



Migration and Human Smuggling from Myanmar: Moving Toward Win-Win Solutions

by Winston Set Aung

There are estimated to be two million Myanmar migrants in Thailand – most of who have been smuggled across the border through various illegal means. The Myanmar and Thai authorities have devised various means to tackle this problem, including in 2009 a remarkable combined effort to legalize Myanmar migrants in Thailand who possess worker IDs. However, this measure has proven to be largely ineffective for a variety of reasons. Instead, there is a need to focus on migration and human smuggling as more of a multidimensional issue rather than a problem as such, which accordingly necessitates multidimensional policies. Only then can win-win solutions be achieved that benefit all stakeholders, including the migrants themselves.

There is a very thin line between migration and human smuggling, particularly in the case of Myanmar. Voluntary migration can become smuggling in persons if it is facilitated by an unregistered overseas labor agent or an unregistered broker. Such human smuggling may also easily turn into human trafficking if a migrant (whether he/she was smuggled by a broker or facilitated by a registered labor agent) is exploited or abused at any time in the country of destination, according to the Myanmar Overseas Employment Law 1999 and Anti-Trafficking in Persons Law 2005. Due to the existing laws and regulations that draw a thin line between migration, human smuggling, and human trafficking, a majority of migration cases can be considered to constitute human smuggling that may lead to trafficking. In the case of Myanmar, it is very common that the cross-border migration of people (through various illegal means) from rural areas to neighboring countries (especially Thailand and China) is facilitated by unregistered local agents (local brokers). Despite this, they are never thought of as illegal smugglers by society, and the process of such illegal migration is never thought of as illicit by most rural communities.

Myanmar has ratified the UN Convention against Transnational Organized Crime and the two Protocols related to human smuggling and trafficking. It also signed the MOU on the Coordinated Mekong Ministerial Initiative against Trafficking in Persons in the GMS Countries (COMMIT MOU) in October 2004, as well as an MOU with Thailand on bilateral cooperation in the area of employment of workers in June 2003. After the ratifying of the UN Protocols, the Anti-Trafficking in Persons Law was

enacted in 2005. Subsequently the Anti-Trafficking Unit (ATU) under the Ministry of Home Affairs was established with a view to cracking down on human smuggling and trafficking. The ATU authorities have entered into close cooperation with Chinese and Thai authorities for effective enforcement of the new law.

Factors behind Failures

Despite the strong cooperation between the ATU and the relevant organizations of neighboring countries (especially China and Thailand), the mobility of people across borders in the Greater Mekong Sub-region has not slowed down. It has been proven in many cases that interventions both on the supply and demand sides are not effective in the medium and longer terms. Furthermore, a combined effort initiated by the Myanmar and Thai authorities to legalize migrants by issuing them short-term passports has proven to be largely ineffective. Only around 2,000 applications have thus far been received from the two million Myanmar migrants in Thailand; this despite the Thai government setting a deadline of February 2010. Moreover, this legalization process is especially targeted at those who have worker IDs, and there has not been any legalization plan for those without such IDs. The Thai government may undertake forceful action to incarcerate and deport the vast majority of those migrants that fail, or are ineligible, to apply for temporary passports.

The authorities of both countries have attempted several times to tackle the issue of illegal Myanmar migrants in Thailand; however, no effective results have been yielded so far, mainly because some authorities in the country of



origin see this issue as a problem to be solved while those in the country of destination view migrants as a threat to national security. In many cases, authorities see migration as *stocks* rather than *flows* (in both directions) and they have come up with various restrictive policies for control. Authorities in Thailand even came up with policies/provincial decree in December 2006 in Phuket according to which migrants are not allowed to own mobile phones, to drive motorbikes or cars, or to leave their residences from 8pm–6am. Since mid-2007, the decree has been adopted by seven other Thai provinces on grounds of “national security.” Furthermore, a controversial labor law was enacted in March 2008 whereby informers who provide information leading to the apprehension of illegal migrant workers are to be rewarded. These measures have widened the gap between migrants and citizens, so serving to escalate the issue. In fact, these restrictive policies are never effective in controlling the human flows between the two countries simply because those trying to control migrants may not understand or may not try to understand the views of migrants. Accordingly, it is first necessary to understand how migrants perceive and see the situation for themselves and for their families.

Most Myanmar migrants see the policy to legalize migrants who have worker IDs in Thailand as unrealistic; this has led to mixed emotions of both hope (to become legal) and skepticism (that they may land in more trouble). Most of them fear that their terms of stay in Thailand (after the process of legalization) could be limited by Thai authorities to just a few years, after which they would have to leave. They also fear that local authorities in Myanmar could create problems for their families left behind; and/or they would have no choice but to send back a certain percentage (30–50%) of their income (through the official channel) as per the family remittance system imposed by labor authorities; and/or 10% of their income would be deducted as tax by finance authorities.

Actually, these policies could be adopted in good grace. However, under some conditions, they may get migrants into a difficult situation. For instance, the inefficiency of formal transnational financial transfers (at the current level of financial market in Myanmar) could cause a lot of unnecessary hidden costs to migrants. In the case of Myanmar, the existing illegal financial transfer system, i.e. *hundi* or *hawala* system, is the combination of illegal transnational financial transfers through *hundi* brokers and legal local transfers to rural areas through a private commercial banking network. This system is a much more efficient system that enables migrants to send money to their families in

rural areas both quickly and at the least cost. In addition, a 10% tax on income is considered very high for most migrants in Thailand, who can barely make both ends meet in light of their very low incomes and the expensive cost of living. If they have to send 30–50% of their income back to the country of origin and 10% of the income is deducted as tax, it would be impossible under such conditions for them to be able to stay in Thailand. To make such policies effective, a tremendous amount of coordination is necessary between local authorities, labor, finance, and other relevant authorities of both countries.

High migration costs through legal channels (due to various hidden costs), the insufficient connections of Myanmar-registered employment agents with Thailand, and longstanding social networks of certain ethnic minorities in Myanmar with those in Thailand have led to the increased reliance of migrants on local brokers to facilitate cross-border migration. These local brokers (smugglers) are never thought of as criminals by local society and some of them (migrants who have returned and now act as brokers) are even respected for their knowledge and experience related to the country of destination. This complicates the process of law enforcement, because strict controls on emigration or immigration may seriously disrupt traditional routes and methods of clandestine entry through local brokers. This may lead to the emergence of professional trafficking, which may even become a bigger challenge and potentially cause more harm. Local brokers who illegally facilitate illegal cross-border migration are more careful because they know migrants and their families, who may even live in the same village. If they are replaced by professional traffickers whose sole concern is money, they won't care much about the migrants and their families. In sum, therefore, on the other hand, loose controls may encourage irregular and illegal migration. But, on the other hand, if professionals are involved in human smuggling, authorities will find it more difficult to control.

Authorities in both Myanmar and its neighboring countries have realized the gravity of the situation and as a result greater cooperation is being witnessed between Myanmar, Thailand, and China. However, illegal migration and human smuggling are still seen by them as problems. In fact, illegal migration and human smuggling from Myanmar are *issues* rather than problems. A problem is a given situation in which those involved agree that something is wrong and that it needs to be solved. There may be some disagreement related to how to solve the problem, but everybody agrees that it needs to be fixed. Regarding an issue, on the other hand, there is no uniform agreement as to the scope,



severity, or even existence of a problem. In addition, issues are multidimensional and there is a need to consider all the dimensions from various perspectives. Furthermore, as these issues did not happen overnight, time is a factor to take into consideration. These issues have evolved and emerged slowly. Hence, attempts to fix illegal migration as a problem once and for all, from the legal and state's perspective, will not improve the situation. They may even escalate the issue.

Accordingly, the situation requires long-term and sustainable cooperation not only between authorities of different governmental departments/ministries of countries of both origin and destination, but also with other stakeholders, including NGOs, research organizations, migrants and their families. Only long-term cooperation with all available stakeholders will produce multidimensional policies to deal with multidimensional issues to create *win-win* conditions for a majority of stakeholders.

Creating Favorable Conditions for more Benefits

Despite the illegal status of facilitation of cross-border migration by local brokers, a majority of migrants who have gone through this process have derived more benefit from this than those who have gone through the legal migration channel, due to the nature of flexibility in payment and lower costs. Hence, it is time for policy makers to make the legal channel more pragmatic, affordable, and beneficial for migrants and their families instead of thinking about imposing restrictions.

Remittances sent by migrants through the illegal *hundi* channel clearly enable their families at home to cover their basic needs (and wants to some extent). Unlike overseas development assistance that normally goes through several governmental organizations, NGOs, etc., these remittances directly reach grass-root household and community levels. However, in order to make them more beneficial in the first-round effect of migration (that benefits mainly migrants' households) and to maximize multipliers in the second-round effect (that brings benefits also to non-migrants' households), it is necessary to create favorable conditions through constructive policy measures. With favorable conditions for migrants' families to invest in productive assets, and/or channel remittance savings into productive investments, migration can be an efficient tool in poverty alleviation.

Furthermore, the knowledge, skills, and experience of returned migrants could contribute to human capital accu-

mulation in migrant-sending societies. Spending of remittances on land, housing, and various speculative investments (that are not productive enough for development) are just a rational response to the uncertain, inflationary environments that are a result of inappropriate macroeconomic and sectoral policies discouraging small-scale household production which is within the reach of migrant families. Hence, it is important that authorities come up with multidimensional policies to harness cross-border migration and remittances for local development by creating a favorable economic environment that is conducive to investments in productive activities at home.

With the existing level of unfavorable complementary infrastructure, services, and ecological conditions, it is unrealistic to expect migration to promote community development in Myanmar. These unfavorable conditions are in fact push factors of migration in the first place. Instead of intervening directly in labor markets, sound governmental policies to correct failures in local capital and risk markets, offering households credit and insurance alternatives to migration, may help control migration and human smuggling.

Restrictive policies do not create *win-win* situations for both the country of origin and the destination countries, or for migrants and their families. Illegal cross-border migration and smuggling can be controlled or managed only by constructive multidimensional policies and stronger cooperation and understanding between the two countries aiming at making illegal migration legal and safe, which would benefit migrants, their families, their communities, and would also contribute to production in and development of the country in which they live and work.

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