits.

However, only 27 percent of migrants going to Thailand had to rely on borrowings. Because the cost of migration to Thailand is lower, 53 percent of them could get the funding from the savings of their families and relatives, whereas 20 percent of them had their migration costs deducted from their wage while working in Thailand. Most people in the area where the survey was conducted, the Mon state, went to Thailand and enjoyed better socio-economic status than those in the dry zone so that they could fund the migration cost from their families' savings. Migration to Thailand from this area had started long ago and most households could afford to dispatch more than one family member due to their long-term migration experience, their established social networks with Thailand, and the lower cost of migration through illegal channels than the cost of legal migration to other countries.

Since no household in the survey areas had access to formal banking credits, they had to rely on informal money lenders. These informal money lenders are households in the village or nearby villages that are the wealthier ones in the community. Although this informal money lending practice is very common in many areas, it is illegal according to the 1990 Financial Institutions of Myanmar Law. However, people in the areas surveyed did not think of this practice as illegal or illicit. Most households in the *case* group considered themselves very lucky because they had the connection with informal money lenders in their village or nearby villages. The main criteria behind having access to such informal lending are connection and trust. Some of the migrants' households in the *case* group, who had to borrow from other lenders, had become informal money lenders themselves after receiving an adequate amount of remittances and looked upon informal lending as a good investment. This case highlights the distinction between what is considered acceptable by people and what is seen otherwise by the state. Although these practices are illegal by law, they are considered as socially legitimate by the community.

There is also a different type of migration cost leading to undesirable outcomes. A survey conducted in Tachilake in 2008 revealed that some

women migrants did not need to pay anything.²² They were told by brokers/traffickers that the transport cost would be deducted from their wages. The transport costs (that include brokerage fees) to bring women were quite expensive (around Baht 18,000–30,000, i.e. approx. US\$550–900 per head) and they were paid by employers of karaoke bars and massage parlors in Hat Yai, a Thai border town close to Malaysia. Those women from the Shan state did not have any idea about the nature of work in those places. After a few months, they realized that they would never get paid and were forced by their clients to do certain undesirable acts against their will. Most of them were aware that they were sold to those brothels and tried to run away from them.

While there is a cost to migrate to Thailand, there also is a cost to return. Migration between Myanmar and Thailand is not only one way (or is not only a one way street). Cross-border mobility is quite significant in different directions. People come and go. Migrants go to Thailand illegally and come back illegally for holidays, family reunions, festivals, etc. Brokers clear all possible border frictions for migrants on their way to reach destinations in Thailand and also take care of those coming back to Myanmar at a fee which is normally around US\$150 per head.

In several border areas, there are workers who cross over to the Thai side in the morning to work at construction sites or agricultural farms and come back in the evenings on a daily or weekly basis. Those workers do not use the legal gates because the immigration fee is considered expensive. They normally go through various crossing points (by small boats crossing a narrow stream, crossing the fence of Thai private farms adjacent to border, etc.). They normally earn around US\$3–4/person/day but need to pay around US\$0.30, which is collected by workers of those Thai private farms that allow them to go through their compound.

These practices have been in existence for a long time. Interviews with a human smuggler in Tachilake revealed that he never thought of his activities as illicit. He is even respected among locals for his knowledge about

²² Survey was conducted by Winston Set Aung in Tachilake-Maesai border area in 2008. Interviews were conducted of local authorities, local brokers/traffickers, local Shan people/traders, and Shan trafficked victims who returned to Myanmar.

Thailand and the connections he established when he was working in Thailand for four years without having any legal document. According to most people, traffickers – bad people – are those who sell people they bring to employers or gangs in Thailand, where they are locked up in a compound and forced to work without pay. Smugglers who facilitate border-crossing at a fee, enabling migrants to reach their target destinations in Thailand and get them the jobs they want are not considered by most locals as committing a crime.

Informal Cross-border Migration Routes

The majority of labor migrants from Myanmar to countries other than Thailand go through formal and informal overseas employment agents.²³ Formal overseas employment agencies are those that are officially registered under the Ministry of Labor of Myanmar. Although there are hundreds of registered agencies, there also are hundreds of unregistered agencies, due to specific criteria for licensing, requirements for extension, e.g. such as minimum number of labor to be sent per year, and tax purposes. Although sending workers by any unregistered agents is against the 1999 Overseas Employment Law of Myanmar, people do not think of this activity as illegal. After some migrants suffered due to cheating and manipulation perpetrated by these unregistered agents, authorities took action in some public areas by posting the names of registered agencies.

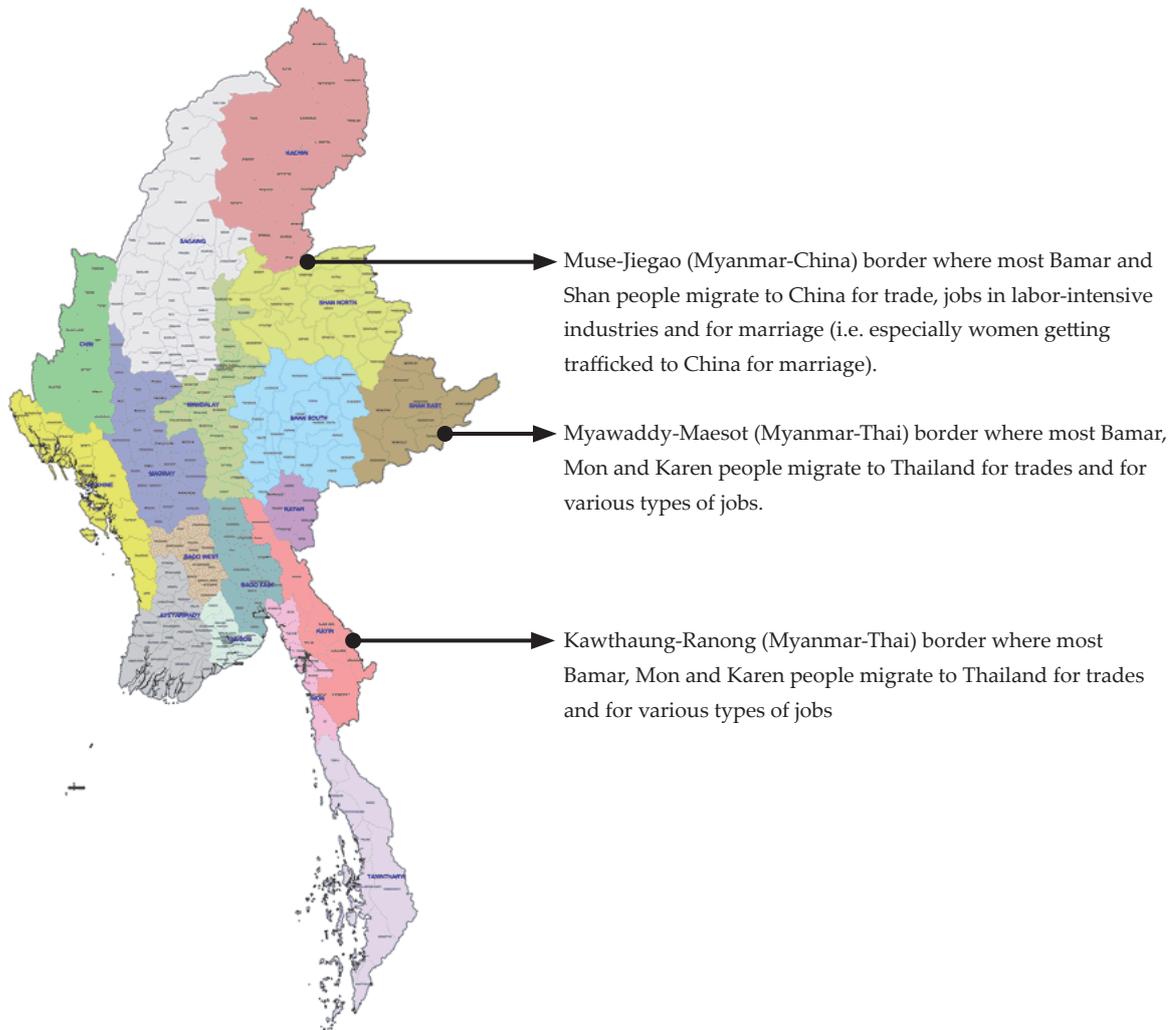
Migrants going to Thailand simply cross the border legally or illegally. A majority of them cross the border legally with 1 or 7 day border passes that are normally thrown away after the arrival to the other side. Although the porosity of the border between Myanmar and Thailand makes it easy to cross the border illegally, most people going to Thailand choose Myawaddy-Maesot, Kawthaung-Ranong and Tachilake-Maesai border areas. While the majority of people of Mon and Karen ethnicity and Bamar choose the first-mentioned two border areas, people of Shan ethnicity choose the latter border area.²⁴ Kawthaung-Ranong border area became a popular migration route for Mon and Karen ethnic minority and Bamar, because people taking the Myawaddy-Maesot route had to go on foot for several days in the forest

²³ Only two semi-state-owned overseas employment agencies are legally allowed to send workers to Malaysia. However, other private-owned agencies are sending workers to Malaysia by paying a certain fee to them.

²⁴ Surveys conducted by Winston Set Aung in 2008 and 2009 in Myawaddy, Kawthaung and Tachilake in Myanmar under the research funding provided by the Institute of Asian Studies, Chulalongkorn University of Thailand and Sustainable Mekong Research Network,

on the Thai side in order to bypass legal checkpoints (Figure 1).²⁵

Figure 1: Active migration routes to Thailand and China



Hundreds of people from Myanmar go to Thailand on a daily basis through various legal and illegal means using different border crossings. There have been a few tragedies including the death of 54 illegal Myanmar migrants coming through Kawthaung-Ranong border area, who suffocated when they were transported in a container truck in Thailand to the resort island of Phuket in 2008.²⁶ After this tragedy, Myanmar and Thai authorities

²⁵ Interview surveys conducted by Winston Set Aung on Myanmar migrants in Thailand in 2008 and 2009 under the funding provided by the Sustainable Mekong Research Network.

²⁶ A 10-wheel Thai container truck, usually used for transporting frozen fish,

cooperated to round up human smuggling networks to some extent. Authorities thought that such a tragic incident would slow down the flow of Myanmar migrants into Thailand.

A survey was conducted in a Mon village (not far from Mawlamyaing city of Myanmar) where four people from this village were included in the group of 54 migrants who died in the container truck.²⁷ In this village, the majority of families had at least one family member who was a migrant currently working in Thailand. An interview was also conducted with the family from which three people went along. Of the family of three, the mother, the son and his wife just after their marriage, only the son survived. He fell unconscious while holding his mother and newly wedded wife in each hand in the dark container truck and could not get any air. When the truck pulled over and the container door was opened near the Sooksamran province of Thailand, the son regained consciousness and found that his mother and wife had died in his arms.

During the survey, one question asked to the villagers and to its relatives and those close to the victim family was whether this tragedy would make most people from the village abstain from going to Thailand. Most of them agreed that this event was very unfortunate. However, the majority of them described migration from the village to Thailand as a common practice. It was unfortunate that this accident happened and had led to the death of their beloved ones. However, it was similar to one of the many car traffic accidents that would not discourage people to drive or ride a car. According to them, in a similar way, this tragic incident did not discourage people to go to Thailand.

Due to their long-term relationship and social networks with Thailand, Myanmar people of Shan ethnicity normally choose to migrate to Thailand. They are locally known as Thai Yai (Great Thai) in Thailand. They are a small but significant Thai-speaking ethnic group in northern Thailand. Their

illegally transported 121 Myanmar illegal migrants to Phuket, Thailand, in April 2008. However, the ventilation unit of the truck was broken which led to the tragic situation where 54 people inside the truck got smothered to death.

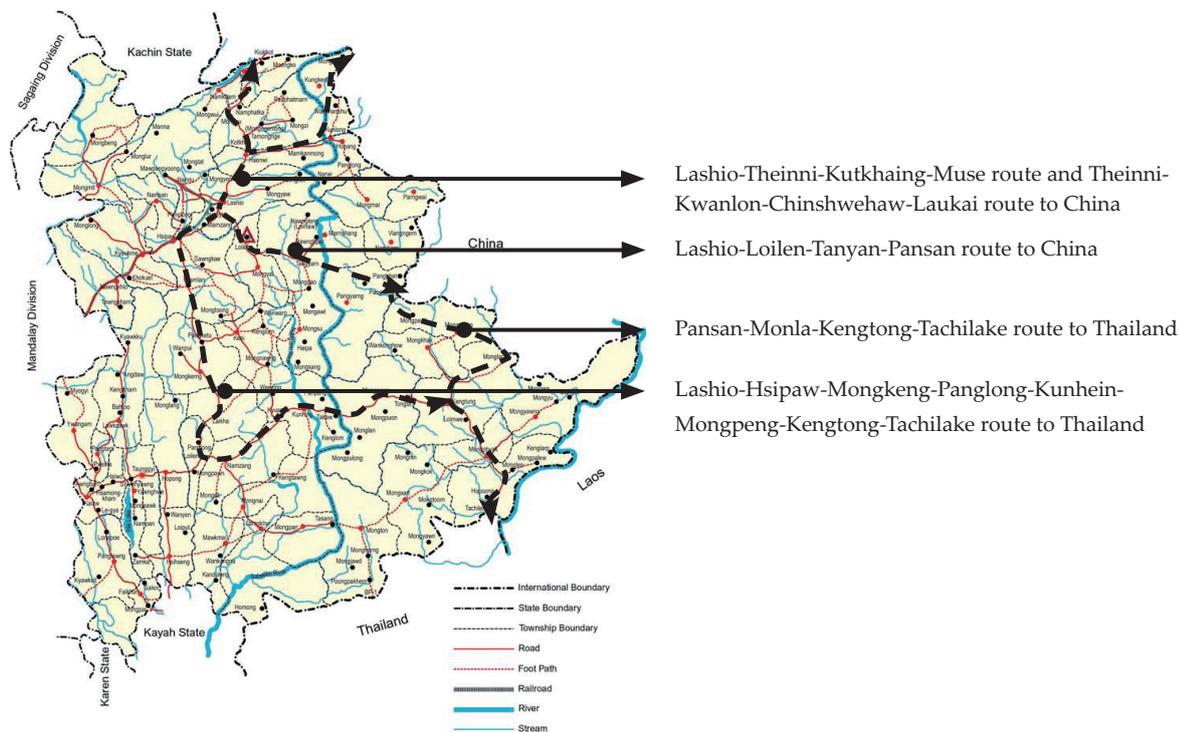
²⁷ Survey conducted by Winston Set Aung in 2008 with the assistance and support of the Anti Trafficking Unit of Myanmar as a part of the project of Sustainable Mekong Research Network to produce a documentary film on migration.

historical roots are in the Chinese province Yunnan, where around 270,000 Shan are found today. In northern Thailand, the Shan have a strong presence in Chiang Rai, Lampang, Mae Sariang and Chiang Mai. The town of Mae Hong Son in Thailand was originally founded by Shan settlers around 1830. A strong historical connection between ethnic Shans in Myanmar and in Thailand (called Thai Yai or Great Thai), create a spatial scale, which makes them possess a cognitive map that stretches beyond the state border, and see no problem with cross-border kinship that links individuals and family groups across the border, by ignoring the state scale and practices that set the border as spatial fixtures, lines in the landscape and separators of societies. Borders not only join what is different but also divide what is similar.²⁸

In the Shan state of Myanmar, the southern part is close to Thailand whereas the northern part is close to Yunnan. Although the northern part is close to China, most Shan from this area take various means to enter into Thailand. This explains the closer kinship between Shan in Myanmar and in Thailand, although they originally migrated from China. A field study conducted in 2009 on Shan around Lashio in the Northern Shan state²⁹ revealed that they normally use two major routes to enter into Thailand, either the route connecting Tanyan-Pansan-Kengtong-Tachilake or the route connecting Nanyan-Mongkeng-Panglong-Kunhein-Mongpeng-Kengtong-Tachilake. It takes about seven days to reach Thailand. Some of them enter into China through other routes, such as Theinni-Kwanlon-Chinshwehaw into Mengding and Nansan in China and Kutkhaing-Muse route to Jiegao in China. (Figure 2).

²⁸ Tobias Wendl and Michael Rosler, "Introduction: Frontiers and Borderlands: The Rise and Relevance of an Anthropological Research Genre", in Michael Rosler and Tobias Wendl, eds., *Frontiers and Borderlands: Anthropological Perspectives* (Frankfurt am Main: Peter Lang, 1999), p. 2.

²⁹ Field study conducted by Dr. Lynn Thiesmeyer of Keio University (Tokyo) and Winston Set Aung in September 2009 in Shan State of Myanmar.

Figure 2: Active migration routes of Shan ethnics

Interviews with several Shan around Lashio revealed that they never thought of their journey to Thailand and China as illicit. According to them it was normal, as such cross-border flows have existed for a long time. Similarly, those who cross borders on a day-to-day basis to work at job sites in Thailand did not see their daily activities as illicit. At a crossing point not far from the Myanmar-Thai Friendship Bridge in Maesot, many people cross to and fro between Maesot on the Thai side and Myawaddy on the Myanmar side on a small boat without having any legal document. The Myanmar-Thai Friendship Bridge in this area is the only legal immigration checkpoint in Myawaddy on the Myanmar side, whereas there are multiple checkpoints that are legal on the Thai side and illegal on the Myanmar side. There are several motorbike taxis which facilitate transportation for illegal border-crossers to and from the Maesot central area. There are also many other crossings like this along the porous border between the two countries. Similarly, at various places not far from the Central Gate and the Siphudaw Gate, which are legal immigration checkpoints in Muse bordering to Jiegao of China, many

cross over the fence or through holes in the fence to and from Muse on the Myanmar side and Jiegao on the Chinese side on a day-to-day basis. For them, the border is not separating two countries. They simply go to work. This example demonstrates that although the borderland is considered by the governments as a zone or area within which there is an international border, people living in the border area have their own social scale in measuring the area beyond the international borders. Similarly, governments view a borderland society as separate social and cultural systems straddling that border, and people around the border see the society as single one regardless of the border which separates them. The massive amounts of human flow over the borders are illegal according to the law. However, people involved in these actions are just working to provide bread and butter for their family and children. Hence, the question arises whether it is fair to criminalize them as illegal migrants and crack down on them at the expense of their families and children whose livelihoods are at stake.

Hence, it is time to think about alternative *win-win* strategies to marginalize the possible negative impact of cross-border migration on the country of origin, the destination country, the migrants and their families, in order to maximize benefits for all stakeholders, instead of seeing it as a problem and initiating aggressive attempts to crush them down.

Informal Remittance Channels

Several studies on the remittances from international migrants, their uses and effects have been presented. Most studies on their use focus either on the negative social effects of remittances in dependent societies, i.e. the traditional 'dependence' view, or the positive effects on broader development objectives, e.g. the 'new economics of labor migration' view. Households receiving remittance income may increase consumption or invest in capital, depending on the relative scarcity of either category within the expected return to the household economy. Remittance flows are usually not reserved for specific purposes as they are fungible and may displace other expenditure, as well as having indirect effects on other households and enterprises. Thus, it is not easy to quantify their direct and indirect effects.³⁰

Unlike other financial flows to developing countries that go through government agencies and non-governmental organizations, remittance payments can reach households and individuals directly and can fulfill their needs in a direct and significant way. Although a large portion of remittances do not go to investment and productive sectors, remittances enhance the living standard of recipient families and could be an important safeguard against poverty. A World Bank study, reviewing evidence from 115 countries, found that a 10 percent increase in per capita official international remittances in a developing country will lead to a 3.5 percent decline in the share of people living on less than \$1.00/person/day in that country.³¹ Other estimates suggest that a 10 percent increase in per capita remittances will reduce the depth of poverty in a country by 3.9 percent.

The surveys conducted on 320 households in the dry zone and Mon state of Myanmar confirmed that remittances play a pivotal role in alleviating

³⁰ Neil Adger, Mick Kelly, Alexandra Winkels, Luong Quang Huy and Catherine Locke, "Migration, Remittances, Livelihood Trajectories, and Social Resilience, *Ambio*, Vol. 31, No. 4 (2002), pp. 358–66.

³¹ H. Richard Adams, Jr., "International Remittances and the Household: Analysis and Review of Global Evidence", *World Bank Policy Research Working Paper*, No. 4116 (February 2007).

poverty. In the Mon state of Myanmar, remittances from Thailand are used not for the *needs* anymore, but for the *wants* of the families in Myanmar. The socio-economic conditions of most families in the area surveyed in the Mon state are not bad.³² Most families possess better wooden-structure houses and other luxury items such as TVs, DVDs, motorbikes or bicycles, etc. Although the amount of remittances sent per migrant per year is small, it can still be significant for a family, which has more than one family member working as a migrant in Thailand.

Migrants of most respondent families in the survey area in Mon state can send remittances regularly. Some migrants can even make efficient allocations for the use of their wages. An interview with a family in Mon state revealed that they have two daughters and one son working in Thailand. The first to go to Thailand was the eldest daughter and she married a person who came from Kawthaung in Myanmar. She regularly sent remittances back home to pay the costs of migration for her younger sister and brother. Eventually, her younger sister and brother got into Thailand (also illegally) and worked at a nearby seafood processing factory.³³ Then, the wage earned by the eldest sister was used for the daily food and expenses of all four (the eldest sister, her husband, her sister and brother), whereas the entire wage earned by her sister and brother was sent back home. With these remittances, their family back home could start a small goldsmith business and they were planning to send their older brother to Singapore through a legal channel, which would cost around US\$3000 for the family.

Various informal ways are used when sending the remittances back home. Most of the migrants use *hundi* arrangements to transfer their remittances back home.³⁴ Under this arrangement, migrants do not need to go through the formal bank procedure for the transfer of money back home. They just need to know the *hundi* rate which is not much different from the black market currency exchange rate. The spread between *bid* and *ask hundi* rates is the

³² The survey was conducted by Asia Development Research Institute in 2008 in Myanmar and was funded by the Sustainable Mekong Research Network.

³³ Although their mode of entry into Thailand (with no travel document) was illegal, they are currently working legally in Thailand with Thai legal work permits.

³⁴ It is known as *hawala* in South Asia. It is a well-established and socially trusted form of transnational financial exchange.

commission for *hundi* dealers. Migrants need to pay the money (in case of Thailand, Baht) to a *hundi* dealer in Thailand and, eventually, their families in Myanmar can get the money (in Myanmar currency, Kyats) in Myanmar from a Myanmar dealer connected to the *hundi* dealer in Thailand. Most *hundi* dealers are shops, traders, etc., who transfer goods and money between the two countries.

There are many limitations on the transfer of money through official banks. First, most migrants do not hold the legal documentation needed to have a bank account in the country in which they are working. Secondly, official transfer costs are high for Myanmar migrants who earn only a small amount. Third, it is very costly, complicated and troublesome for their families to come to a foreign exchange bank in a major city to withdraw the money (less 10 percent deduction as tax) in Foreign Exchange Certificates (FECs). Fourth, it is troublesome for those with no connection in the city area to sell these FECs on the black market for local currency.

Although the transfer of money through the *hundi* arrangement (bypassing official financial transfer process) is illegal, no one thinks of it as illicit. Instead, some migrants' families in Myanmar consider it a legal transfer, because most dealers in Myanmar connected to various *hundi* dealers abroad are found in city areas such as Yangon, Mandalay, etc. Since the migrants send the money to their families living in areas away from the cities, dealers have to transfer the money locally and officially through the private commercial banking network in the cities to a private bank branch close to where the senders' families live. Migrants' families have to go to the nearest town where a private commercial bank branch operates and withdraw the money in local currency from the bank. Hence, some of these families are even convinced that the transfer of money is done through a formal and legal channel. In fact, transnational remittance transfers are conducted through illegal *hundi* arrangements, whereas domestic transfers to migrants' families are made legally through private commercial banks in Myanmar.

Although the *hundi* transfer is widely used by Myanmar migrants, some still practice personal delivery arrangement through friends who are going back home. There were also many incidences where some of those who were transferring remittances through brokers, who brought/smuggled them into

the country of destination, were cheated, and as a result their families did not receive the remittances. These cases often involve those who have their wages deducted for transportation fees (that include the brokerage fee) as the payment to their brokers/smugglers. These migrants allow their brokers to continue to deduct money from their wages, even after full payment has been made, so that they can send it home, resulting in transfers that were delayed or completely lost in some cases.

However, *hundi* transfer is known to be fairly safe and is widespread all over the world. The survey in the dry zone and Mon state of Myanmar showed that most families could receive on average US\$150–200 per month from a migrant working in Malaysia. However, since the migration cost (through the legal channel) is minimum US\$1000 plus 120 percent annual interest, it could take three years for the family to pay back the principal and interest even if the migrant sends US\$200 per month. Since a part of the migration cost is taken from family savings, it normally takes one and a half to two years to pay back the loan and interest. There are also quite a few incidences when families have become heavily indebted and had to surrender all their properties to informal lenders. On the other hand, most families of migrants from Thailand could receive an average of US\$80–150 per month depending on their work conditions. Since migration costs to Thailand (through the illegal channel) are around US\$250–400, families could normally pay back the loan within a few months. In addition, families could send more than one family member due to the lack of debt burden and lower migration cost. As the result, the sum of remittances that a family could receive from more than one family member who is working in Thailand would be a significant contribution, therefore enhancing their living standard.

An analysis of the primary data acquired from the surveys in Myanmar³⁵ conducted on 320 households in the *case* and *control* groups³⁶ in 2008 using binary logistic regression models showed that the probability of

³⁵ Surveys conducted by Asia Development Research Institute of Myanmar in the dry zone and Mon state in 2008 under the funding of Sustainable Mekong Research Network.

³⁶ Households in the *case* group are those having a migrant family member currently working abroad whereas those having no migrant family member currently working away from home belong to control group.

migrants' families to buy land with remittances was three times higher than non-migrants' families (Table 1).³⁷ It was also found that the probability for migrants' families to invest in income-generating activities with remittances was seven times higher than in the case of non-migrants' families (Table 2).³⁸ However, due to lack of investment opportunities in Myanmar especially in rural towns, informal lending to other households at usurious interest rates is one of the major income-generating practices. As a result, after the debt burden had been settled, most migrants' families lent a big portion of remittances sent by their family members abroad to other households in the village or nearby villages at a high interest rate.

Table 1: Binary Logistic Regression

Dependent variable	Spending on buying a house (Categorical variable)
Independent variables	Migrant's households (Categorical variable) Non-migrant's households (Categorical variable)
Reference variable	Non-migrant's households
P Value	0.005
Odd ratio	3.424

Source: Analysis with primary data from the survey

Table 2: Binary Logistic Regression

Dependent variable	Investment in income-generating activities (Categorical variable)
Independent variables	Migrant's households (Categorical variable) Non-migrant's households (Categorical variable)
Reference variable	Non-migrant's households
P Value	0.000
Odd ratio	7.567

Source: Analysis with primary data from the survey

³⁷ Binary logistic regression model setting "whether or not a household could buy land in the past" as a dependent variable, y , and "whether or not it is a migrant's household" as an independent variable, x : $y = 1/(1+e^{-(-3.074+1.231 x)})$; Odd ratio=3.424 (reference variable is households in control group); P-value=0.005.

³⁸ Binary logistic regression model setting "whether or not a household could invest in income-generated activities in the past" as a dependent variable, y , and "whether or not it is a migrant's household" as an independent variable, x : $y = 1/(1+e^{-(-1.231+2.024 x)})$; Odd ratio=7.567 (reference variable is households in control group); P-value=0.000.

Implications on Community and Households

In surveys conducted in the dry zone and Mon state in Myanmar in 2008³⁹ the socio-economic status of households in *case* and *control* groups was assessed. Various weights were assigned to households' housing, electricity, toiletry, assets ownership, water accessibility, on livestock possession, and land ownership in order to arrive at the overall weighted averaged socio-economic status score and rank for each household.

Analyses using binary logistic regression suggest that the probability of migrants' families having higher socio-economic status ranking is 1.4 times higher in the dry zone (in one village where the social condition is not too much different from that in Mon state), whereas it is 10 times higher in Mon state (Table 3 a and b).⁴⁰ The statistical significance is lower in the dry zone because most migrants' families are still struggling to pay back the debt related to migration, since the migration cycle with Malaysia is not yet matured,⁴¹ whereas families in the Mon state who were working in Thailand were in a much better situation, since they received remittances from more than one family member working in Thailand. The remittance income of some families in the Mon state could reach around US\$500–800 per month.

³⁹ Surveys conducted by Asia Development Research Institute in 2008 with the funding from Sustainable Mekong Research Network

⁴⁰ Binary logistic regression model setting "whether or not a household belongs to high or low socio-economic status ranking" as a dependent variable, y , and "whether or not it is a migrant's household in the dry zone" and "whether or not it is a migrant's household in Mon state" as independent variables, x : $y = 1/(1+e^{-(0.724+0.375 x)})$; Odd ratio=1.455 (reference variable is households in control group); P-value=1.455: $y = 1/(1+e^{-(-1.792+2.380 x)})$; Odd ratio=10.800 (reference variable is households in control group); P-value=0.050.

⁴¹ One cycle of migration is completed after the necessary migration steps have been fulfilled: (1) borrowing for migration cost; (2) migration and integration; (3) sending remittances; (4) pay back migration debt; and (5) return and reintegration. The same migrant may start the new cycle of migration again to go back to the same country or to go to a different country. However, migration to Malaysia from this area has completed only up to the 3rd step. So it can be considered as immature.

Table 3 (a): Binary Logistic Regression (Specific Study Site = Dry Zone)

Dependent variable	Socio-economic rank (Categorical variable)
Independent variables	(1) Migrant's households (Categorical variable) (2) Non-migrant's households (Categorical variable)
Reference variable	Non-migrant's households
P Value	0.566
Odd ratio	1.455

Source: Analysis with primary data from the survey

Table 3 (b): Binary Logistic Regression (Specific Study Site = Mon State)

Dependent variable	Socio-economic rank (Categorical variable)
Independent variables	(1) Migrant's households (Categorical variable) (2) Non-migrant's households (Categorical variable)
Reference variable	Non-migrant's households
P Value	0.050
Odd ratio	10.800

Source: Analysis with primary data from the survey

In the survey area in Mon state, it had become quite common for young adults to leave traditional farming in order to look for job opportunities in Thailand. Most parents agreed to it because the combined remittances from more than one family member could be higher than what they would have earned from traditional paddy and rubber farming. As a result, most young adults had left the village and traditional farms faced a shortage of labor. However, since most families had become a bit better off with the help of remittances, they started hiring wage labor from other parts of Myanmar such as Waw, Saw, Ayeyarwaddy delta, etc., triggering internal migration.

The level of implications on communities and households is affected by factors such as migration cost, migration route, country of destination, number of family members in a household, number of family members from a household who are working abroad, type of job and work conditions in the country of destination, etc. Out of two areas where surveys were conducted, one village in the dry zone and another in Mon state, housing conditions, electricity condition, toiletry condition, and condition of assets in Mon state were much better than in the dry zone. The main factors positively affecting those in Mon state are lower migration costs, easy access to migration routes

due to its long term experience, and strengthened social connections and networks with Thailand. As a result, community and households around this area could reap more benefits from migration.

A survey in a Mon village revealed that almost all families had at least one family member working in Thailand.⁴² As a result, remittances from them enabled most families to accumulate social capital and get more involved in community and social affairs. With the financial contribution of households in the village, which are migrants' families in most cases, the village temple or pagoda was enlarged and renovated, a concrete road connecting with the main highway road was constructed and even the village head office was changed from a wooden to a brick structure. In this way, migration to Thailand for better job opportunities has been common for a long time. The main push factor behind it is less related to extreme poverty, but rather to trendiness, social connections, and setting an example of better-off neighbors receiving remittances, which results in voluntary economic migration.

Migration has both positive and negative implications on communities and households. Effects may well include a loss of labor force in the community, less care of elderly family members who are left with children, increased corruption, and social effects arising from indebtedness, etc. Out of Myanmar's population of over 50 million, the labor force accounts for around 30 percent.⁴³ If 10 percent of Myanmar's total population is migrants working abroad,⁴⁴ it may well account for 17 percent or higher of the total labor force. This could lead to a significant loss of labor force in many provinces. However, while business opportunities and investments are scarce in the country, especially in rural areas, migration of a significant number of individuals might not have a serious adverse impact on the community. On the other hand, departure of many young adults from villages leaving their children with elderly members of families may have some adverse effect, while social

⁴² Survey was conducted by Winston Set Aung in 2008 with the assistance and support of the Anti Trafficking Unit of Myanmar. It was a part of the project of Sustainable Mekong Research Network to produce a documentary film on migration.

⁴³ According to The World Fact Book the labor force in Myanmar is around 30 million.

⁴⁴ International Organization for Migration, *Situation Report on International Migration in East and South-East Asia*.

welfare and the elderly care system in rural areas are not efficient. Furthermore, informal/illegal methods of migration may have strengthened corruption, especially at the borders, both in the country of origin and in the destination country.

In the dry zone from where most people normally go to Malaysia, the adverse social impact on many families is evident. It is caused especially by heavy indebtedness due to the high cost of migration and high interest rates. Migrants' families which have settled the debt are also not in a very good financial situation because the sum of remittance sent by one family member is not very significant for the whole family; however, it helps a lot for the families to cushion their economic hardship. Analysis using binary logistic regression suggests that the level of satisfaction of migrants' families in the dry zone is 31.1 percent less than non-migrant families, whereas it is 55.8 percent greater in Mon state although the statistical significance is not high.⁴⁵

It appears that those using a legal migration channel to Malaysia are more vulnerable to adverse social effects than those taking illegal channels to Thailand due to many factors, such as high migration costs. Most registered overseas employment agencies have utilized formal and informal ways in order to reduce migration costs. One formal way is the introduction of an installment system, according to which, families of migrants can pay only half of the total migration cost at first and the rest after a few months. The purpose why several agents have adopted this system is partly to reduce the burden on families for migration costs and to attract more people to work abroad when the market significantly slowed down in 2009 as an effect of the global financial crisis.

With a view to reduce their costs, most agencies under-report not only the number of labor migrants sent abroad, but also the salary of them to the

⁴⁵ Binary logistic regression model setting "whether or not a household in the dry zone has satisfaction" as a dependent variable, y , and "whether or not it is a migrant's household" as an independent variable, x : $y = 1/(1+e^{-(-0.527-0.373 x)})$; Odd ratio=0.689 (reference variable is households in control group); P-value=0.311; Binary logistic regression model setting "whether or not a household in the Mon state has satisfaction" as a dependent variable, y , and "whether or not it is a migrant's household" as an independent variable, x : $y = 1/(1+e^{-(0.318+0.444 x)})$; Odd ratio=1.558 (reference variable is households in control group); P-value=0.496.

labor authorities. These activities are illegal according to the 1999 Overseas Employment Law. However, they are very common practices for most labor agents. It is also common practice for most organizations to have multiple account books in order to evade tax. Although it looks unethical, some of them actually have no other choice due to heavy burdens such as high inflation rates, and restrictive business policies raising hidden costs, etc.⁴⁶ However, as illegal these activities are, most of them are considered licit by local businessmen.

As a result, many unregistered agencies have appeared. Since they are operating under the radar, they can easily avoid official fees and hidden costs. Furthermore, migrants call their friends to fill up the vacancies in the factories abroad where they are working. It has become more common nowadays for migrants to inform about vacancies in their factories to their families in Myanmar, who then look for people through their social networks and facilitate them for migration at a fee. Facilitation of labor migration by an unregistered agent or individual can be considered a serious crime if it is seen as a case of human smuggling and can even lead to human trafficking. However, individual migrants and their families do not see what they are committing as serious crimes.

In the survey areas in the Mon state, illegal cross-border migration facilitated by people who have their own experience of migration has been commonly evident. Most people who want to migrate to Thailand and those coming back to Myanmar trust them. Regarding the migrants, whatever immigration laws and labor laws of both the country of origin and of destination, they are not considered criminals, but as heroes of their families instead due to their extraordinary sacrifices for their families. This is an example of a huge gap between the legal and social perception.

Although the facilitation of migration by unregistered individual brokers is illegal, it helps reduce the costs of migration and marginalize negative social and economic impacts on migrants' families. Reduced financial burden on the families can in its turn enable them to get more benefits from migration, improve livelihood, build up social capital and contribute to community

⁴⁶ Aung, "Informal Channels of Labor Migration in Myanmar: Causes and Impacts."

development. These benefits can help build social resilience for poor families and rural communities vulnerable to rapid changes.

Illegal vs. Illicit

What is considered illegal by the state does not necessarily mean it is considered illicit by the society, especially in underdeveloped and developing countries undergoing economic transition. Most judge them according to their own social norms and their traditions and trends existing in their environment. Their assessment is often influenced by the consequences on their families and communities both at present and in the past.

On the other hand, if there are constraints and limitations in the legal process, society tends to get around it. For instance, cheating in an exam is perceived by schools and most students as an unethical and unacceptable. However, if the exam is ridiculously hard leading to many fails and if the situation is the same in the following exams, students may be encouraged to cheat and may even consider such cheating as an acceptable and legitimate way of passing the exam. In this situation, the students' knowledge on such cheating, as not right, does not necessarily make them accept it as that.

Hence, educational programs enhancing people's knowledge of legal and illegal matters may not necessarily narrow the gap between the intent of the state and society regarding what is legal or illegal, licit or illicit. It is important that state policies and regulations are devised so that they are pragmatic and enforceable and do not pose any unnecessary burden – socially and economically – on the society.

It is important to find out the root cause of the gap between what the state considers illegal and what people consider illicit. However, even when the root cause is identified, it may be more difficult to control it. In this situation, a gap between legal and social point of view should be recognized and flexible measures (with effective monitoring) should be adopted, instead of adopting strict policies to control.

In the case of migration in Myanmar, it is a good way to start with adopting pragmatic policies and regulations to ensure better opportunities for local investment and business as well as jobs. At the same time, it is also important to facilitate cross-border migrations through legal and safe channels instead of restricting them. If legal migration channels are more accessible, transparent

and affordable for migrants, it may not be necessary for them to choose illegal and risky channels leading to a situation where the socially accepted way of illegal cross-border migration may then be considered unnecessary and illicit.

Legal migration process is not affordable with the existing lack of a formal financial sector which leads to high costs of migration. Formal bank credits are not widely available even for those who own assets that can be used as collateral. Hence, it is nearly impossible for those in rural areas, who do not have enough assets, to borrow from banks. However, if the bank's credit assessment can be flexible for migrants and/or if different type of financial companies can be formed to extend loans to migrants with few assets, at reasonable interest rates, migration costs can be reduced. In this case, acquiring expensive loans through illegal channels from informal money lenders may then be seen as unnecessary or illicit.

Remittances cannot be sent through the legal transnational financial transaction channels unless such a process is accessible and affordable for migrants and their families. In Myanmar, factors like high transaction costs, high tax on overseas foreign currency transfers, multiple exchange rates, and limited connection between few state-owned foreign exchange banks and more efficient private commercial banks discourage migrants to use legal transnational financial transfers. The illegal status of most migrants in the country of destination and their lack of knowledge of banks and the formal financial sector also encourages migrants to use illegal financial transfers. However, due to many constraints in formal transnational financial transfers, informal/illegal practices like *hundi* or *hawala* have become extensively used, also in a global context. If legal financial transfer systems were easily accessible and affordable, migrants would not think of *hundi* system as an acceptable (or socially licit) means of transnational financial transfer.

Particularly in the case of Myanmar, most migrant families started informal/illegal lending business at the time they could settle the migration debt with remittance incomes. Lacking proper investment/business environment and opportunities, most of them consider this a legitimate investment which could yield high returns, although they are well aware of the risk. The lack of a favorable investment and business environment may not only

deter migrants and their families from investing in various productive ways, but also prevent the possibility that return migrants' skilled labor and new knowledge could be mobilized for community development and entrepreneurship at the local level.

The role of research should be recognized when it comes to identifying and measuring the extent of causal effects among various factors and to understand the situation at the local community level, which can lead to a violation of legal norms, as well as the implications it will have on the household level on the community level and the nation as a whole. Qualitative and quantitative findings may be an initial step to understanding how the gap between the state and social norms can be narrowed.

Brain Drain vs. Brain Gain

Migration is normally considered undesirable and is sometimes portrayed as having negative impacts in the sending area in terms of loss of labor and capital. It is also normally considered a brain drain problem for the country of origin, since labor migration causes skills shortages at home and imposes great human costs that burden people forced to be away from their families and their communities.⁴⁷

Following the independence of many countries in Asia, a brain drain occurred of talented people, either educated or seeking education, who decided to reside in the West. However, before 1962, Myanmar was distinct in that there was no brain drain. Those trained and educated abroad returned to Myanmar in order to contribute to society despite the fact that the standard of living was low by Western measurements. However, this changed drastically after 1962 when the Socialist government took over. Lack of appropriate employment opportunities in the rigid system of “Burmese Way to Socialism” triggered an outflow of educated people.⁴⁸

Hence, Myanmar has been experiencing a brain drain problem since the 1960s. However, it would have been very simplistic if large outflows of unskilled labor to Thailand and Malaysia these days were considered as constituting a second generation of the brain drain problem in Myanmar. The closed-door Socialist system practiced in Myanmar for 26 years from 1962 wiped out all the opportunities for people, especially in rural areas. This brain drain problem has probably transformed itself into a brain dry problem or brain-in-the-drain problem.

Adoption of the open-door economic system, improved transportation network, stability at the borders and promulgation of an overseas

⁴⁷ Sean Turnell, Alison Vicary and Wylie Bradford, “Migrant-worker remittances and Burma: an economic analysis of survey results”, in Monique Skidmore and Trevor Wilson, eds., *Dictatorship, Disorder and Decline in Myanmar* (Canberra: ANU E Press, 2008).

⁴⁸ David I. Steinberg, *Burma: The State of Myanmar* (Washington, D.C.: Georgetown University Press, 2001).

employment law in 1990s led to a significant outflow of unskilled labor to many countries, especially Thailand and Malaysia. For a start, most of those who left the country had no language or working skill, no experience or confidence. Some of them were even cheated by unscrupulous agents who put them on a domestic flight, convincing them that they were on the way to Malaysia, which they realized they were not, when they reached another city of Myanmar.

When some of those who left the country came back or visited back to Myanmar after working some years in Malaysia or Thailand, they had changed completely. They had gained experience and confidence and, subsequently, some of them had a chance to utilize, in their home country, what they learnt. Most labor migrants realize that they cannot stay permanently in the country of destination. They take the opportunity to seek education and training and to earn money for their families and children who are left behind in their home country. Their status may be illegal, but their sacrifices are recognized and considered noble, at least in their community and among their family members.

A Myanmar migrant in Thailand revealed in an interview that he migrated to Thailand illegally.⁴⁹ Initially, he did not understand the language and had to take many odd jobs for survival. After some time, he learned the Thai language, managed to get a work permit with the help of his employer and became a skilled worker at a textile factory. He got married with another Myanmar labor migrant. They had a son who was sent back to the grandparents in the Mon state. He said that he and his wife were motivated to work hard in Thailand so that their son could get an education in Myanmar. Like this couple, most Myanmar migrants are working abroad not just to make a living, but to diversify sources of income and create better livelihood options for their families, to save money, for health care and education of family members at home, to build up more social capital and contribute not only to their community at home but also to the production and development of the host country. In addition, while working abroad, they benefit tremendously in terms of experience, skills, expertise and knowledge that are essential for

⁴⁹ The interview was conducted in Mahachai, Sumut Sakhon province of Thailand in 2008.

Myanmar.

These are benefits they would not have acquired if they stayed in Myanmar with its limited investment, business and job opportunities. Hence, instead of having a brain drain problem, this migration can be considered leading to future brain gain benefits for the home country when they return. It is nevertheless important that investment and business environment within the country is ready to attract those to come back and get motivated to contribute to the overall development of Myanmar, not having to stay away from their families and make more sacrifices.

Most migrants who return often cannot find good opportunities to apply what they learned and experienced abroad. Even though they find an opportunity, the income level is normally much lower than the amount they earned while working abroad. As a result, most migrants who have returned normally seek opportunities to go back to the previous destination country or to go to more developed countries. With a view to turn brain drains into brain gains, it is essential that investment/ business/job opportunities are available within the country. In order to create these opportunities, it is important to create favorable conditions for investments and business. The flows of inward foreign direct investment (FDIs) to Myanmar have been impeded by economic sanctions imposed by the West since 1997. However, the economic sanctions were not the only factor that discouraged the FDI inflows. Many internal factors related to investment policies, trade policies, fiscal policies, business and economic policies, etc., need to be improved in order to ensure a level playing field and to create a favorable investment and business environment.

If conditions for investment and business circumstances were more favorable in Myanmar, not only FDIs would be promoted. Also domestic investments would be effectively mobilized creating more job opportunities for local people and opportunities for migrants who return to contribute to increased productivity of the country.

Illegal Heroes and Victimless Crimes

Although a majority of Myanmar migrants cross the border legally with 1-day or 7-day border passes, cross-border migration can be considered illegal as migrants violate the immigration laws of both the country of origin and of destination by overstaying and working illegally. A majority of them do not think that migration will be permanent, because most of them have their families back in their home town. Most of them share the objective of returning one day, when the social and economic situation in their home town has improved and enable them to make better bread and butter for their families.

Remittances from migrants enable their families to diversify the sources of income, educate their children and get access to better health care services. Rapid economic transition results in a diversification of rural livelihood, which provides new sources of cash income, social security and resilience to adversity. Cross-border migration and remittances enable the rural population to devise livelihood strategies beyond farming. Rural livelihood has diverged to the point that farming has become one activity among many. This leads to a situation where cross-border migration serves as a means to expand the opportunities for the rural poor.

The benefits of such remittances are not only shared by individual households and families but also by the community as a whole through improved community infrastructure and public facilities, where help from the government is still lacking. These include, for example, the construction of village roads, temples, meeting halls, etc., with financial contributions coming mostly from migrants' families. Cross-border migration can also contribute to increased social capita, such as increased occupational skills, knowledge and innovation gained from exposure abroad that can be used for future production.

While cross-border migration benefits the families of migrants and communities in various ways, it also has some negative points such as heavy debt burden due to high migration costs, exposure of some families to more responsibilities and family burdens due to the absence of family members working abroad. In some cases, cross-border migration may weaken social

structure as rural communities have no choice but to deal with dependent members of families of migrants. On the other hand, migrants, being away from their families, have to work in depressed and vulnerable situations in the country of destination. However, despite the existence of all these negative effects of migration, the surveys taken in Myanmar reveal that the positive impacts of migration outweigh the negative.⁵⁰

Migrants are just ordinary people trying to make ends meet for their families back home. Since migrants play the main role in improving the social status of their families and communities, and for their extraordinary sacrifices they have been making for their families under very difficult and vulnerable conditions, they – however illegal their stay abroad is – are considered heroes among their family members and community. Migrants who return contribute to their community with the knowledge and experience acquired from abroad and are loved and respected in their society.

The crimes of human smuggling undertaken and facilitated by various local brokers are considered as paving the way to ease social and economic burdens of families at least in a short-term perspective. They are also considered as key players enabling the rural poor to negotiate their own way into the new livelihood environment to secure their share of development. The act of local brokers is never considered by the community, as a crime because they cause no victims. Of course, this does not count for human traffickers and professional smugglers, who have committed serious trafficking crimes and victimized many innocent people by taking advantage of the social and economic hardship of rural families and of their lack of proper knowledge related to trafficking.

Unfortunately, there is no clear distinction between the real crime and victimless crime. The existing legal system in many countries does not make this distinction. An interview with a woman trafficker in Taunggyi revealed that she got voluntarily trafficked to China over four years ago for arranged marriage.⁵¹ She got married with a Chinese man and lived happily for four

⁵⁰ Surveys conducted in Myanmar in 2008 under the Sustainable Mekong Research Network's Project No. 6591.

⁵¹ Interview survey was conducted in Taunggyi in 2008 by Winston Set Aung together with a post-graduate student from Keio University of Japan.

years until she decided to visit her family back home. She said her husband and her in-laws were very nice to her and she could get-together with other Myanmar wives in China. Since friends of her husband wished to get married with Myanmar women, taking the woman's case as an example, she asked a few of her friends if they would be interested during a visit to her home town in Myanmar. She was planning to bring them to China to let them meet her husband's friends and would let them return if they were not satisfied or if her husband's friends did not like them. Unfortunately, she was arrested as a human trafficker at the Muse-Jiegao border when she brought her women friends to China. She said she was just acting like a cupid. She said she had never had a plan to sell her friends or keep them in China or plan a forced marriage for them. It was completely voluntary. If they could find a better husband in China, she would be happy for her friends, her husband would be pleased for his friends and she would get some tip money from them (her husband's friends) to cover the trip costs to her home town.

In this case, it was not a mistake of Myanmar anti-trafficking authorities who have been trying to control human trafficking problems in Myanmar through the Anti-Trafficking in Persons Law of Myanmar enacted in 2005 and the UN Convention against Transnational Organized Crime and the two Protocols⁵² which Myanmar ratified in March 2004. At the same time, if the act was as innocent as the alleged woman trafficker mentioned, the crime would have created *win-win* situation for everybody rather than causing victims.

⁵² The two protocols are the "Protocol to prevent, suppress and punish trafficking in persons, especially women and children" and the "Protocol against the smuggling of migrants by land, sea and air".

Migration, Development and Poverty Alleviation

A major shift in understanding the link between migration and development was made by the new economics of labor migration. Most studies in the past viewed migration as undesirable. These previous studies viewed migration as a process that created a way of life that could not be sustained through local labor, leading to various negative effects such as income inequality, inflation, lost production and higher unemployment. They also presented pessimistic views on the effects of migration and remittances by highlighting the fact that most of the remittances were normally spent on unproductive areas/products such as food, clothing, consumer goods, and housing. It was normally to view that migration could stifle development and promote dependency.⁵³ However, these studies failed to see more complicated direct and indirect effects of migration.

It was evident from surveys in the Mon state that remittances have enabled families with migrant members to overcome capital constraints to finance public works projects such as construction of temples, schools, village roads, etc. In most villages, remittances have enabled migrants' families to hire workers from other parts of Myanmar which has been essential to continue their farming, and, in some cases, they enabled them to set up household businesses.

⁵³ Wolf R. Böhning, *Black Migration to South Africa: A Selection of Policy-Oriented Research* (Geneva: International Labor Office, 1981); Sergio Diaz-Briquets, "The effects of international migration on Latin America", in Demetrios G. Papademetriou and Philip L. Martin, eds., *The Unsettled Relationship: Labor Migration and Economic Development* (New York: Greenwood Press, 1991), pp. 183–200; Michael Kearney, "From the Invisible Hand to Visible Feet: Anthropological Studies of Migration and Development", *Annual Review of Anthropology*, Vol. 15 (1986), pp. 331–61; Demetrios G. Papademetriou and Philip L. Martin, "Labor Migration and Development: Research and Policy issues", in Papademetriou and Martin, eds., *The Unsettled Relationship*, pp. 3–26; Hymie Rubenstein, "Remittances and rural underdevelopment in the English-speaking Caribbean", *Human Organization*, Vol. 42 (1983), pp. 295–306; Jon C. Swanson, "The consequences of emigration for economic development: a review of the literature", *Papers in Anthropology*, Vol. 20 (1979), pp. 39–56.

The huge number of migrates from Myanmar to Thailand and Malaysia normally originates from rural areas where there is a lack of basic infrastructure such as paved roads, electricity, running water, sewage system, telephones, etc. Most households in some villages in the dry zone, where mass number of migration to Malaysia originates, do not even have electricity and toilets. Lack of proper irrigation systems, unfavorable weather, lack of proper knowledge and capital constraints, has resulted in many families giving up farming, and migration has become the only option in such a situation where investment, business and job opportunities were dim. In such a situation, it is not realistic to expect migration to effectively promote development, since complementary infrastructure, services and ecological conditions are rudimentary.⁵⁴ People migrate because of the lack of meaningful development in the first place.⁵⁵ In the absence of policies designed to channel migrants' savings into productive investment, it is impossible to expect the visible link between migration and development.

With the lack of efficient rural credit markets, it is also not realistic to expect migrants and their families to serve as both procurers of remittances and intermediaries between migration and development. Neither is it possible to expect migrants to simultaneously play roles as workers, savers, investors, and producers.⁵⁶

Migration has a significant role for providing rural households with capital and means to reduce risks by diversifying income sources. In the situation where there is a lack of access to credit and income security, migration enables migrants' families themselves to finance new household businesses and insure against perceived risks to household income. Better livelihood

⁵⁴ Jorge Durand and Douglas S. Massey, "Mexican Migration to the United States: A Critical Review", *Latin American Research Review*, Vol. 27 (1992), pp. 3–42; Merilee S. Grindle, *Searching for Rural Development: Labor Migration and Employment in Mexico* (Ithaca, N.Y.: Cornell University Press, 1988).

⁵⁵ Eugenia Georges, *The Making of a Transnational Community: Migration, Development, and Cultural Change in the Dominican Republic* (New York: Oxford University Press, 1990).

⁵⁶ J. Edward Taylor, Joaquín Arango, Graeme Hugo, Ali Kouaouci, Douglas S. Massey, and Adela Pellegrino, "International Migration and Community Development", *Population Index*, Vol. 62, No. 3 (Fall 1996), pp. 397–418.

options and income security would enable migrants' families to invest in new technologies and production activities. Then, such expenditures of migrants' households would stimulate economic activities in other households. One study found that \$1 of international migrant remittances generated \$1.78 in additional village income which was created by expenditures from migrants households, which generated demand for locally produced goods and services, strengthening the incomes of others in the village.⁵⁷

Migration and remittances have many positive effects on households; however, the link between migration and development cannot be established without sound government policies. Restrictions imposed against migration would not stop the flow of migration. They may even strengthen professional human smuggling and trafficking, which would yield more undesirable effects. Only sound government policies that could correct failures in local capital and risk markets, offering credit and insurance alternatives to migration, may slower the cross-border migration flows.

Although the link between migration and development has not yet been visible, the link between migration and poverty alleviation is quite significant. The socio-economic conditions of migrants' families have improved due to remittance income which has become an alternative source of income beyond farming for the families. This could be the first-round effects of migration on economic development which is concentrated in the household itself. According to the Lewis model⁵⁸ applied to cross-border migration in this case, the opportunity cost of out-migration in terms of production at the place of origin (where there is a surplus of labor due to limited business/investment/job opportunity) is very small so that negative effect on agricultural production could be minimal.

In the case of the Mon state, increased household income from remittances enabled migrants' families to hire waged labor from other parts of Myanmar (triggering internal migration) to work for the plantation of paddy and rubber. Traditionally, most households did not have to hire outside waged labor.

⁵⁷ Irma J. Adelman, Edward Taylor, and Stephen Vogel. "Life in a Mexican village: a SAM perspective", *Journal of Development Studies*, Vol. 25 (1988), pp. 5–24.

⁵⁸ G. Ranis, G. and J.C.H. Fei, "A Theory of Economic Development", *American Economic Review*, Vol. 51 (1961), pp. 533–58.

Neighboring households normally helped each other. In return, they could receive help at the time of plantation and harvesting (or) their labor could be paid in kind in terms of rice baskets. This kind of job creation, wage payment, expenditures of migrants' households could be the initial stage of the second-round effect of migration. This effect could be generated when remittances, as an injection of income from outside an economy, were spent and stimulated the economic activities in other households.

If the government could come up with appropriate policies to develop proper credit markets, remittances may generate growth linkages by providing liquidity. One case would be when migrant households provide loans to non-migrant households which produce larger local income multipliers.⁵⁹ If the government policies enable returned migrants to apply their knowledge and experience of overseas technological and production, in their home community, through creating better business environment, this would create rural employment, the direct as well as indirect multiplier effects of migration would be more significant and household incomes of both migrants and non-migrants families from alternative sources beyond farming would improve. If these policies could be tilted to become more pro-poor approach, and could be made to get poorer families benefited, migration could become an effective strategy for national poverty alleviation. Through effective pro-poor policies, the first-round effects of migration would be positive because possible income inequality, possible positive opportunity costs of out-migration in the sending areas as first-round effects of migration would be reduced.

⁵⁹ Taylor et al., "International Migration and Community Development".

Conclusion

Nowadays, Malaysia and Thailand have been popular destinations for most Myanmar unskilled and semi-skilled workers, who have migrated. Also students and professionals live in these countries. Myanmar students, semi-skilled and skilled workers and professionals can be found in countries such as Singapore, Korea, Japan, Great Britain, the United States, and Middle East countries. It is estimated that there are two million Myanmar migrants in Thailand (most of who are illegal) and 0.5–1.0 million in Malaysia.

Strong social connections between Shan, Mon and Karen in Myanmar and in Thailand have existed for many years, which have resulted in a situation where the mobility of people between the two countries has been very significant, mostly illegal. Most of the migrants are well aware that they are involved in an illegal action (travelling across border without a proper legal document) as well as of their illegal status (working without a proper work permit) but they do not find it illicit.

The process of cross-border migration involves various parties, such as migrants and their families, migration brokers, transporters, money lenders, and cross-border financial transfer brokers, etc. Each has continuously been flouting various laws of both the home country and the host country. However, they do not think of their actions as illicit at least in their community.

Migration process more or less starts with borrowing money to fund the costs of migration. This is the initial step where migrants, their families and money lenders start breaking the law. Since most of them do not have an access to formal financial sector, they have to borrow from informal lenders at a high interest rate, normally 120 percent per year. Although such practice is illegal according to Financial Institutions of Myanmar Law, it is widely practiced and considered socially acceptable.

Then, the second step of getting connected to broker/transporter is to enter the destination country. Since most brokers who facilitate border-crossing of migrants are unregistered, their practices are illegal under Overseas Employment Law of Myanmar. These brokers are even considered human traffickers who can face serious penalty of 20 years imprisonment according to the

Anti-Trafficking in Persons Law of Myanmar. However, they are viewed by most migrants and their families as those who give their helping hands at a fee to help find job opportunities abroad. Some of them are even respected in their community for their cross-border knowledge and experience. Of course, this does not count for professional traffickers who commit vicious human trafficking crimes to victimize innocent migrants.

In the third step, most migrants, with the help of brokers/transporters, cross the border legally (with 1-day or 7-day border passes) or illegally (through various illegal border crossings). Then, they go beyond the area where border pass holders can go and work illegally. By doing so, they violate immigration laws and labor laws of both their home country and the destination country. As illegal migrants, they are in a vulnerable situation, exposed to 3D jobs (dirty, difficult and dangerous) and are often abused by employers. However illegal, for their extraordinary sacrifices, they are viewed as heroes by their families and as going through difficulties in order to help ease social and economic hardships, diversify feasible livelihood options and enhance the social resilience of their families.

In the fourth step, migrants send back remittances through illegal transnational financial transfer mechanism called *hundi* or *hawala*. For them, it is considered the only way for them to send remittances to their families at the most feasible, efficient and the fastest way at the least cost. And they are correct under the existing constraints in formal financial sector. Most families use remittance income to settle debts. For migrants to Malaysia, it normally takes around two years to settle their debt. After the debt settlement, most families get involved in informal money lending business as it is a way to reap lucrative returns under the existing unfavorable investment and business environment, although at huge risks.

In every step, migrants and their families find their own way forward regardless of existing rules and regulations. They are actually negotiating their own way into a new livelihood space in order to secure their share of development. Cross-border migration – legal or illegal – enables families in rural areas to diversify their livelihood and provides them with new sources of cash income, social security and resilience to adversity that comes with the rapid economic transition. At the same time, migrants, going through various

difficult conditions, have acquired new knowledge, expertise and experience that are useful for the development of their home country when they return. Most of those who return home after working abroad have become totally different people with more confidence. If the social and economic environment in their home town was improved, more migrants would have been willing to return and contribute to the development of their community.

Hence, instead of seeing the current flows of unskilled workers as brain drain problem and imposing restrictive measures, it would be better to see them as potential future brain gains for the country. Then it is necessary to facilitate safe migration through a legal and affordable channel, to create favorable investment and business circumstances for families so that they can invest their remittance income in more productive ways, and for returned migrants to get more opportunities to utilize their knowledge and expertise that they have acquired abroad.

Without appropriate policies, proper infrastructures, and necessary conditions in place, it is not realistic to establish a viable link between cross-border migration and development. It is also not possible to expect migrants to simultaneously play the roles of workers, savers, investors, and producers. Necessary fundamentals should be developed in sending areas to benefit from migration. Since most sending areas in Myanmar are still going through the first-round effect and/or initial stage of second-round effect of migration, the contribution of migration to development has not yet been very significant because of limited complementary infrastructure, services, and ecological conditions. However, the link between migration and poverty alleviation has been quite significant, although poverty alleviation, during the first-round effect of migration, is more or less limited to migrants' households or areas where out-migration is prominent. Hence, government policies are essential in establishing a significant link between cross-border migration and development. It is also important for policies to be tilted towards adopting a pro-poor concept, so that cross-border migration contributes more to poverty alleviation.

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Winston Set Aung is a Founder and Director of Research of the Asia Development Research Institute (ADRI) (www.asiadevelopment.org) and also a Founder and Executive Director of the Asia Language and Business Academy (ALBA) (www.alba-edu.com) in Myanmar. He also serves as a Faculty Member of the MBA Programme of the Yangon Institute of Economics. He is currently a member of the Editorial Board of *The Journal of Mekong Societies* published by Center for Research on Plurality in the Mekong Region, Khon Kaen University, Thailand. He has been involved in many international research projects in various countries in the Greater Mekong Sub-region in cooperation with several international research and academic institutes and has written many research papers for the Institute of Asian Studies of Chulalongkorn University of Thailand, Mekong Institute of Thailand, Institute for Security and Development Policy of Sweden, Stockholm Environmental Institute, University of Tokyo of Japan, Research Institute on Contemporary Southeast Asia of France, Nomura Research Institute of Japan, UNDP, among others.

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