

**IRREGULAR BURMESE MIGRANT IN MALAYSIA: A CASE STUDY OF
CHIN PEOPLE**

Mr. Khen Suan Khai

Thesis Submitted in Partial Fulfillment of the Requirements
for the Degree of Master of Arts Program in International Development Studies

Faculty of Political Science

Chulalongkorn University

Academic year 2009

Copyright of Chulalongkorn University

แรงงานพม่าผิดกฎหมายในมาเลเซีย: กรณีศึกษาของคนงานจีน

นายเคน ซาน กาย

วิทยานิพนธ์นี้เป็นส่วนหนึ่งของการศึกษาตามหลักสูตรปริญญาศิลปศาสตรมหาบัณฑิต

สาขาวิชาการพัฒนาระหว่างประเทศ

คณะรัฐศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย

ปีการศึกษา 2552

ลิขสิทธิ์ของจุฬาลงกรณ์มหาวิทยาลัย

Thesis title: **IRREGULAR BURMESE MIGRANT WORKERS IN MALAYSIA: A CASE STUDY OF CHIN IRREGULAR MIGRANTS**

By: Mr. Khen Suan Khai

Field of Study: International Development Studies

Thesis advisor: Pornpimon Trichot

Thesis Co-advisor Naruemon Thabchumpon, Ph.D

Accepted by the Faculty of Political Science, Chulalongkorn University in
Partial Fulfillment of the Requirements for the Master's Degree.

_____ Dean of Faculty of Political Science
(Professor Charas Suwanmala, Ph.D.)

THESIS COMMITTEE

_____ Chairman
(Associate Professor Surichai Wun'Gaeo, PhD)

_____ Thesis Advisor
(Ms. Pornpimon Trichot)

_____ Thesis Co-advisor
(Naruemon Thabchumpon, PhD)

_____ External Examiner
(Mr. Somchai Homla-or)

นายเคน ซาน กาย: แรงงานพม่าผิดกฎหมายในมาเลเซีย: กรณีศึกษาของคนงานจีน (Irregular Burmese Migrants in Malaysia: A Case Study of Chin People) อ. ที่ปรึกษาวิทยานิพนธ์
หลัก: พรพิมล ตรีโชติ., อ. ที่ปรึกษาวิทยานิพนธ์ร่วม : นฤมล ทับจุมพล, 138 หน้า.

ในบรรดาแรงงานจากพม่าที่อพยพไปยังประเทศมาเลเซียตั้งแต่ต้นทศวรรษที่ 1990 นั้น ปรากฏว่ามีประชากรชาวจีน เป็นสัดส่วนประมาณครึ่งหนึ่งของแรงงานทั้งหมด โดยมีปัจจัยหลักสำคัญในการผลักดันแรงงานจากรัฐจีน อันได้แก่ ปัญหาด้านเศรษฐกิจ การเมืองและสังคม ส่วนสาเหตุที่แรงงานจีนเลือกที่จะเดินทางไปมาเลเซีย แทนการเดินทางไปยังอินเดียหรือประเทศไทยนั้น เนื่องจากชาวจีนมีเครือข่ายชาวจีนที่มาเลเซียที่มีศักยภาพและในกรณีที่ถูกจับและถูกส่งตัวกลับ ก็จะถูกละเว้นไม่ต้องถูกส่งกลับพม่าโดยตรง เนื่องจากมาเลเซียไม่มีพรมแดนติดกับพม่า ดังนั้นแรงงานจากรัฐจีนจึงนิยมที่จะไปแสวงโชคที่มาเลเซียมากกว่าแม้ว่าจะถูกละเมิดสิทธิด้านการย้ายถิ่นก็ตาม นอกจากนี้ ยังพบว่าชาวจีนมีโอกาสที่จะได้เดินทางไปยังประเทศที่สามผ่านการช่วยเหลือขององค์กร UNHCR อีกประการหนึ่งด้วย

ปัจจัยผลักดันที่สำคัญอันดับรองที่ทำให้แรงงานจากจีนอพยพไปยังมาเลเซีย ได้แก่ ปัญหาการถูกเลือกปฏิบัติและกีดกันจากโอกาสต่างๆในสังคม อันเนื่องมาจากการนับถือศาสนาคริสต์ และการเป็นกลุ่มชาติพันธุ์จีนซึ่งแตกต่างไปจากประชากรกลุ่มใหญ่ซึ่งเป็นชาวพม่าที่นับถือศาสนาพุทธ อย่างไรก็ตาม แรงงานจีนในมาเลเซียก็ไม่ได้มีชีวิตที่ราบรื่นเท่าใดนัก ในทางกลับกันพบว่าแรงงานจีนได้รับค่าจ้างที่ต่ำทำให้ต้องพึ่งพาแรงงานจากพม่าด้วยกัน หรือไม่กี่พึ่งพาความช่วยเหลือจากสมาคมที่มาจากถิ่นฐานเดียวกัน ตลอดจนครอบครัวและญาติมิตรในประเทศที่สาม ส่วนปัจจัยที่ทำให้แรงงานจีนไม่ได้รับการคุ้มครองเนื่องจากมาเลเซียไม่ได้ให้การรับรองและลงสัตยาบันในกติการะหว่างประเทศว่าด้วยสิทธิพลเมืองและสิทธิทางการเมือง (ICPMW) และไม่ได้ลงนามในอนุสัญญาผู้ลี้ภัยปี ค.ศ.1951 จึงทำให้สถานภาพแรงงานจากพม่าในมาเลเซียเป็นแรงงานที่ผิดกฎหมาย แม้ว่ามาเลเซียจะให้การรับรองอนุสัญญาว่าด้วยการจัดการเลือกปฏิบัติต่อสตรี (CEDAW) และอนุสัญญาว่าด้วยสิทธิมนุษยชนเด็ก (CRC) ก็ตาม

งานวิจัยฉบับนี้มุ่งเน้นการศึกษาให้เห็นถึงสภาพการต่อสู้และสถานการณ์แรงงาน ของแรงงานผิดกฎหมายจีนในมาเลเซียตลอดจนการทำความเข้าใจถึงสถานการณ์ต่างๆที่แรงงานเหล่านี้ต้องเผชิญ อาทิ ประสบการณ์ในการทำงาน การถูกไล่ล่าจับกุม และการถูกผลักดันไปยังชายแดนไทย-มาเลเซีย เพื่อให้ออกนอกประเทศตลอดจนการได้รับการช่วยเหลือจากองค์กร NGO และสมาคมชาวจีนในมาเลเซีย

ผลการวิจัยพบว่า ประเทศมาเลเซียไม่มีนโยบายที่จะให้การคุ้มครองแรงงานจากพม่าและแรงงานจีนที่ผิดกฎหมายเหล่านี้ ดังนั้นพวกเขาจึงตกอยู่ในสถานการณ์เสี่ยง

สาขาวิชา การพัฒนาระหว่างประเทศ
ปีการศึกษา 2552.

ลายมือชื่อผู้นิสิต.....
ลายมือชื่ออาจารย์ที่ปรึกษา.....
ลายมือชื่ออาจารย์ที่ปรึกษาร่วม.....

5181001424: MAJOR: INTERNATIONAL DEVELOPMENT STUDIES
KEY WORD: MIGRANTS, CHIN, BURMESE, MALAYSIA

KHEN SUAN KHAI: IRREGULAR BURMESE MIGRANTS IN MALAYSIA: A CASE STUDY OF CHIN PEOPLE. THESIS ADVISOR: PORNPIMON TRICHOT. CO-ADVISOR NARUEMON THABCHUMPON, Ph.D., 138pp.

Burmese people have been migrating to Malaysia since early 1990s. Socio-political-economic pressure pulls the Chin migrant workers from Burma to come into Malaysia rather than India and Thailand for better network in Malaysia as well as to shun from direct deportation to home country. Amidst Malaysia government's violation of migration rights, resettlement from Malaysia to third countries plays critical role in migration to Malaysia.

The largest irregular migrant populations from Burma, besides economic factors, ethnic and religious discrimination are the main factors that push Chin people to migrate out of Chin State. Low income, dependency on other migrants, assistance from community based groups, and support from friends in third countries help Chin people to survive amidst destitution in Malaysia. Being only a State Party to only two of international human rights instruments: the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), and the *Convention on the Rights of the Child* (CRC), and has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICPMW), and has not signed the 1951 Refugee Convention, both refugees and irregular migrants are illegal.

This research has tried to classify and enrich understanding about the authentic situation of irregular Chin migrants from Burma, their experiences and working conditions in Malaysia and related consequences. It has exposed the push and pull factors of Chin people's migration to Malaysia irregularly, and has identified working environments, economic situation and social welfare conditions of irregular Chin migrants in Malaysia too understand irregular Chin migrants' survival strategies.

The research unveils that no policy protects Chin irregular migrants in Malaysia that they are in a risk situation.

Field of Study: International
Development Studies
Academic year: 2009

Student's Signature:

Advisor's signature:.....

Co-Advisor's Signature:.....

ACKNOWLEDGEMENTS

First and foremost, I wholeheartedly thank God for His love and guidance throughout my life, especially during my graduate study at Chulalongkorn University.

I am exceedingly indebted to my thesis committee members: Ajarn Pornpimon Trichot (Supervisor), Dr. Naruemon Thabchumpon (Co-Supervisor), Assoc. Prof. Surichai Wun'Gaeo (Chairman) and Ajarn Somchai Homla-or (Member). My sincere thanks to all the teachers in the program from all of whom I learned a great deal.

My special thanks go to the Heinrich Boell Foundation for granting me a sufficient scholarship to study in the MAIDS course at Chulalongkorn University.

I owe my deepest thanks to my parents and my elder brother for their love, support, inspiration, solace and understanding throughout my graduate study. Throughout my life, they have been and still are ever ready to assist me in my various endeavors, for which I am truly grateful. Particular thanks are due to my relatives and friends, who have been pushing me up and helping and praying for me.

Finally, my deep regard and strong appreciation goes to all the Chin migrants in Malaysia and all the people from the organizations I have interviewed, for without their assistance and trust, I would not be able carry out my research. I would like to thank all of my friends and the staffs who have made my study in the MAIDS program at Chulalongkorn University a memorable one.

CONTENTS

	Page
ABSTRACT (THAI)	iv
ABSTRACT (ENGLISH)	v
ACKNOWLEDGEMENTS	vi
CONTENTS	vii
LIST OF FIGURES	x
ABBREVIATIONS	xi
CHAPTER I INTRODUCTION	1
1.1 Situational Background	1
1.2 Statement of Research Problem.....	3
1.3 Research Questions.....	5
1.4 Objectives of the research.....	6
1.5 Hypothesis.....	6
1.6. Conceptual Framework.....	6
1.7 Research Methodology.....	8
1.7.1 Study Design.....	8
1.7.2 Research Scope and limitation.....	10
1.8 Significance of research	10
1.9 Ethical Consideration.....	11
CHAPTER II RELATED THEORITICAL CONCEPTS AND RESEARCH BACK GROUND	13
2.1 Related Theories.....	13
2.2 Background.....	15
2.2.1 Background Information of Chin State and Chin People.....	15
2.2.2 Migration from Burma.....	18
2.2.3 Migration into Mizoram, India.....	21
2.2.4 Migration into Malaysia.....	21

CHAPTER III FINDINGS ON THE SITUATION OF IRREGULAR CHIN MIGRANTS IN MALAYSIA.....	31
3.1 The Factors and Components Influencing Irregular chin Migrants to Migrate to Malaysia	31
3.1.1 The Reasons behind Migration.....	31
3.1.1.1 Pull Factors.....	31
3.1.1.1.1 Agreement between Burma and Malaysia Government.....	31
3.1.1.1.2 Rapid Malaysia’s Economic Growth.....	32
3.1.1.1.3 Resettlement to Third Countries.....	32
3.1.1.1.4 Better Networks.....	33
3.1.1.2 Push Factors.....	39
3.1.1.2.1 Economic Situation in Chin State.....	39
3.1.1.2.2 Political Situations in Chin State.....	42
3.1.1.2.2.1 Forced Labor in Chin State.....	43
3.1.1.2.2.2 Religious Repression in Chin State.....	44
3.1.1.2.2.3 Extrajudicial killings, arbitrary arrest, detention, and torture in Chin State.....	45
3.1.1.2.3 Social Situation in Chin State.....	47
3.2 Composition of Chin Irregular Migrants.....	48
3.2.1 Ethnicity.....	48
3.2.2 Age, Gender, and Marital Status.....	48
3.2.3 Educational Status.....	52
3.2.4 Religion.....	52
3.3 Conclusion.....	52
CHAPTER IV LIVING CONDITIONS AND SURVIVAL STRATEGIES OF IRREGULAR CHIN MIGRANTS IN MALAYSIA.....	62
4.1 Occupation.....	62
4.2 Income and Remittance.....	63
4.3 Living Condition.....	64
4.4 Social Problem among Irregular Chin Migrants.....	66

4.4.1 Children of Irregular Chin Migrant Children.....	68
4.4.2 The Situation of Irregular Chin Migrant Women.....	71
4.5 Insecurity: Arrest, Detention and Deportation.....	73
4.6 Support and Social Services for Irregular Chin Migrants.....	79
4.6.1 Support and services from NGO.....	79
4.6.2 Community Based Support.....	82
4.6.3 Refugee Status from United Nations High Commission for Refugees.	84
4.7 Malaysians' Response on Irregular Chin Migrants.....	86
4.8 Conclusion	88
CHAPTER V CONCLUSION AND RECOMMENDATIONS.....	90
5.1 Conclusion.....	90
5.2 Recommendations.....	99
5.2.1 Recommendation for Further Research	101
BIBLIOGRAPHY.....	100
APPENDICES.....	109
APPENDIX A Malaysia Migration Law	110
APPENDIX B Employment Law in Malaysia.....	116
APPENDIX C Employees Provident Fund.....	120
APPENDIX D Chronology of Chin People's Migration.....	136
APPENDIX E Map of the research area: Areas irregular Chin people are living	137
BIOGRAPHY.....	138

List of figures

Figure		Page
1.	Conceptual Framework	7
2	Map of Burma with States and Divisions.....	12
3	Map of Chin State.....	30
4	Chin People's Migration Route.....	36
5	Graph of Chin People's Migration Pattern to Malaysia	38
6	Percentages of Respondents.....	49
7	Respondents' Age, Gender and Marital Status.....	50
8	Tribes of Chin People.....	51
9	Respondents' Educational Status.....	52
10	Pictures of Living Conditions of Chin Migrants.....	65
11	Migrant Children in CSO school.....	68
12	Chin Migrant Women learning in livelihood Project.....	72
13	Pictures of RELA arresting Irregular Migrants.....	76
14	Detention Centers.....	77
15	Health test of migrants in ACTS.....	80
16	Funeral service of Chin migrant	83
17	Graph of Chronology of Chin People's Migration.....	136
18	Map of Research Area.....	137

ABBREVIATION

ACR	-	Alliance of Chin Refugee
A.C.T.S	-	A Call To Serve
AWAM	-	All Women's Action Society
MWVO	-	The Myanmar War Veterans Organization
CHRO	-	Chin Human Right Organization
CRC	-	Chin Refugee Committee
CSO	-	Chin Students Organization
EEO	-	Equal Employment Opportunities
GDP	-	Gross Domestic Product
ICCPR	-	International Covenant Civil and Political Rights
ILO	-	International Labor Organization
NEP	-	New Economic Policy
NGO	-	Non Governmental Organizations
RSD	-	Refugee Status Determination
SPDC	-	State Peace and Development Council
SLORC	-	State Law and Order Restoration Council
SUARAM	-	Suara Rakyat Malaysia
TEVP	-	Temporary Employment Visit Pass
UDHR	-	Universal Declaration of Human Rights
UNHCR	-	United Nations High Commissioner for Refugee
UNHDR	-	United Nations Human Development Reports
USDA	-	The Union Solidarity and Development Association

CHAPTER I

INTRODUCTION

1.1 Situational Background

Today, there are more people living outside their countries of birth than ever before. Migration is an important global issue. Migrants are a by-product of globalization, which disrupts national labor markets and re-directs workers to internationalized labor markets. There are more than 191 million international migrants; 53 million of them are Asians in Asia (ILO, 2008). Job opportunities, accelerated integration of markets and improvements in travel and communication, the widening gaps in incomes and standards of living within and between countries, are all important pull and push factors. Higher wages and remittances supply migrants and their families with a better standard of living and security.

With great expectations of better and safer living standards and higher income, many Burmese have left behind the unstable economic situation, political flux, and widespread poverty of Burma, and have migrated to Malaysia, both legally and irregularly. Nonetheless, because Malaysia has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICPMW), the main international instrument for the protection of migrant workers and their families, the Burmese irregular migrants are unsafe and unprotected in Malaysia.

The two major factors causing so many Burmese people migrate to neighboring countries like Thailand, India and Malaysia are economic reasons and to seek asylum in the second country. Political flux, economic misconduct, and widespread poverty across Burma are the result of five decades of military rule. Higher wages and better employment opportunities pull the Burmese workers to migrate to Malaysia. Social networks also plays vital role in migration. To some extent, as the education achievements in Burma have not guaranteed a better job,

many youth have been tagging along with their fellows who are already in Malaysia, where they can get direct income to support their family. Anticipating resettlement in a third country is also a strong pull factor.

Burmese people have been migrating to Malaysia for economic reasons since 1990. Irregular migrants travelling from Burma to Malaysia must either pass through the length of Thailand or arrive by sea, usually with the help of smugglers or traffickers. The Rohingya, who share the Muslim religion with Malaysian, were the first group from Burma to arrive in Malaysia after the 1988 crackdown in Burma (NCGUB, 2008.pg 891). However, the largest Burmese ethnic group in Malaysia is Chin.

Among many irregular Burmese migrants, Chin people make up more than 50 percent of the whole population. There are more than 400,000 people in Chin State. To escape from forced labor, military porter, and other human rights abuses, lots of Chin people have fled to India, the Chittagong Hill Tracts of Bangladesh, and mostly to Malaysia (CHRO, 2005). The Chin people do not have an easy life in Malaysia. They are working irregularly, jobs are irregular, bribes must be paid to local authorities and police, and there is always the fear of detention and deportation.

The irregular Burmese migrants in Malaysia come from different parts of Burma; however, their situation in Malaysia is all very similar. The living conditions of the Chin migrants from Burma are deplorable. Living conditions are unhygienic and insecure, and dietary needs are not being sufficiently met. Irregular Chin migrants have very limited access to medical care. They have no access to health care and social services from the Malaysian government, even for vulnerable people like women, children and the sick. They are hesitant to seek medical assistance from private service providers because they are afraid they might be arrested if they leave their flats or jungle huts. Without legal status, irregular Chin women are systematically arrested, detained, whipped and deported. Women are at risk of sexual assault and rape because of their lack of legal status. They cannot file cases without disclosing their immigration status, and so they cannot report incidents such as these

to the authorities. Not working at all increases women's dependency on community members, spouses and neighbors, which also increases their risk of abuse. There are many children who come with their parents to Malaysia, and others who are born in Malaysia. They have no access to government education in Malaysia. Being irregular migrants, Chin people are often deported to the Thai-Malaysia border. This can lead to being sold to Thai fishing boats and brothels in Thailand if they cannot afford the 15000-2000 ringgit bribe.

Malaysia is not party to many of the key international human rights instruments. Malaysia is a State Party to only two of international human rights instruments: the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), acceded to on 5 July 1995 and the *Convention on the Rights of the Child* (CRC), acceded to on 17 February 1995. Malaysia has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICPMW), the main international instrument for the protection of migrant workers and their families. As Malaysia has not signed the 1951 Refugee Convention, both irregular workers and refugees have no legal status and no right to work, hence, they are entitled as irregular migrants.

1.2 Statement of Research Problem

More than 80,000 documented and 300,000 irregular migrants from Burma are currently residing in Malaysia. Realizing the difficult reality for irregular immigrants in Thailand, going to Malaysia provides a sense of limited safety for the Burmese. For most irregular Burmese migrants, in spite of the risky and dangerous conditions they encounter on a daily basis in Malaysia, remaining in Malaysia is a better choice than returning home. They are conscious that a more dangerous condition awaits their return in Burma. Most of the returnees have been arrested, tortured and jailed in Burma.

The dire political situation has led Burma deep into poverty. In addition, people have to find better jobs that ensure a higher income for living. Because of the

scarcity of jobs and the low income level in Burma, people have been migrating to neighboring countries like India, Thailand and Malaysia. The demand for cheap labor in these countries also is a pull factor, bringing that more people into the country. This flow of irregular migrants will stop only when the country of origin can provide stable jobs with sufficient income for living. Political flux, and economic misconduct, and widespread poverty across the country always will be serious push factor contributing to migration.

Socio economic conditions in Chin State in Burma are very low. A mountainous region with few transportation links, Chin State is sparsely populated and remains one of the least developed areas of Burma. Shifting cultivation, *slash-and burn*, is scarcely enough for daily living. Hence, many people migrate to the low lands of Burma. Many people migrate as seasonal migrants to Aizawl in Mizoram State of India. In search of greener pastures, Chin people have been migrating to Malaysia legally or irregularly.

After recovering from the 1997 economic crisis, Malaysia's economy was booming. It demanded so many semi-skill labors that the Burmese military granted two to four year work permits to Malaysia. Learning the lessons from Indonesian and Filipina irregular migrants in Malaysia, Chin people, among many others in Burma, have overstayed in Malaysia. If migrating to India, the Chin people could be deported directly back to Burma where they will detained for crossing the national border irregularly. In addition, many people migrate to Malaysia with the help of their relatives who are already there. Networks play an imperative role for Chin people to migrate to Malaysia, especially as they have fewer networks to aid migration to Thailand.

American Baptist Missionary arrived in Chin State in 1899 and over the next century more than ninety percent of the population in Chin State converted to Christianity. As 90 percent of more than 400,000 Chins in Chin State are Christians, the specific human rights abuse suffered in Chin State is religious persecution. To escape from forced labor, military porter, and other human rights abuses, lots of Chin

people have fled to India, the Chittagong Hill Tracts of Bangladesh, and many to Malaysia (CHRO, 2005).

INGOs and other migration related groups in Malaysia are scarcely able to meet the migrants' needs for assistance. With Malaysia not having ratified the main international instrument for the protection of migrant workers and their families, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICPMW), and the 1951 Refugee Convention, both irregular workers and refugees from Burma have no legal status and no right to work so they are illegal migrants.

Instead of *refoulement*, deportation to the Thai-Malaysia border results in the Burmese irregular migrants being sold to the Thai fishing boats and brothels if bribes cannot be paid. The Malaysian government directly dealing with the problems of irregular Burmese migrants is rarely noticeable. Not qualifying for resettlement in third countries and being unable to return to their home country, Burmese irregular migrants are systematically arrested, detained, whipped and deported. They are in a serious quandary. Anticipating resettlement by UNHCR in a third country is a major pull factor. However, as very few are resettled; many of the irregular migrants are left in chaos in Malaysia.

1.3 Research Questions

This research will try to answer the following questions.

1. What factors and components are the most important ones in influencing Chin people from Burma to migrate irregularly to Malaysia?
2. To what extent can their survival strategies and efforts highlight the rights of migrants in Malaysia?

3. What are the stances and responses from the Malaysian government and people towards irregular Chin migrants in Malaysia?

1.4 Objectives of the research

The main objective of the study is to classify and to enrich understanding about the authentic situation of irregular Chin migrants from Burma, their experiences and working conditions in Malaysia and related consequences.

The specific objectives are:

1. To expose the push and pull factors of Chin people's irregular migration to Malaysia.
2. To identify the working environment, economic situation and social welfare conditions of irregular Burmese migrants in Malaysia.
3. To understand irregular Chin migrants' survival strategies in Malaysia

1.5 Hypothesis

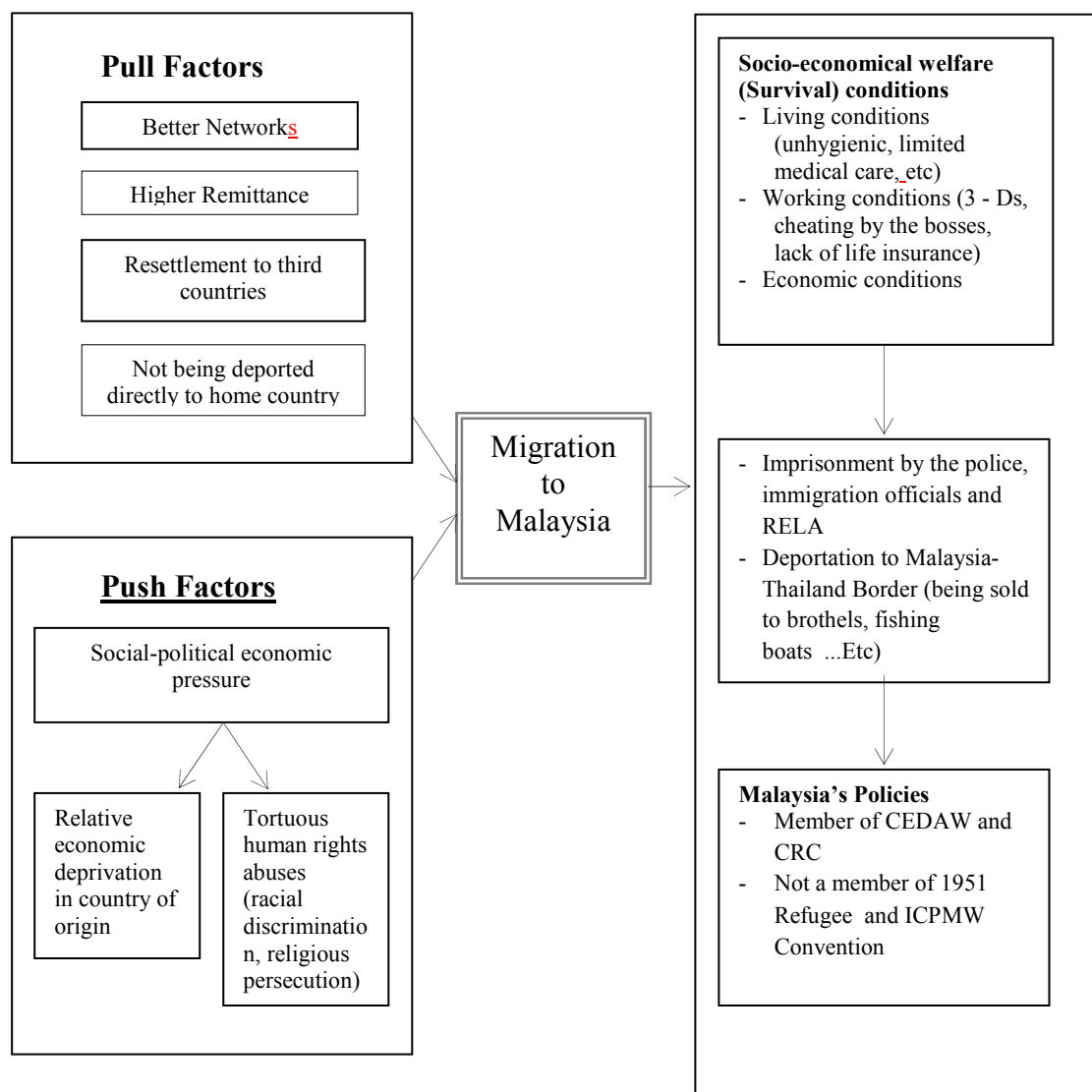
Socio-political-economic pressure pulls the Chin migrant workers from Burma to migrate to Malaysia rather than India or Thailand due to better networks in Malaysia as well as to avoid direct deportation to their home country. Amidst the Malaysian government's violation of migration rights, resettlement from Malaysia to third countries plays a critical role in migration to Malaysia.

1.6. Conceptual Framework

Chin labor migration from Burma to Malaysia is a complex issue. There are both pushing and pull factors in the process of Chin people's migration to Malaysia. It is difficult to highlight obvious reasons as the cause of migration, because of the many factors involved. However, three main factors can be identified: economic, political and social pressures. The pull factors include the demand for labor in

Malaysia, as well as avoiding the risk of being deported directly back to Burma. Migrants' social networks, higher wages, and better job opportunities are always major pull factors. The main factor that pulls many Chin people to move to Malaysia irregularly is the anticipation of resettlement to a third country. Push factors include the economic deprivation in the country of origin and tortuous racial and religious discrimination on Chin Christian population. The following framework covers the irregular Chin migrants in Malaysia.

Figure 1 Conceptual Framework



1.7 Research Methodology

The whole research took five months covering one academic semester. There are three steps to develop this research: conceptual framework, the operational part and the critical assessment. The conceptual framework was developed first. This includes identification of the problems, literature review related to the migration, setting the objectives and preparation of the questionnaire before going to field survey. In operational part, field research was conducted within five weeks from June 18, 2009. Secondary data and information were collected from reports from some NGOs, articles and news from journals, newspapers, magazines and related websites. Upon the suggestion and recommendation of existing migrant assistance groups and communities, this research was developed on directly findings on the cases and nature of a problem unexpected.

1.7.1 Study Design

The study design was mostly conducted by field research. There was very little prior research on the situation of Chin irregular migrants in Malaysia. A qualitative approach was at the core of the research methods to explore the findings to the research questions. So, this research was exploratory research. Exploratory research aims at directly findings on the cases and nature of a problem unexplored yet. The field research was conducted with a focus on Chin irregular migrants' communities in Jalan Imbi area in Kuala Lumpur which served as the target area. This area fits the following two criteria: a) a site with the central city of the region, and b) a site where most irregular Chin migrants resides. In addition, the type of work in which migrants engaged was also considered.

The non-probability sampling method was used in this study. Purposive Sampling Method was also used. For logistical reasons, the scope of data for this study was restricted only to the situation of Chin migrant workers from Burma in Malaysia. Subsequent data collection was guided by the theoretical sampling principle of grounded theory. Where necessary, data were used from secondary sources. The

survey took place over two weeks. Data were manually transliterated on a daily basis and finally analyzed.

Semi-structured interviews were used as the primary means of data collection. Initially, arrangements were made to interview each of the participants in the population of the study site. There was a problem with population size, so the migrant interviews were started with a randomly selected respondent, who then referred or introduced other individuals to the researcher. A focus group discussion is a special kind of interview situation. A gender distinction was made, because of some sensitive issues of what they had encountered in the migratory process. It was also found that there were cases with a mismatch between interview data and the facts in the situation of the migrant workers.

Key informant interview was conducted. Data were obtained from document analysis and interviews with selected workers (around 80 Chin irregular migrants). In-depth interviews were carried out with:

- (1) Chin irregular migrants
- (2) Community key informants
- (3) Agents or smugglers
- (4) Concerned persons from migrant assistance groups

More than 280 irregular Chin migrants have participated in the groups interviews. Eight community leaders were also interviewed. Two agents in Yangon, and one Malaysia agents and two Burmese agents were interviewed. Arrangements were made to interview officers, staffs and workers in irregular-Burmese-Chin-migrants- relating organizations. Specifically, officer from Ministry of Immigration in Malaysia, one leader from RELA, officers from *Tenaganita* (Migrant Worker's Organization), Suaram (Suara Rakyat Malaysia), A.C.T.S, Chin Students Organization, Alliance for Chin Refugee and Chin Refugee Committee, officer from UNHCR, officer from Woman Aids Organization, , and pastor from one Chin

christians fellowship in Kuala Lumpur, and two agents in Yangon, Burma and three in Kuala Lumpur were also being interviewed .

Throughout the entire research period, observations were made and notes taken on the general situation and living conditions of migrants, their survival strategies and attitudes towards Malaysians, and interaction among themselves, their working conditions and relationship with their employers.

In this study, the data-gathering method included former presentation papers, reports, observations, news and document analysis and related websites and papers. Coding procedures, memo writing and diagramming were used as data analysis strategies. Facts or incidents obtained from interviews, documents and secondary data were coded in a systematic way. Memos were developed as visual representations of the relationships between concepts. Code notes, memos and diagrams became progressively more detailed and sophisticated as the analysis moved through the three stages of coding.

1.7.2 Research Scope and Limitations

This research covered the authentic situation of Chin irregular migrants from Burma in Malaysia, in Jalan Imbi area in Kuala Lumpur, where most of the Chin irregular migrant workers reside. Since the study has to be done in a limited time frame, only the specific survival strategies of Chin irregular migrants are highlighted in this study. Only the irregular Chin migrants are the focus group in this study.

Participants were selected by the researcher and also through the suggestions of each organization visited. Participants varied, and included irregular Chin migrants, staff from migrant assistance groups, teachers, a pastor, RELA, community level key informants, and officers from INGOs in the interviewing process. Eight children who have been studying at a basic education level in CSO schools were also involved in the interviews.

1.8 Significance of research

This research mainly highlights the authentic survival strategies of irregular Chin migrants in Malaysia, which will enrich understanding about the genuine background of irregular Chin migrants, their experiences and working conditions in Malaysia and related consequences regarding migrants' rights and the impact of socio economic changes in their background. As the Chin irregular migrants in Malaysia represent more than 50 % of the total Burmese irregular migrants in Malaysia, this research will highlight the general scenario of the situation of all Burmese irregular migrants in Malaysia. The findings and outcomes from the research will impact the irregular Chin migrants and the responsible institutions and organizations. In addition, practical amendment for the Burmese migrants may be implemented by the Malaysian government, as well as by authorized organizations. In particular, as there is no academic literature relating to the situation of Chin irregular migrants in Malaysia, this research will help to some extent those who study further about this specific subject.

1.9 Ethical Consideration

As the research fully focused on the irregular Chin migrants from Burma in Malaysia, respondents in this research will keep as confidential and anonymous.

Figure 2 Map of Burma with States and Divisions



CHAPTER II

RELATED THEORITICAL CONCEPTS AND RESEARCH BACKGROUND

2.1 Related Theories

In this chapter, several books and literatures that stated about the research topic were studied and reviewed. This chapter is divided into two parts. The first part discuss about the theories and concepts related to the research topic. The second part discuss about the related research regarding the situation of irregular Chin migrants in Malaysia, mainly focus on their survival strategies.

A system of migration within ASEAN could be understood as a group of countries with one or more than one, as core countries which functions as destination, and others as periphery countries from which migrants originated because of differences in demographic, economic, social and political contexts which serve as a premise to the population movement. Because of specific linkages of various nature (historical, cultural, technological), which function as triggers to the actual movement, migration has taken place and continues to take place. Policies of ASEAN countries to control unauthorized migration deal with various aspects of the phenomenon. Countries of destination have addressed in particular border controls, sanctions against the employment of unauthorized migrants and reducing the number of unauthorized migrants through registration and repatriation. Countries of origin also have tried to underline irregular recruitment as a critical setting in the unauthorized migration process (Battistella, 2002).

Neoclassical economic theory (Sjaastad 1962; Todaro 1969) suggests that international migration is related to the global supply and demand for labor. Nations with scarce labor supply and high demand will have high wages that pull immigrants from nations with a surplus of labor. This movement is the movement of capital which included human capital as well as labor capital. This is an individual choice to migrate to where they can be most productive because of the expectation of positive

net return, usually, monetary, from the movement. World-systems theory (Sassen 1988) argues that international migration is a by-product of global capitalism. Contemporary patterns of international migration tend to be from the periphery (poor nations) to the core (rich nations) because factors associated with industrial development in the First World generated structural economic problems, and thus push factors, in the Third World. Cumulative causation that migrant networks spread, institutions supporting transactional movement develop and the social meaning of work changes in receiving countries are also the cause that make additional movement. Massey Douglas (1994) said “causation is cumulative in that each act of migration alters the social context within which subsequent migration decisions are made, typically in ways that make additional movement more likely.” The understanding and skills the migrants obtain raise their productivity and increase their value that people who migrate once are quite likely to do so again.

Network theory (Messy at all, 1993) states “migrant networks are sets of interpersonal ties of connection between migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin.” They increase the likelihood of international movement because they lower the costs and risks of movement and increase the expected net returns to migration. Cost and risks are decline by the help of network. Migratory movements become self-sustaining social process.

In Chain migration theory, according to dominant theories of international migration, there are three levels: Micro Level which focus solidly on the decision-making of individual according to the pressure of environment, Macro Level which is denoted by political-economic-cultural structures of sending and receiving countries, and Meso Level is in which the migrant permanently settle in abroad, but old ties to the country of origin can be maintained. The migration systems approach implies that any migration movement can be seen as the result of interacting macro and micro structure. The concept of ‘chain migration’ accentuate the role of information for migratory movement such as knowledge of other countries, competence of organizing travel, discovery of work and acclimatizing to a new surroundings. The so-called

‘ social capital’ such as personal relationships, family and household patterns, friendship and community ties, and mutual help in economic and social matters provide vital resources for individuals and groups. (Thomas Faist, 2000).

2.2 Background

2.2.1 Background Information of Chin State and Chin People

Among eight major national ethnic races in Burma, Bamar (Burmans or Burmese) Kachin, Kayah, Kayin (Karen), Mon, Rakhine, and Shan, Chin is one of them. Burma has 153 ethnic groups and sub-groups.¹

Chin State, home to more than 400,000 ethnic Chin, is located in the remote mountain ranges of northwestern Burma, bordering with Bangladesh and India on the west, and Rakhine state on the south, Magwe and Sagaing divisions on the east. Chin society in Burma consisted of a segmented tribal society comprised of six primary groups which can be sub-categorized into 63 sub-tribes, speaking at least 20 mutually unintelligible dialects (L.H.Sakhong, 2003). While the population of Chin State made up nearly three percent of the total population of Burma, Chin state is one of the most ethnically diverse states in Burma. In pre-colonial Chin society political and ritual power were the same, and rested in the hands of chiefs and nobility. From 1872 to 1889, the British invaded the Chin territory.

In 1899, American Baptist Missionary came to present Chin State in Burma, and over the next century almost the whole population in Chin state converted to Christianity. It is estimated that about 90 percent of Chins in Chin state are Christians. Today, the Christian Chins are regularly persecuted by Burma’s military government. Its’ armed forces destroy churches, remove crosses, convert Christians to Buddhism by force, and use forced labor to construct pagodas.

¹ <http://www.myanmars.net/people/ethnic.groups.htm>

To get independence from British colony, along with the Kachin and Shan ethnic groups, by the guidance of General Aung San, the Chin had signed Panglong Agreement, an indispensable document for Burma's independence, on February 12, 1947, but the assassination of Aung San on July 19, 1947 led to independence weighed down. The agreement pledged the founding of a federal union and sovereignty for the ethnic states. Nearly 50 years of military rule had started after a military coup in 1962. Being the only state in Burma where a majority of the population is Christian, under the ruling military junta, the Chin people suffer various kinds of human rights abuse, including persecutions on the basis of their ethnic, cultural identity and seriously on religion. The present military government has been exercising the so-called unwritten high 3 B policy: Burman (*A Myo (Race)*), Burmese (*Bathar(language)*), and Buddhism(*Thaathana(Religion)*) to eliminate the Christianity, literature, culture and traditions of Chin people in order to assimilate them into homogeneous Burman culture. Because of the first two Burmanization policies, Chin language is prohibited to teach in public schools. Stating Burma as a Buddhist country, the government directly or indirectly has been maltreating the Chin Christian population by prohibiting religious related activities. Hence, most of the human rights abused suffered in Chin State are religious persecution. The military soldiers along with the Buddhist missionary monks have persuaded many poor Chin families to convert into Buddhism by daily supplies and made use of them to investigate the activities of the Christians and also about the ethnic arm group CNA. This purposefully religious depression leads to force labor, extortion and heavy taxation, which are vital push factors of Chin people's migration. Some Chin families have just converted simply to Buddhism just to avoid forced labor and for cash and other incentives offered by the military regime.

Human Rights Watch (2008) refers that according to United Nations Development Program's household survey, tierce of Burma population survives below the poverty line. In Chin State approximately 70 percent of the population lives below the poverty line and 40 percent are without sufficient food sources (UN, 2007). Poverty across Burma is the result of five decades of armed force's rule and economic misconduct. About 85 of Chin has been still practicing shifting cultivation system that

soil erosion is so common. Besides farming, there is no job opportunity available for Chin people in Chin State. A mountainous region with few transportation links, Chin State is sparsely populated and remains one of the least developed areas of Burma.

The continuing exodus from Chin State to Malaysia, India and Thailand is mainly because of socio-economic-political situation in Chin State that the main factors leading Chin to flee Burma are forced labor, extortion and heavy taxation, food security and religious repression.

Chin people migration to Malaysia, India and Thailand is a multifarious issue. Generally, it can be categorized into three main factors: economic, political and social pressure. The mismanagement of economic, political flux and so-many-human right abuses, especially religious repression, of the military junta, Chin people have been migrating mostly to Malaysia and India, and some to Thailand. As of March 2008, an estimated 75,000 to 100,000 undocumented Chin from Burma live in Mizoram, India and approximately 150,000 undocumented Chin in Malaysia.

There are now far more unregistered irregular Chin migrants in Malaysia than registered migrants, asylum seekers and refugees, and thousands of registered asylum seekers without RSD than with it. The problem is enormous and getting worse every month, more Chin and other asylum seekers from Burma are arriving weekly far more than people being resettled to third countries. In spite of the every present dangers of arrest, detention, ill treatment by Malaysian authorities and deportation back to Thailand, and the real risk of being sold to bands of human traffickers at the Thai border, then ending up being sold onto fishing boats, brothels and factories in Thailand, most of the Chin feel it is still far better than staying in Burma. They are able to find work that pays them more in one day than they can earn in a week or more back in Burma. This situation enables them to send money back to their families as well as to live by comparison a fairly reasonable life in many ways in Malaysia. The Chin choose Malaysia over India in the hope of better opportunities for work, UNHCR registration and RSD and to perceived better chance of being resettled to a

third countries. However, a few irregular migrants have been resettled to third countries.

2.2.2 Migration from Burma

Political flux, and economic misconduct, and widespread poverty across Burma make more than ten percent of Myanmar population migrates to other countries, according to a report “Migration, Needs, Issues and Response in Greater Mekong Sub Region (2002). Human Rights Watch (2008) refers that according to United Nations Development Program’s household survey, tierce of Burma population survives below the poverty line. Approximately two million Burmese irregular migrant workers in Thailand are one of the largest migrant populations in Asia. In Malaysia, there were 88,573 documented migrants from Burma (Somwong, 2008). There are more than 300, 000 Burmese irregular migrants among 700,000 irregular migrants in Malaysia (NCGUB, 2008, pg 891). More than 98% of the foreign workers in Malaysia area classified as low or semi-skilled. Burmese migrants embody almost one third of the irregular migrant worker community in Malaysia. Economic growth over recent decades in Malaysia got high attention of Burmese people to migrate into Malaysia.

Burmese people have been going to work in Malaysia since late 1990s as part of program established between the Malaysia government and the Union Solidarity and Development Association (USDA). In June 2002, active soldiers or sons of retired or presently enlist soldiers from Burma got opportunity to work in Malaysia as part of a bilateral agreement between the governments of Malaysia and Burma. Fifty-thousand work permits were distributed by the Burma War Veterans Organization (MWVO). On the other hand these permits were sold out unofficially outside. (NCGUB,2002). However, this agreement is not effective anymore after the end of previous government body in Malaysia.

Burmese people have been migrating to Malaysia since 1990. Irregular migrants travelling from Burma to Malaysia must either pass through the length of

Thailand or arrive by sea, usually with the help of smugglers or traffickers. The Rohingya, who share Muslim religion with the Malaysian, was the first group from Burma to arrive Malaysia after 1988 crackdown in Burma (NCGUB, 2008.pg 891). However, the largest Burmese ethnic group in Malaysia is Chin. Among many irregular Burmese migrants, Chin people make up more than 40 percent of the whole irregular migrants population. American Baptist Missionary arrived to Chin State in 1899 and over the next century more than ninety percent of the population in Chin state converted to Christianity. As 90 percent of Chins in Chin State are Christians, specific human rights abuses suffered in Chin State are religious persecution. To escape from human rights abuses such as forced labor in the junta's infrastructural projects, and military porter, lots of Chin people have fled to the India, the Chittagong Hill Tracts of Bangladesh, and mostly to Malaysia (CHRO, 2005).

Chin migrants become irregular status because of several categories. Generally, Chin migrants who fall under any of the following categories are classified as "irregular" or "irregular migrants." i). unauthorized entry and employment; ii) authorized entry but unauthorized employment; iii) authorized entry and employment but work permits invalidated; iv) refugee; v) children of irregular migrants or refugee born in Malaysia but whose births were not registered with the relevant authorities (Kanapathy, 2008). According to Malaysia Trade Unison Congress, "irregular foreign workers" includes anyone who does not hold a proper travel document or a valid visa to stay in the country. Refugees, asylum seekers and trafficked persons without documents as proof of their legal stay in the country are included in this category (MTUC, 2005).

Chin migrants paid large sums of money to smugglers or trafficker to take them across the borders of Burma, Thailand and Malaysia. The Chins have to come down to Yangon by themselves. From Yangon to until the Thai- Burma border (Kawtaung – Ranong), the Burma agents arranged for the journeys of all Burma nationals who want to go to Malaysia. The Thai agents mainly took of the human smuggling network to bring in people from Thailand to Malaysia. After the year 2005,

many people have visited to Malaysia with tourist visa and never return back (CSW HK, 2006).

The living conditions of the Chin migrants are deplorable. Many more thousands of migrants are living in the jungle of Putrajaya and Cameron Highland Plantation in makeshift tents with plastic roof (CHRO, 2005). Irregular Chin workers have worked in construction, restaurants, plantation, wire production and some in shopping malls. The work is also conditional that their income is unstable and differs from one to another according to the category of job (Kassim 1995:179). Irregular Chin migrants have very limited access to medical care. Living conditions are unhygienic and insecure, and dietetic needs are not being sufficiently met. Burmese irregular migrants have no access to health care and social services from the Malaysian government. (CSW HK, 2006).

Without legal status, irregular Chin migrant women are systematically arrested, detained, whipped and deported. Women are at risk of sexual assault and rape by the Malaysian boss and even by their own people because of their lack of legal status. There are many children who come along with their parents to Malaysia and those who are born in Malaysia. They have no access to government education in Malaysia. Being irregular and irregular migrants, the Burmese are always have been deporting to the Thai-Malaysia border that can lead to being sold to Thai fishing boats and brothels in Thailand if they cannot effort to bribe 15000-2000 ringgits (WCRWC, 2008).

As most of the irregular Chin migrants in Malaysia are Christian, they have Christian fellowship based on their dialect and denomination. Each community based fellowship has been dealing with the case of their member regarding to health, marriage, social activities, and funeral and so on.

Irregular Chin immigrants are usually deported to Malaysia-Thailand border rather than back to Burma. They bribed 2,000 – 3,000 Ringgits to officers at the border to facilitate their re-entry into Malaysia.

Chin people have been migrating to Malaysia to flee persecution in Burma, hoping to find safety and protection, dreaming of resettlement in another country, but they are still remaining vulnerable in Malaysia. The situation of irregular Chin migrants in Malaysia is still in a very hazardous state. They are considered irregular immigrants until they are officially recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR). Because of their immigration status, Irregular Chin migrants are bare to harsh treatment by employers, police authorities, RELA and others who take advantages of their legal status.

2.2.3. Migration into Mizoram, India.

Sharing border with Tripura state, Assam state, Manipur state, Bangladesh and the Chin State from Burma, Mizoram is one of the Seven Sister States in North Eastern India. Chin State and Mizoram have not only had a long history of cordial border relations but also share a familiar history, ethnic ancestry, and cultural practices. In the 1970s, lots of Chins from Burma migrated to Mizoram to fill the growing demand for cheap sources of labor. Because of the similar culture and way of life, the Chin faced very few problems and, integrated easily into Mizo society. On February 20, 1987, Mizoram officially received statehood. Since 1988, in the face of increasing abuses in Burma, many Chin have fled across the border in search of safety in Mizoram State. Due to the porous border and closed nature of the Chin community living in Mizoram, it is impossible to accurately determine the number of Chin currently living in Mizoram. Chin community leaders and long-time residents in Mizoram estimate that 75,000 to 100,000 Chin from Burma live in Mizoram.

2.2.4 Migration into Malaysia

Malaysia turned into one of the largest labor-importing country in Southeast Asia in the 1990s. These migrant workers have also embodied between 20 to 25 percent of the labor force since the 1990s. In 2007 migrant workers comprised about 2.8 million of the 12 million labor forces. Most migrant workers in Malaysia obtain

their jobs through private employment agencies or labor hire firms that operate both in the source and destination countries.(Amarjit Kaur, 2008).

There was an unregulated cross-border inflow of migrants into Malaysia since 1950s. There are four distinct phases observed in the evolution of Malaysia's migration policies since the 1970s: the first phase, during 1970-80 , a tolerant policy towards foreign worker recruitment, the second phase, during 1981-88, the government foreign labor recruitment, established an official channel for labor recruitment, and signed bilateral agreements with governments of source countries, the third phase, 1989-96, the state commenced a regularization program to control irregular immigration, and the final phase is since 1997 that major policy developments for the regulation of migration following the financial and economic crisis of 1997-98. The Chin people have been migrating into Malaysia since the third phase. New measures to control unauthorized migration and periodic amnesty programs that allowed undocumented migrants to leave the country without penalty were introduced (Amarjit Kaur, 2008).

Considering Malaysia's high speed economic growth, and average of 8 percent per year since the 1990s, Malaysia needs cheap migrant workers but does not want them. The country's interest is economic interest along with other ASEAN countries, not rights and integration. Government raids, arrests, and deportations have also been an issue. Those who could not bribe their way out of arrest were deported (Gurowitz, 2000). Many "special operation" mass expulsions have been launched within specified time frames since former Prime Minister Mahathir Mohamad's time. In March 2002, after the government ordered about 600,000 undocumented migrant workers to leave Malaysia before August 2002, Over 300,000 migrant workers left Malaysia during the crackdown. Malaysia government had exercised widespread crack down on undocumented migrants in 2004 and deported around 1 million undocumented migrants (WCRWC, 2008. Pg.2). On March 1, 2005, the government of Malaysia initiated a nationwide operation to crackdown on undocumented migrants living and working in the country. The target is 400,000 "irregular" immigrants who had either overstayed in the country or do not possess valid document for their stay in

the country. On early July 2007, Malaysia stepped up a crackdown on undocumented Burmese again. The operations have a negative impact on refugees and asylum seekers from Burma. As the country is heavily dependent upon migrants for labor, the Malaysian crackdown on undocumented migrants has highly demonstrated. Many manufacturing were closed down because of shortages of labor. It would make sense for the Malaysian government to afford protection to the undocumented migrants in its country while making it possible for them to be employed legally. Both the country and the migrants would get benefit (Refugee International, 2005).

Since 2006 and in the context of *Vision 2020* national program which aims to propel the country towards a developed nation by the year 2020, the government is implementing the Ninth Malaysia Plan (2006 – 2010): a five year development program to address economic, social and cultural challenges. With its gross domestic product (GDP) estimated to be increasing by an average of 5.2% per year since the regional economic crisis in 1997-1998, Malaysia is fast on the way to becoming an industrialized nation (Somwong, 2008). The labor shortage in Malaysia is mainly in low-skilled jobs as many Malaysian go to other economies such as Singapore and Taiwan. Unskilled workers from Indonesian, Burma, Sri Lanka, and Bangladesh replace these work areas (Ducanes, 2008). Higher wages and better employment opportunities pull the Burmese workers to migrate into Malaysia as well as social network plays vital role in migration. Anticipating to be resettled in third countries also is a strong pull factor.

Pull factors for migration are higher wages and better employment opportunities. People will move from economically less advanced countries to more advanced ones (Borjas, 1992). Massy (1998) indicate that the choice of destination depends on the different GNP in the country of origin and country of destination. Migration will correlate positively with GNP in destination country and negatively with GNP in country of origin. Other factors which affect migration are expenses for travel and types of employment (Cuthbert and Sterns 1981, Melendiz 1994 in Massey et al 1994). Irregular international migration is caused by low wages, low agricultural productivity and high unemployment in the country of origin (Massey, et al , 1998)).

At the micro level, expected income in the destination country, along with expected contribution to household income in the country of origin, determine the decision of an individual and his or her family to migrate (Massey and Taylor, 2004).

The foreign workers come from twelve countries in the region, supplying a much needed workforce in Malaysia's agricultural, construction, manufacturing and services sectors. According to Malaysia's Immigration Department, there were 2.1 million documented migrants in Malaysia in November 2007 (HRW, 2009).

Documented foreign workers are who enter into Malaysia legally and employed under a valid temporary employment visit pass (TEVP), who are entitled to the protection and benefits provided under the various labor laws and regulations enforce in Malaysia, and who are employed in lower and unskilled jobs. ii). Expatriate are who are issued with employment pass and allowed to bring family into the country, and employed in executive and higher managerial and technical jobs. iii). Undocumented foreign workers are who entered and work in the country in breach of immigration laws, and who are not eligible for protection under the law that they are vulnerable to exploitation and abuse (Jaafar, 2008).

There are several categories of foreigners who are in irregular status, and not all of them are migrant workers. Generally, foreign nationals who fall under any of the following categories are classified as "irregular" or "undocumented migrants." i). unauthorized entry and employment; ii) authorized entry but unauthorized employment; ii) authorized entry and employment but work permits invalidated; iv) refugee; v) children of undocumented migrants or refugee born in Malaysia but whose births were not registered with the relevant authorities. Despite their lawful means of entry and employment in Malaysia, irregular migrants take on high risks to be in irregular status for a variety of reasons. Irregular employment is less time-consuming and cumbersome, and cheaper for both employers and migrants. The recruitment policy for contract migrant labor using the work permit system ties the migrant worker to a particular employer and location. Foreign workers who seek greater freedom and flexibility, and who see opportunities to maximize their incomes by

reducing their transaction costs or by taking on multiple jobs resort to irregular migration (Kanapathy, 2008).

Malaysia is not a party to many of the key international human rights instruments. Malaysia is a State Party to only two of international human rights instruments: the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), acceded to on 5 July 1995 and the *Convention on the Rights of the Child* (CRC), acceded to on 17 February 1995. Malaysia has not ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICPMW), the main international instrument for the protection of migrant workers and their families. As Malaysia has not signed the 1951 Refugee Convention, both irregular workers and refugees have no legal status and no right to work and they are entitled as irregular migrants.

In general, Ministry of Human Resources is responsible for overseeing implementation of the national labor policies with regard to labor and employment including the employment of foreign workers vis-à-vis the protection of employment opportunity for migrants. It has to protect and promote the interest and welfare of foreign workers during their legitimate employment in the country and it has to administer and enforce the various labor laws. Ministry of Home Affairs is responsible over immigration matters and the recruitment such as processing and approving application for foreign workers, determining the source country, issuing and revoking of employment visa, preventing irregular employment and deportation of foreign workers to their home countries. The immigration act and the various rules are administered and enforced by Minister of home affairs. Ministry of Health is responsible for health matter and controlling and preventing the spread of contagious diseases into the country (Jafar, 2008).

Domestic Legislation applicable to foreign workers are

1. Employment Act 1955
2. SABAH Labor Ordinance
3. SARAWAK Labor Ordinance

4. Workers' Minimum Standard of Housing and Amenities Act 1990
5. Child and Young person employment act 1966
6. Industrial relations act 1967, Trade Union Act 1959
7. Occupational Safety and health act 1994
8. Wages council act 1947 and immigration act 159/1960.

However, above domestic laws do not cover up the irregular Burmese migrants in Malaysia. The law themselves are set for migrants who come into Malaysia after 1950s. In this time Burmese people did not start to migrate to Malaysia. The laws are set up mostly for the Indonesian migrants who first come into Malaysia illegally.

A new anti human trafficking bill – Anti-Trafficking in Person bill 2007- was tables in Parliament in April 2007 that punished offenders and granted immunity to trafficked victims. Traffickers can be jailed for up to 20 years, while the victims will not be prosecuted for irregular entry or charged with entering the country with deceptive documents provided by traffickers. The success of the policy depends on its effective enforcement (Kanapathy, 2008). A non-citizen arrested or detained under the Immigration Act can be held for up to 14 days before being brought before a Magistrate. The Magistrate will then make an order as to his or her detention for such period as required by an immigration or police officer to investigate offences against the Act, or by an immigration officer to make inquiries or effect the removal of the person (paragraph 51(5)(b)).²⁰ under section 117 of the Criminal Procedure Code, further detention may only be ordered for a period of 14 days. In contrast, a citizen may only be held for 24 hours before being brought before a Magistrate (paragraph 51(5)(a)). After their removal, undocumented migrants often come back to Malaysia, where they will be subject to section 36 of the Act: If apprehended again by immigration enforcement officers, they will be liable to a fine not exceeding ten thousand ringgit, to imprisonment for a term not exceeding five years or to both, but also, to whipping of not more than six strokes (Somyoung, 2008).

Under the management of International Labor Organization, Malaysia has National Guidelines for Equal Employment Opportunity (EEO) policy which is

guided by the government and the tripartite partners. Under the Malaysia prime minister's department, this policy applies to the Public Sector and has been implemented in the public sector since 1969 by the Public Services Department. The ministry of human resources provides guidelines to employers on the prevention and eradication of sexual harassment. It includes advice on forms of sexual harassment, complaint and grievance procedures, disciplinary rules and penalties, and protective and remedial measures. Important principles include that all forms of adverse discrimination on the basis of gender be eliminated and that gender categorized information on the impact of development programs be developed. Under the plan, HAWA is to operate as the central agency for program implementation and program funding. The plan provides for cooperation amongst governmental and non-governmental agencies. The Plan also sets specific strategies and specifies an action time-frame for each strategy. This includes strategies for the assessment of the impact on women of all new policies, legislation, regulations and programs by any sector or agency; employment education and training; sensitizing government administrators; affirmative action; research education and training and increased financial allocations. The policy is administered by the Department of Women's Affairs (HAWA). The tripartite partners hold the code of conduct for industrial harmony. This code contains provisions relating to redundancy and retrenchment and its signatories are the Ministry of Human Resources, Malaysian Trade Union Congress and Malaysian Employers Federation. The Code provides that employers must select employees to be retrenched using objective criteria to be worked out in advance with trade unions, which may include the employees' family situation. Under sub-section 30(5A) to the Industrial Relations Act 1967 the Industrial Court may take into consideration any such code or agreement relating to employment practices.

ILO Conventions and Recommendations provide for basic standards of protection of welfare for workers in the following contexts in the migration process: before leaving the home country and during the journey to the new country, on arrival, during employment, in the exercise of social and civil rights and during repatriation.

These ILO standards are useful guidelines for governments to adopt in maintaining fair treatment of immigrant workers. However, the inflow of immigrant workers was not fully in the control of the Malaysian Government. Private entrepreneurs saw the commercial opportunities in the recruitment and supply of labour to industries in need of such labor. This free enterprise in labour supply has led to a neglect of standards in the recruitment of immigrant workers. It is therefore important for the Government to extend its current regulatory role from one of providing permits to one where it is involved at each stage, from the approval of permits to the supervision of welfare standards for immigrant workers in the various industries, and of repatriation. Free enterprise in the traffic of labor tends to create slave-like conditions for workers.

The laws are good. However, on the other hand, as the case of irregular Chin migrants and about Burmese migrants have never reached to the level of ILO attention as the abuses they have been facing regarding their immigration status in work places and in other sectors. So, the laws do not reach to the specific irregular Chin migrants' cases, and they are not applicable to irregular Chin migrants.

Three major enforcement agencies carry out the massive number of arrests: the police, immigration officials and RELA. As Malaysia has not signed the 1951 Refugee Convention, both irregular workers and refugees have no legal status and no right to work legally. There are also irregular migrants who have to be so because of the serious constraint on length of stay that hosts countries applied and their need to keep a job overseas. Most of them never return back to Burma, but staying in Malaysia irregularly and applied for refugee status in UNHCR with the hope of resettlement in third country. World Refugee Survey (2008) showed that Malaysia host 69,700 refugee from Burma, including 25,000 ethnic Chin, 20,000 Mon, and 12,600 Rohingya, and other minorities in 2008, approximately 30,000 were registered with UNHCR. Approximately six thousand refugees have been able to resettle in third country. The Rohingya are never be resettled to third country from Malaysia until now (USCRI, 2008) (WCRWC, 2008). The Malaysia government does not recognize the UNHCR refugee card holders as documented migrant according to the law. The

UNHCR refugee card provides no guarantee of protection or access to benefits in Malaysia. If an application is unqualified, he faces the possibility of being returned to his country of origin, legally known as *refoulement*.

In conclusion, the main background that Chin people have been migrating to Malaysia is socio-political factors rather than economic reason alone. One of the major pull factors, the agreement between the government of Malaysia and Burma government has ineffective in the new government body from both sides. On the other hand, agreement between the Malaysian work force and work agencies in Burma has direct impact only on the regular migrants. For regular migrants, as they hold work permit legally, there is not much hazardous situations. There are two reasons why Chin people choose to migrate irregularly into Malaysia rather than Thailand or India. The first factor is going to Malaysia provides a sense of limited safety than Thailand as they are not directly deported to the home country and it is possible way to enter back into Malaysia by bribery. Another factor is that network plays very imperative role for Chin people to migrate to Malaysia as they have least network to migrate to another countries. Networking includes network with the former migrants and the supporting border networking by agents from Burma via Thailand to Malaysia. To escape from human rights abuses such as forced labor in the junta's infrastructural projects, military porter and religious persecutions are also a foremost factor for Chin people's migration to Malaysia. Anticipating to be resettled in third countries also is a strong pull factor.

Figure 3 Map of Chin State



CHAPTER III

THE FACTORS INFLUENCING CHIN PEOPLE'S MIGRATION TO MALAYSIA

This chapter highlights the factors and components motivating Chin people to migrate irregularly to Malaysia and the social characteristics of irregular Chin migrants in Malaysia. The responses and discussions are analyzed according to the situation of the Chin irregular migrants in Malaysia.

3.1. The Factors Influencing Irregular Chin Migrants to Migrate to Malaysia

3.1.1 The Reasons behind Migration

Besides economic deprivation in Burma, the continuing Chin people's exodus from Chin State to Malaysia occurs mainly because of the social, economic and political situation in Chin State. Specifically, the main factors leading Chin to flee Burma are forced labor, extortion and heavy taxation, food insecurity and religious repression. Chin people have been migrating to Malaysia to flee persecution in Burma, hoping to find safety and protection, dreaming of resettlement in another country.

3.1.1.1 Pull Factors

3.1.1.1.1 Agreement between the Burmese and Malaysian Governments

One of the major pull factors is the existence of an agreement between the governments of Malaysia and Burma dating from the late 1990s that paved the way for Burmese people, including the Chin, to migrate to Malaysia legally. However, when these people do not return home, they end up as irregular migrants. Burmese people have been going to Malaysia since the late 1990s as part of another program established between the Malaysian government and the Union Solidarity and Development Association (USDA). Permits granted under this program, however,

were not available to Burmese workers who were already living in Malaysia (NCGUB, 2002). In June 2002, active soldiers or sons of retired or presently enlisted soldiers from Burma were the first people who received the opportunity to work in Malaysia as part of a bilateral agreement between the two governments. Fifty-thousand work permits were distributed by the Burma War Veterans Organization (MWVO). Many Chin people were included in this program, since many of them had served as soldiers during the era of the Burma Socialist Program Party. Most of the workers sent from Burma were unskilled laborers.

3.1.1.1.2 Malaysia's Rapid Economic Growth

Considering Malaysia's high speed economic growth, an average of 8 percent per year since the 1990s, Malaysia needs cheap migrant workers. Malaysia has been one of the most open and dynamic economies in the developing world since the 1990s. Following the New Economic Policy (NEP), Malaysia rapidly became more liberal market-oriented, and maintained free market trade. The first wave of foreign worker inflow started with the implementation of the NEP (Aris, 2004). About 23 percent of the total workforce in Malaysia consists of foreign migrant workers. Hence the government felt the flow of migrant labor should be regulated and controlled, but it could not adopt a tough policy because of the economy's dependence on a migrant workforce.

3.1.1.1.3 Resettlement to Third Countries

Anticipation of resettlement to third countries by the UNHCR is a major pull factor that causes many Chin people to migrate to Malaysia. Because the UNHCR has been resettling more Chin people than other ethnic nationals from Burma to third countries, Chin people have been especially drawn to Malaysia. Realizing that the realities are difficult for irregular immigrants in Thailand, Burmese believe that going to Malaysia is safer. For most undocumented Chin migrants, in spite of the risky and dangerous conditions they encounter on a daily basis in Malaysia, remaining in Malaysia is a better choice than returning home. They are intentionally alerted that a

more dangerous condition awaits them if they return to Myanmar. If the government knows, they will be arrested, tortured and jailed in Burma. On the other hand, while India and Thailand have deported illegal migrants, the Malaysian government does not deport directly to Burma. Besides, Chin people are not resettling to third countries from India as much as from Malaysia.

3.1.1.1.4 Better Network

Migrants' networks are a set of interpersonal ties that connect migrants, former migrants and non-migrants in origin and destination areas through ties of kinship, friendship and shared community origin. Getting information about migration is one of the functions of networking. These information sources can be agents or brokers, or friends and relatives who have already been working in Malaysia. There are some people from Burma in Kuala Lumpur who have good relationships with local Malaysian agents, who already have good networks in the border area. These Burmese agents have other reliable agent friends who deal with travel within Burma. In total, between US\$5,000 – 8,000 may be paid in travel fees and agent fees for the whole process of migration that is carried out by Burmese agents (from Yangon to Kawtaung/Ranong), Thai agents (from Ranong to the Thai-Malaysian border), and Malaysian agents (inside Malaysia). Migration costs include agents' fees, transportation, meals, and other expenses that help to pass the gates of the Burma-Thailand border, and Thailand-Malaysia border. The costs differ according to information availability, accessibility and networking. For those who have reliable relatives in Malaysia, the cost is less than those who have no network. Burmese migrants paid large sums of money to smugglers or traffickers to take them to Malaysia. Along the way, they have to use boats, cars and many times, they even have to walk on foot deep in the jungle. Many times, the ferry they used was fired on by the Burma-Thai border guards. Sometimes, they encountered disaster on the way to Malaysia, too.¹ Two migrants in Malaysia shared their experiences to get to Malaysia as follows:

¹ On 21 December 2007, it was reported that 45 Burmese of Chin ethnicity among 100 went missing after the ferry they were on hit a fishing boat. The missing passengers were believed to have drowned.

From my village to Yangon, I had to manage the trip by myself. In Yangon, I applied for a passport and free visa for Malaysia. After two months, I got my passport and the visa. Then the agent himself sent me by plane to Kuala Lumpur along with three other young men. I have so many relatives in Yangon, so my stay there was no problem. Now my visa has already expired, so I am like other illegal migrants here now. (Thangaa, June 20, 09)

After my father sent enough money from Malaysia to agents for me to go to Malaysia, an agent from Hakha brought me to Yangon. From Yangon, another agent accompanied us until Kawtawng by car, and at midnight, we secretly went into Kawtaung with another Burmese agent at the border. From Ranong, three Thai agents took us in the back of their van for two days until we arrived at the Malaysia border at midnight again. From the border, two old women brought us to Kuala Lumpur. (Liante, June 20, 09)

After the year 2005, many agents in Burma helped people to apply for passports and tourist visas to Malaysia, and sent them to Kuala Lumpur personally. They lent the people money to show officials at the border, and then took it back after they safely reached Kuala Lumpur. Agents in Malaysia said:

People who want to come to Malaysia have to contact our agent friends in Yangon first. They have two choices: to come by plane or to come by land. For those who want to come by plane, they have to wait around six weeks in Yangon for their passport and Malaysian visa. They generally stay in the agent's home or with their relatives and friends while waiting for their documents. It is more expensive, but safer. We have to lend them at least \$500 each for the show money at the airport. Sometimes the authorities ask for show money, but many times they don't. For the second group, who want to come to Malaysia by land, after their relatives in Malaysia or they themselves pay us the money, our friends in Burma send them to the Thai-Burma border. After providing the name lists to our partners in Thailand, these Thai take

care of most of the migration. The Malaysian agents only take the people inside Malaysia from the Malaysian border.

Figure 4 Chin people's migration route

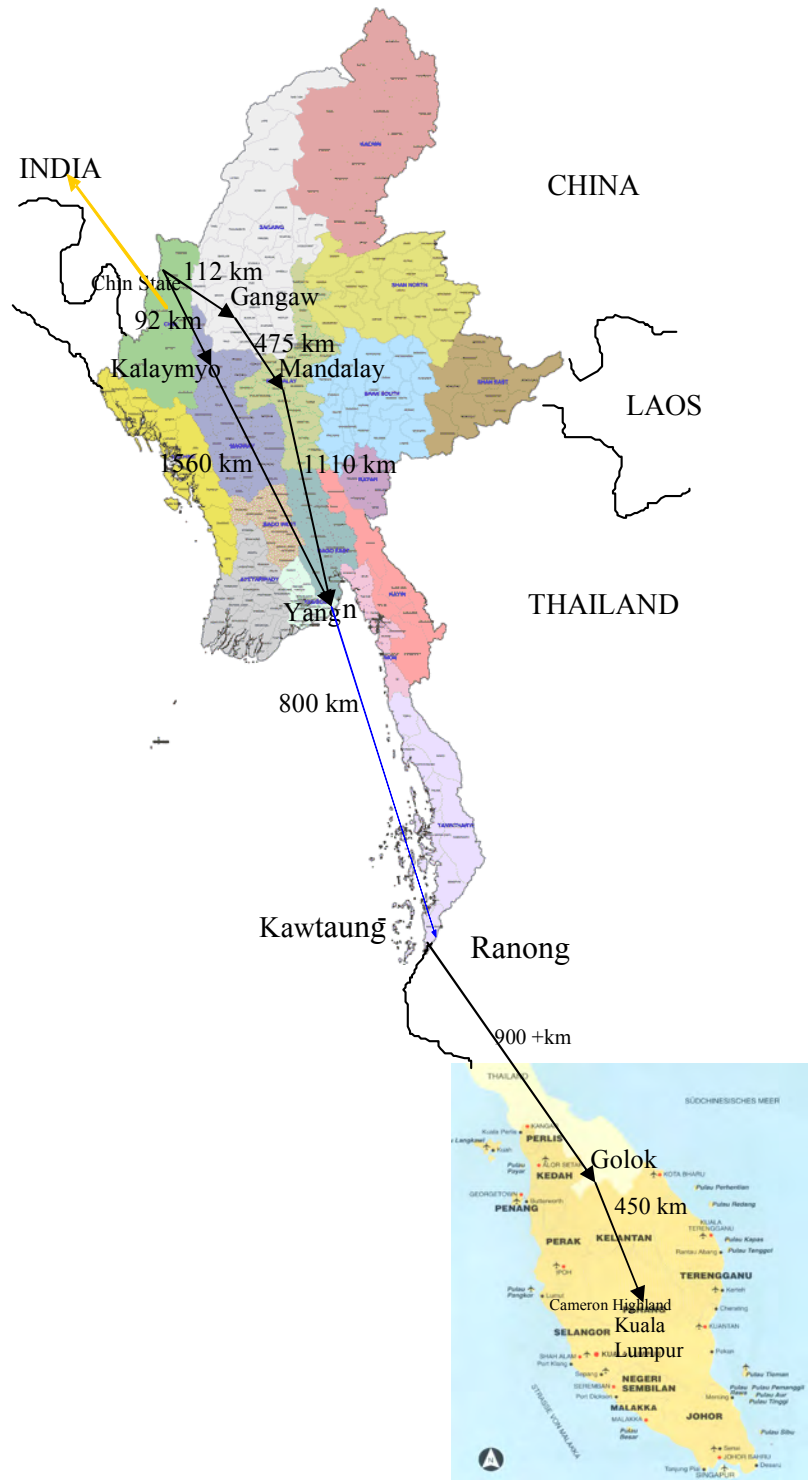


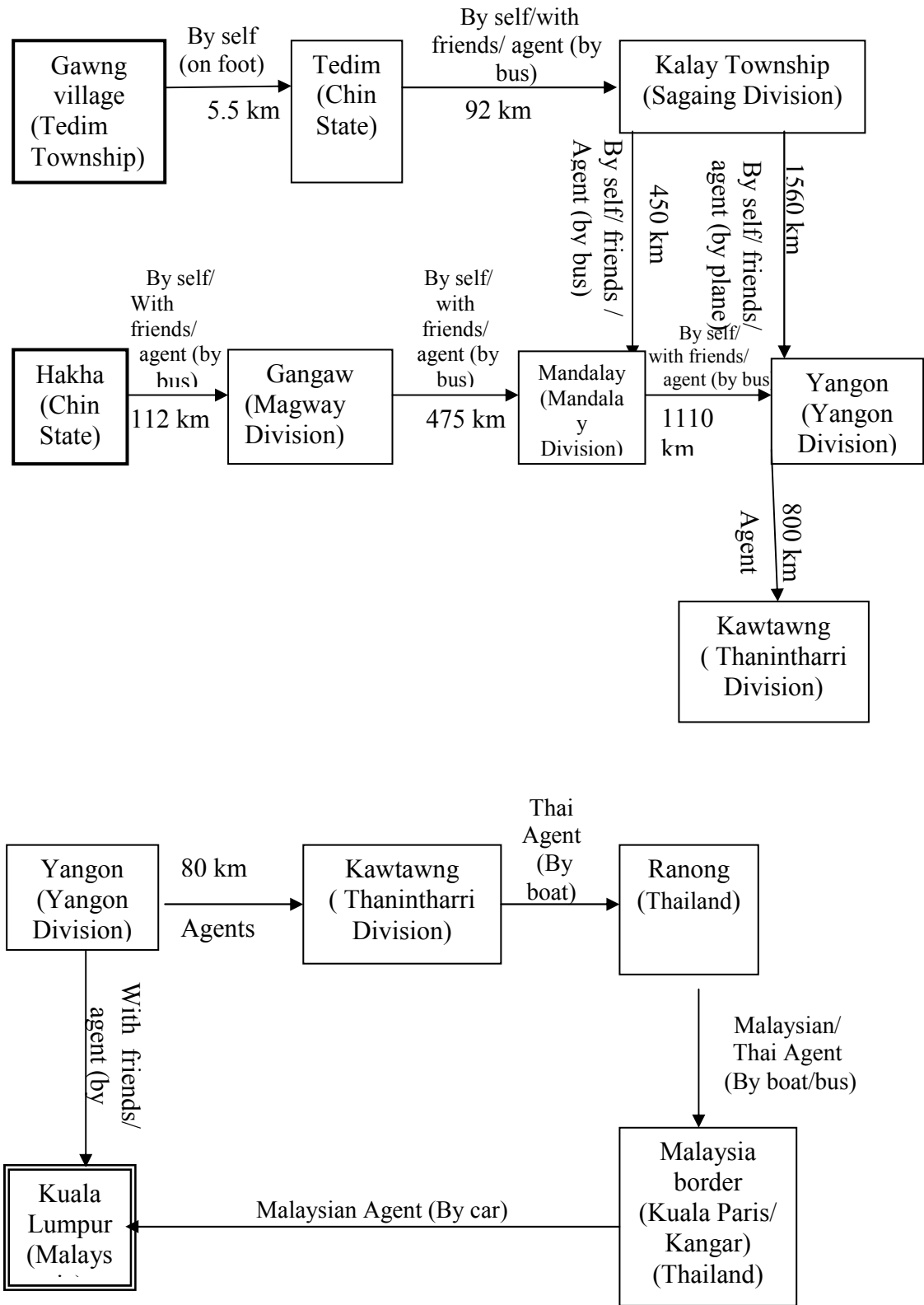
Figure 5 is an example from two different places from Chin State where the Chin migrants start their migration route.

A man who is from Gawng village in Tedim Township told about his travel route to Malaysia from his village.

I walked about 5.5 km to Tedim first. From Tedim to Kalay in Sagaing division I took bus about 92 km. From Kalay, I had two choices to proceed on his journey: to fly straight to Yangon by air and to go to Mandalay first and from Mandalay to Yangon by bus. I come down to Yangon with friends. The route from Yangon to Kawtaung, the Myanmar-Thailand border, the route is similar and mostly, the Myanmar agents have brought us together till the border. I come to Malaysia by land. From Kawtawng to Ranong in Thailand, the Thai agents have brought us by boats. From Ranong to Malaysia-Thai border (Kuala Paris/ Kangar), we took van and sometimes we have cross deep jungle and walked on foot. From Kuala Paris/Kangar, the Malaysian agents and immigration officers have brought us to Kuala Lumpur by car. (Thangpi, June 19, 2009)

I am from Hakha township and I took bus to Gangaw (112 km), and from Gangaw to Mandalay(475 km), from Mandalay to Yangon (1110 km) by bus. I have waiting to get passport and tourist visa about two months in Yangon and fled directly to Kuala Lumpur with other three men, and our agent. (Pa Khar, June 19, 2009).

Figure 5 Graph of Chin people’s migration pattern to Malaysia



3.1.1.2 Push Factors

3.1.1.2.1 Economic Situation in Chin State

Relative economic deprivation in Chin State is one of the main push factors behind Chin people's migration. Human Rights Watch (2008) notes that according to a United Nations Development Program household survey, tierce of Burma population survives below the poverty line. In Chin State, approximately 70 percent of the population lives below the poverty line and 40 percent are without sufficient food sources (UN, 2007).

A mountainous region with few transportation links, Chin State is sparsely populated and remains one of the least developed areas of Burma. The state has only four main vehicle-accessible roads covering a total of 1,700 kilometers. The lack of communications, natural resources, lack of economic opportunities, and persistent human rights violations create and aggravate poverty in Chin State (Human Rights Watch, 2009). About 85 percent of the population in Chin State still practices shifting cultivation, so soil erosion is common. Besides farming, there are no job opportunities available for Chin people in Chin State. Many Chin young people have been working in other big cities like Yangon and Mandalay in sectors other than farming, but these jobs do not pay well enough to allow the workers to support their families back home. Because of the bad transportation system, the cost of living is nearly twice as high as in the big cities in Burma. The following cases are from one college degree holder and one uneducated Chin migrant in Malaysia:

Case 1:

I have a B.A. degree from Kalay College. The only job I could get in Chin State was teaching in school, which paid less than 50,000 kyats per month. So, I came down to Yangon and worked in an import-export company for two years, earning around 80,000 kyats per month, but it was still not enough to support my family, so I chose to come to Malaysia with

the help of agents in Yangon. I borrowed 600,000 kyats from my friend and promised to return 1,000,000 to him within two years. So, of my income here, half is for my debt and half is to support my family. (Hmunghmung, June 21, 09)

Case 2:

I was a farmer when I was in my village. Our income could never meet our expenditures, as prices rose every year. At first, we considered migrating to another city outside Chin State, but as I had no skill to make a living, we couldn't. Coming to Malaysia with the help of my uncle, at least, I can earn a good income through hard labor which requires no skill. My mother and wife are still doing farm work for a living, and the money I remit to them is for our kids' schooling and some other expenditures like health. (Pa Vung, June 21, 2009)

Chin Christians cannot obtain better-paying, high-ranking government jobs, and for those who are lucky enough to get government jobs, they are given less-desirable postings and passed over for promotions. The State Peace and Development Council strictly limited humanitarian aid to Chin State with its 1996 "Guidelines for UN Agencies, International Organizations, and INGOs/ NGOs," which enforced complicated official regulations even on organizations operating development projects in Chin State. Once a government officer, Mr. Khar abandoned his job and now works in Malaysia. He said:

I worked at the Agricultural Bank in Hakha for thirteen years in the same position and never got a higher posting because I am a Christian. My fellow staff in the same office, who is a Buddhist and only has six years of experience, got a higher posting. I got so annoyed that I left my job. In my village, in 2008, blooming bamboo caused the number of rats to multiply, and they ate all of our crops, leaving us with nothing to eat. GRET, World

Food Organization and one local NGO wanted to support our village, but the government prohibited direct support to victims of famine in Chin state. I came to Malaysia with a tourist visa using my savings, and now remain here irregularly, since I know I can earn a higher income here doing the same job as I have done in my state. (Pa Khar, June 20, 2009)

Food insecurity, being forced into labor as a porter for long time, extortion and heavy taxation by the Village Peace and Development Council, low income, and lack of job opportunities are the very basic push factors motivating migration to Malaysia. The prospect of higher income and better job opportunities outside the state are the fundamental pull factors behind migration out of Chin State. Once merchant in Falam, Chin State, Mr. Luai said:

I was a merchant supporting my 96 year old mother and three children, who were younger than six. The military collected a tax from each shop to construct a road from downtown to their army camp. I could afford it, so I paid them the money. After three months, the soldiers come to our shops and called all the men from the neighboring shops to serve as porters for them up to the Indian border. I had to close my shop for three weeks. My mom and my children survived on the little savings I left for them. I cannot revive my business again after coming back from serving as a porter. Six months later, my mother passed away. For the sake of my children's future, I left them with their aunt and came to Malaysia illegally. I am now working in agriculture in the Cameron Highland area. (Pa Luai, June 23, 2009)

According to the research, not all the irregular Chin migrants were farmers. Some are former government workers and many of them are new, young graduates who cannot find a good job and income in Burma. Some are merchants who lost their business because of the high taxation by the authorities and closed their business because of having to serve for a long period as a forced labor porter.

3.1.1. 2.2 Political Situation in Chin State

A nationwide protest, known as the 8-8-88 uprising, broke out against the Burmese military junta on August 8, 1988. The military junta engaged in a brutal crackdown against thousands of students and protesters. The State Law and Order Restoration Council held an election in 1990, in which the National League for Democracy won 392 out of 485 seats. SLORC nullified the results, claiming it wanted to draft a constitution, and hunted down and imprisoned hundreds of political opponents. Since 1987, Chin nationalists took the decision to join an armed coalition against Burma's central government to fight for greater autonomy for the various ethnic minority groups represented by the coalition. In 1988, many young Chin fled to the Burma-India border due to pro-democracy unrest in Burma, and some joined the Chin National Front. CNF is dedicated to securing the self-determination of the Chin people and to establish a federal Union of Burma based on democracy and freedom. Ms. Thluai testified that:

During the 1988 uprising, the brother was one of the student leaders in our town. In 1989, he fled to the Indian border and joined CNF. Since that time, the township authorities and soldiers have repeatedly come to my house and interrogated us about my brother and the CNF. They call my father to report to them all the time. My brother dares not visit us at our home, so, we have to meet each other on our farm. One day I met my brother on our farm, and someone reported it to the soldiers. Before the soldiers arrived, my brother's friends noticed it, and I fled along with them. I heard that they detained my father for six months because of me. From Kalay to Yangon, I just ran away to Malaysia with the help of my relatives and agent. (Thuai, June 22, 2009).

Before 1988, there were no military battalions in Chin State. Today, in 2009, there are 14 battalions with an average of 400 to 500 soldiers each and 50 army camps (HRW, 2009). Since the early 1990s, the military groups have been drafting forced labor for infrastructure projects such as road construction, and for military camp

construction. Extrajudicial killings, arbitrary arrest, detention, and torture have become common in the state since the military battalions established themselves there. Those suspected of having contact with the ethnic opposition Chin National Front are targeted by the soldiers for extrajudicial killings. The military government has exploited ethnic discrimination and religious discrimination against the Chin Christian population as political tool.

3.1.1.2.2.1 Forced Labor in Chin State

Being a member of the International Labor Organization (1948) and having ratified the 1930 Forced Labor Convention (No.29) (1955) in May 1999, the military power holders in Burma issued Legislative Order No. 1/99 on the Eradication of Forced Labor to make forced labor illegal. In Chin State, people from rural areas are commonly forced to work for prolonged periods of time. Because they are farmers and depend on their harvests for a living, many of them are badly affected by this kind of forced labor. The most common type of forced labor in rural villages is being pressed into service as a porter, which involves having to carry equipment, rations, supplies, weapons, and other items for soldiers patrolling from one village to another. Passing by villages in rural area, soldiers take whatever they want, regardless of whether the owner grants permission. The duration of forced labor sometimes lasts for a month, so the people have no time to work for their own living. In addition, the children left behind have to suffer many problems. A Chin man in Kuala Lumpur, Malaysia, who fled Burma in 1999 said:

We are farmers. We need to work on our farm the whole year for food. The soldiers forced us to carry their loads for about a month without getting paid, so that we were unable to cultivate our land at the right time. Consequently, we had nothing to eat. We are like their slaves. No one can survive there because of the military's imposition of forced labor. (Thawng Cin, June 27, 2009).

Besides forced porters, other common kinds of forced labor include labor to construct military-based infrastructure development projects such as road construction without pay, forced labor for the construction of army camps and the fences around them, forced labor to work in the army's agricultural firm, forced labor to build duty posts, and forced labor to transport rations and equipment by local truck without pay and without the provision of petrol. Many other abuses are related to religion.

3.1.1.2.2 Religious Repression in Chin State

Chin state is the only state in Burma where a majority of the population is Christian. It is estimated that about 90 percent of Chins in Chin state are Christians. Because American Baptist Missionaries arrived in present day Chin State as early as 1899, most Chin people have converted to Christianity. Today, the Christian Chins are regularly persecuted by Burma's military government. Its armed forces destroy churches, remove crosses, convert Christians to Buddhism by force, and use forced labor to construct pagodas, which they call "volunteer work for the state/" The military calls Chin Christians to do labour on Sunday and other religious holidays as a way to disrupt religious activities.

It was a Sunday morning in 1999. On the way to church, three soldiers stopped me and pulled me back to work on a construction site where they pulled down a cross and erected a pagoda. They called people to work on the construction site at the very same time of worship service on Sunday. These pagodas are built in areas where there are no Buddhists, except the soldiers, with money and labor extorted from Chin Christians. (Ngun, June 25, 2009).

The military government severely restricts renovation and construction of church buildings, and limits Christian conferences, celebrations and events. Enforcing the 1965 Printers and Publishers Registration Law and the 1965 Censor Law, the military junta has made it illegal to print and import Chin-language Bibles. In the name of the "Hill Region Buddhist Mission," under the protection of the military,

monks are dispatched to many Chin villages where there are no Buddhists. The poor people from rural areas in Chin State have been persuaded by the military to convert to Buddhism in many different ways. Those who become a Buddhist are free from forced labor and extortion of money. They are also given rice and other materials, and their children are provided education by the military. One Chin man in Malaysia said:

Work in Malaysia is not stable. I cannot remit money back home regularly. I am told that my wife sent the children to a Buddhist school. For education it is good. But, the monk told my wife that if they want to get an education, they should all convert to Buddhism. My family did so, not because of their belief, but for food and education. ” (Bawi Thang, June 29, 2009).

The present military government has been exercising the so-called unwritten high 3 B policy: Burman - *A Myo (Race)*, Burmese- *Batha (language)*, Buddhism- *Thaathana (Religion)* to eliminate Christianity and the literature, culture and traditions of Chin people in order to assimilate them into a homogeneous Burman culture. Christianity has become almost the second culture of the Chin people. According to religious and cultural practices, congregation and sharing take on such important roles that now the military is not allowing them. Chin people are not represented among the ranks of the administration under the military. Christian pastors and ministries are highly respected among Chin Christians, and they have taken on vital leadership roles not only in religious activities, but also on social occasions such as death, marriage, etc. Their significant position among the people has been noticed, and they have become the first targets in the military regime's campaign against the Chin and Christianity.

3.1.1.2.2. 3 Extrajudicial Killings, Arbitrary Arrest, Detention, and Torture in Chin State

Under article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR), “Every

human being has the inherent right to life. No one shall be arbitrarily deprived of his life.”² Merely being suspected of having contact with armed ethnic groups like the Chin National Front or its armed branch, the Chin National Army, can result in Chin people being killed by the military. Among many other cases, between 2005 and 2007, 16 extrajudicial killings were documented by the Chin Human Rights Organization (CHRO) (Human Right Watch, 2009). Those who failed militia training, could not supply food to soldiers patrolling through the village, or information to the army about the movements of armed ethnic groups in their area are subject to detention, interrogation, beatings and tortured by the SPDC soldiers. It is a duty to inform the local authorities about guests who stay overnight in one’s house. Those who neglect to do so are arrested and detained for at least one week, and some have been accused of allowing members of an armed ethnic group to stay at their home.

Case 1:

As village headman, the soldiers asked me to arrange everything—to get people to serve as porters and supply food. They also pressured us to provide information about the armed ethnic group. On the other hand, the armed ethnic group came to the village to gather donations from villagers and we had to pay them, too. As the military got the information, six other village council members and I were imprisoned. One of the men passed away in jail, as the soldiers hit us with the butts of their guns and suffocated us with a plastic bag. After my family paid them a bribe, the soldiers released us. If we report the CNF to the military, we will be in big trouble. On the other hand, if we do not inform on them, the soldiers would kill us. ” (Pa Ling, June 24, 2009).

² Universal Declaration of Human Rights, adopted December 10, 1948, art.3; Covenant on Civil and Political Rights, adopted December 16, 1966 (entered into force March 23, 1976/art.6.

Case 2:

After finishing my nursing studies, I used to give medicine to the people in my hometown. One day, a CNA member was brought to my house. He had malaria and I gave him quinine intravenously. Burmese soldiers learned about it and came to the village to arrest me. (Nu Sung, June 26, 2009).

Case 3:

Once, our relative, who had been working in Mizoram, India, visited us and stayed in our house for two nights. Actually, we informed the authorities about it. On the third day, some soldiers appeared at our house and accused him of being a political activist and arrested me instead of my very old father for not informing them about the guest. I was beaten so badly that until now, I cannot hear out of my left ear. After I got out of prison nine month later, I had to inform the authorities about my activities every week. It's impossible to go back home now. Since I ran away from them, they will persecute me severely if I go back home. Malaysia has become like my second home now. (Pa Tluang, June 20, 2009).

3.1.1.2.3 Social Situation in Chin State

Apart from the economic and political situation, some people migrated because of their social situation. Specifically, they had sources of information and were persuaded to migrate by a travel agency or friends and relatives in the receiving country, and also because of the availability of higher income and better jobs. To some extent, because educational achievement in Burma does not guarantee a good job, many youth have tagged along with their friends, who have already been in Malaysia, where they can earn income to support their family. People followed their spouses, children or parents, and some young people have just taken the risk to go abroad so that they might have a higher living standard. At least one to three members from each family migrate abroad, especially to Malaysia, to find a better living

situation. A young Chin girl who is a graduate and is now working in a shopping mall in Times Square in Kuala Lumpur said:

Actually, I have a B.A. degree from Dagon University in Yangon. I got a teaching job in one of the middle schools in Hakha, Chin State, but my salary was not even enough for food. Every month, my uneducated brother in Malaysia could remit five times more money than my monthly salary. He told me that I could get a higher salary than him in Kuala Lumpur. So I came to Malaysia with the support of my brother, and now I can support my family in Chin State. I have a UNHCR card to be resettled to a third country, but I am still able to work with the status of refugee here. (Nu Tling, June 23, 2009).

Other than those mentioned above, there are still other social factors that bring Chin people to Malaysia. According to the responses of the interviewees, some young men come to Malaysia with the purpose of collecting money to attend Bible school in India; some businessmen run away from Chin State because they cannot pay back their debts; some came to Malaysia because they have earned a bad names in their village because of rape or unwanted pregnancy; some are expelled by their parents; and some women even come to Malaysia to meet their disloyal husbands.

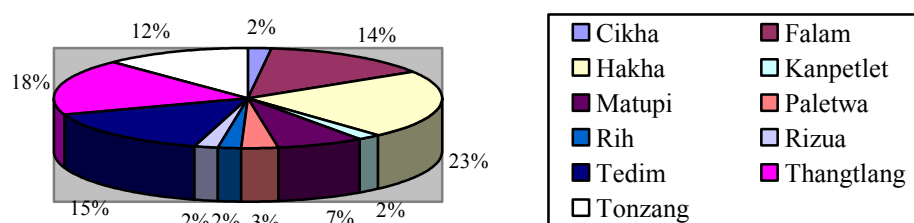
3.2 Composition of Chin Irregular Migrants

3.2.1 Ethnicity

This study only focuses on the case of Chin people from Burma. The Chin are only one of eight major national ethnic races in Burma, including the Bamar (Burmans or Burmese), Kachin, Kayah, Kayin (Karen), Mon, Rakhine, Shan, and Chin. Chin society in Burma consisted of a segmented tribal society comprised of six primary groups, which can be sub-categorized into 63 sub-tribes, speaking at least 20 mutually unintelligible dialects (Sakhong, 2003)(Figure 5). Burma has 153 ethnic

groups and sub-groups.³ Burma has a population of 50.2 million, with as many as 135 groups speaking over one hundred languages and dialects (UNHD Report, 2006). The participants in this study included people from all 12 townships of Chin State: Cikha, Falam, Hakha, Kanpetlet, Matupi, Mindat, Paletwa, Rih, Rizua, Tedim, Thantlang, and Tonzang (Figure 3). People from Falam, Hakha, Thangtlang, Matupi, Rih, and Rezua share the Lai language in common, and people from Cikha, Tedim and Tonzang share the Zomi language in common. Other than these two major languages, Chin people use Burmese language to communicate.

Figure 6 Percentages of Respondents



3.2.2 Age, Gender, and Marital Status

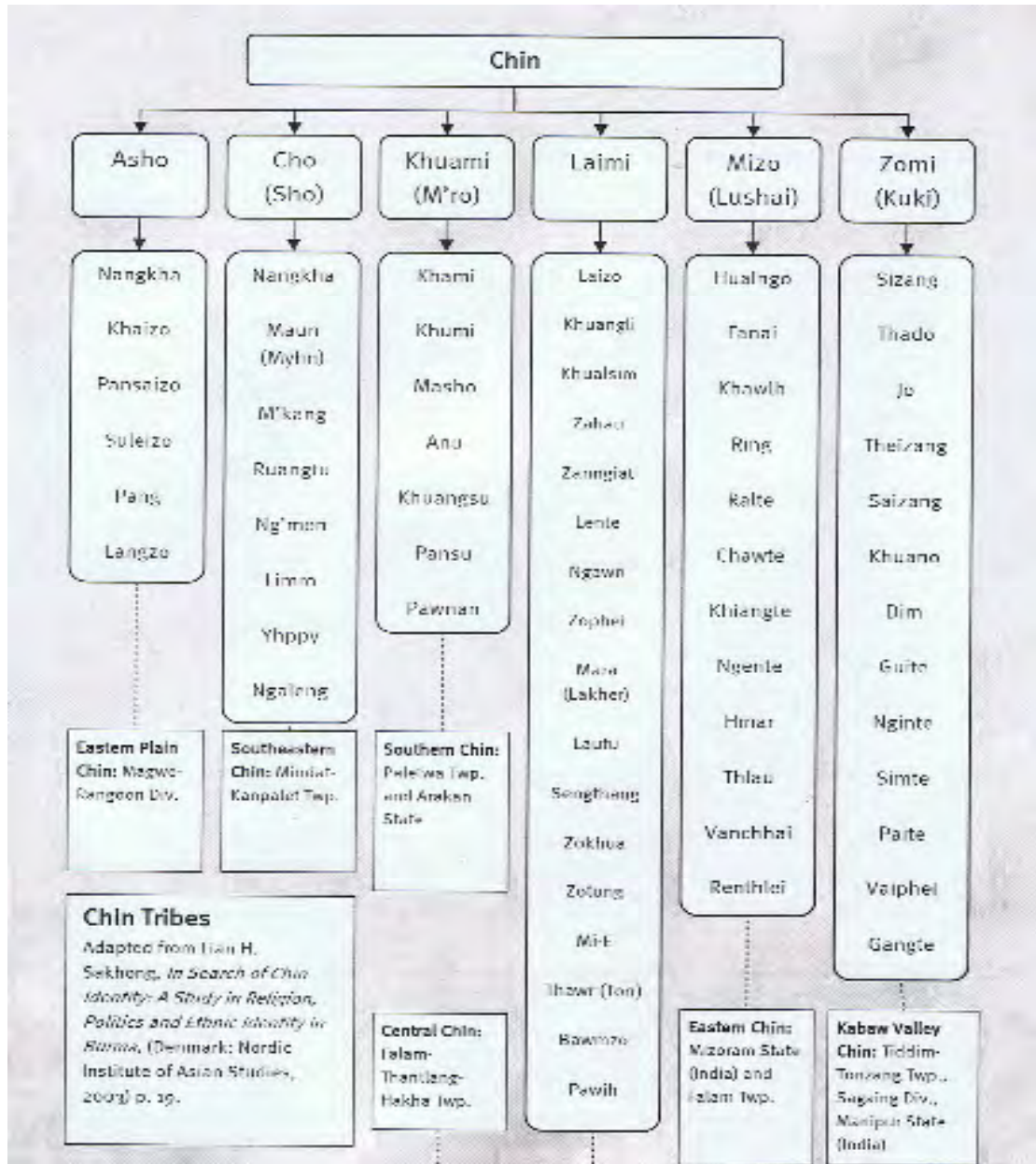
According to the survey results, over half of the migrants are in their prime working age, between 18 – 50 years old, and not much documented difference was found in gender distribution. As many migrants bring their families along with them, approximately 0.1 percent of the irregular migrant population is made up of children under 18. More than 50 percent of the population is male and the rest is female. The survey reveals that over one fourth of the population is married, and the most common family size in this survey is 4 to 7 members. Elderly people can be found in many families, as the whole family migrates to Malaysia and the elderly cannot be left alone.

³ <http://www.myanmars.net/people/ethnic.groups.htm>

Figure 7 Respondents' Age, Gender and Marital Status

Age	Gender		Marital Status	
	Male	Female	Married	Unmarried
<18	2	3	-	5
18 to 35	77	60	110	27
35 to 50	41	45	68	18
>50	17	5	18	4
Total	137	113	196	54

Figure 8 Tribes of Chin People

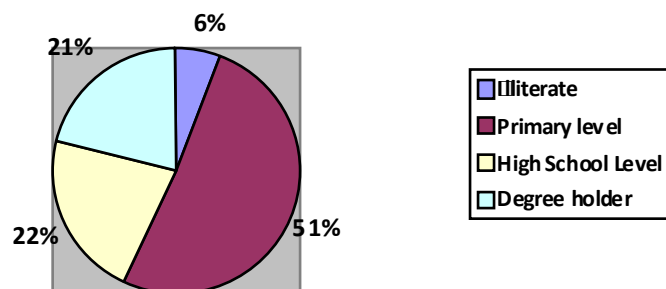


Source: Lian H. Sakhong (2003) pg. 19

3.2.3 Educational Status

According to the migrants' responses, more than 50 percent of the whole Chin migrant population has at least primary level education from Burma. Most of the migrant children who stay in Kuala Lumpur attend refugee schools run by the Chin Students Organization, ACR, and other community based organizations. Their education at the primary level is based on a curriculum designed by the UNHCR. It is estimated that approximately 10% of the migrants have earned degrees from government universities or theological schools in Burma. The illiterates make up approximately 30%, and tend to be those who grew up in rural areas of Chin State.

Figure 9 Respondents' Educational Status



3.2.4 Religion

Being the only Christian state in Burma, most Chin migrants in Malaysia are Christians. Some migrants from Paletwa and Mindat are Buddhists. Chin migrants in Malaysia have dialect and religious based fellowships and worship together on the weekends. Each community-based fellowship deals with its members' welfare in regard to health, marriage, social activities, funerals, etc.

3.3 Conclusion

It is observed through this study that while Chin State directly borders India and Bangladesh, most of the people have migrated to Malaysia in order to avoid the risk of deportation directly back to Burma. If they are deported, they are sent to the

Malaysian-Thai border, but can escape by bribing immigration officers to bring them back to Malaysia. It is found that push factors are more important than pull factors in Chin people's migration to Malaysia. One of the main pull factors, the agreement between the two governments, is no longer functional. Nevertheless, there are still connections between job agencies in Malaysia and Burma, but the cost of using their services is too high for Chin people. The existence of better economic conditions, guaranteeing higher incomes that enable people to support their families left behind in Burma, is a very key general pull factor. On the other hand, discrimination against the Chin Christian population in a way that restricts humanitarian aid, strictly limits economic opportunities, and ensures the lack of infrastructure development projects in Chin State is a serious economic push factor. At the same time, many Chin people fled to Malaysia to escape from rampant human rights abuses, including forced labor, religious repression, detention, torture, arbitrary arrest and even extrajudicial killing by the military. Even some people who are able to live well in Chin State come to Malaysia illegally so that they can apply for refugee status and be resettled in a third country. Social considerations, such as the desire to escape punishment and guilt, or be reunited with family members, are among the most common factors motivating Chin people to migrate.

The following stories are different stories from different people in different cases.

Story one: John, 34 years, has been living in Malaysia more than six years now.

I grew up in Chin state in the west of Myanmar. When I was about 15, we moved to Yangon, the capital of Myanmar. I went to college there and started studying for a degree in psychology, but after two years the authorities closed the university down because of student demonstrations. The university opened again two years later and I considered going back, but in the end decided that it wasn't actually worth it. I could see that many of my friends from the Chin ethnic group simply found it impossible to get a job, even with a degree. The problems started in 2004, when I took a group

of kids on a camping trip to the countryside. One of the kids was run over by a military motorbike. The law says that if a pedestrian is hit by a vehicle, the driver has to pay the medical costs. When the military refused to pay, I wrote a letter to complain that nobody was taking responsibility. They almost arrested me. Whilst I was out, the military raided the building and arrested the Church Pastor and four others. Somebody managed to call me and tell me what had happened. They told me to hide, because the military knew that I was involved and had my address. I went to the lorry depot, found someone who was driving to the south of Myanmar and paid him to let me hide in the back. It was terrible. The journey lasted four days. I took nothing with me except the clothes I was wearing. I couldn't even take an ID card, in case I got caught.

We arrived at the Thai border in the middle of the night. I found an "agent" people who make a lot of money by smuggling refugees across borders and he agreed that he would help me at a price of 700 US dollars. I didn't have enough money with me, so I called my parents and they sent the money through the bank.

There was a group of about 7 of us trying to get into Malaysia – all from Myanmar. We walked for four hours through the jungle to cross the border, and were then taken by boat to a place where we waited for about four days. Finally, we were put in a car and driven straight to Kuala Lumpur. They dropped me off here, in the centre of town, very close to a community centre that has been set up by a group of Chin refugees.

I found work at a restaurant, earning 3 Ringgit an hour. I worked for about 10 hours a day, most days a week, so made about 700 Ringgit a month. That's less than half what a Malaysian would earn for doing the same job.

After that I started teaching Chin refugee kids, who are not allowed to go to school in Malaysia. Many of them were just sitting inside all day doing nothing, so we rented a flat and set up a small school. I taught Maths,

English and the Chin language. We had about 60 kids back then in 2005 – now there are about 300!

Now I spend most of my time working for the Chin Refugee Committee as a volunteer community worker. Many people are not registered with UNHCR – the UN organization responsible for ensuring the welfare of refugees. The Malaysian government has put a limit on the number of refugees that UNHCR are allowed to register as refugees, so registration has been extremely difficult since the beginning of 2006.

This puts many people in a dangerous situation. Many don't go to the public hospitals because they don't have any documents and are scared of being reported to the police. In emergency situations, I have to act as a go-between to get the paperwork for them. If someone needs urgent medical care, we have to get a letter from one of the doctors working for a charity such as MSF or ACTS, take that to UNHCR, and get a letter from them confirming that the patient is a "person of concern".

The other very big worry is that people without documents – and sometimes even people who do have documents – can get arrested and put in detention centers and even prison. That's what happened to me last October.

At 2 o'clock in the morning, when we were all asleep, there was a bang on the door. We were being raided by the police. They made us all go outside into the car park, where they had gathered together all the foreign people found during a number of raids around the neighborhood. Then they checked if we had documents – about 40 out of the 400 people there didn't.

They put those of us without documents into a vehicle and took us to a detention centre about three hours outside Kuala Lumpur. We were only allowed to take our shirts and trousers inside, and didn't have contact with anyone for two weeks.

There were about 400 people sleeping on the floor of a hall. We didn't have mats and it was extremely crowded. There were only four toilets and four showers for that number of people. For me, the worst thing was not being allowed to have a toothbrush for 14 days! We were given terrible food: just rice with some old fish and no vegetables.

Eventually we were taken before a judge, but there was no interpreter from Malay to Burmese. I said that we could just speak in English, but the judge refused. We were given a court date for a month's time, and told we would have to go to a criminal prison in the meantime.

The prison was a whole different experience – there was a very different type of person in there compared to the detention centre, including drug addicts and murderers.

There were 10 people in each room and we had to sleep on the floor. My friend got very sick, but when we asked the guards to see a doctor they at first refused. We spent a whole night on the floor, with him very ill with a high fever. Later he did see a doctor and was given treatment for malaria.

When we went to court a month later I pled guilty. UNHCR told me not to, but I just couldn't say in the jail any longer. My health had deteriorated – I had a very bad cough and a numb leg. I couldn't sleep. I knew that if I pled guilty they would deport me, so at least I would get out. If I pled not guilty, I might be in there for a long time.

On 29 December, I was deported to the Thai border along with about 80 other people, 15 of them Chins. The immigration officers just dropped us in the jungle.

There were human trafficking agents already waiting there. I told everyone to stick close together because I have heard stories about what these agents do to people who have no money. Men can be sold as slaves into the fishing trade and women can be sexually molested.

The agents asked us who could pay to be taken back into Malaysia. I called the Chin Refugee Committee on the phone and they agreed to pay for seven of us to be brought back to Kuala Lumpur, at the cost of 1,500 Ringgit each. We were put in a car and driven back to exactly the same place where I had arrived almost two years before. (John, June 2009)

Story 2: Thluai, 27 years, has working in Malaysia illegally more than 5 years and now get resettlement to Australia.

Life is not fare at all. We have no security of life both in Burma and Malaysia. If we have sufficient sources to make living in our own home who will come to Malaysia? No way. My mom was sick of TB since I was in grade 8. After my father passed away in 2003, I have to carry all the loads of my family as eldest child. I have to support my three younger siblings and also my ailing mom. At first, I worked in a road construction near my village. One evening, the leader of our worksite, actually he is a soldier, tried to rape me while I was taking a shower in the brook near our worksite. I have filed about the case to police office in my village. The soldiers in my village forced me to withdraw the case, but I denied them. From that day, they had been trying to disturb me in all way and my life was not safe anymore. In brief, with the help of my best friend, I managed to come to Malaysia. I came to Kuala Lumpur with free visa for three moths. Since my visa was expired, I am illegal migrants like others. At first, I went along with my friend to Cameron Highland and worked there about one year in plantation. For these two years, I have never got arrest and remitted enough money to support my family at home. In the year 2005, as the UNHCR granted refugee status to Chin people, along with my other two friends, we moved to Kuala Lumpur. We have worked in different place in Kuala Lumpur. I was working in a Chinese restaurant. The manager steadily increased our workload day by day but we dare not complaint as we desperately needed a job. One day while taking box of bottled beverages to the store room, the manager followed me and tried sexual assault to me. I

fled the restaurant and never got back payment for my work. I dare not file this case to the police as I stay here illegally. I was jobless about six months and depended on my friends. As living as a group, the men got drunk often, and one time one of our community members even tried to assault my friend sexually that her boyfriend nearly killed that drunken man. In January, 2006, while we came back from worship service, the police arrested us even though we have shown them our UNHCR cards. We were deported to the border area. Friends in Kuala Lumpur send 1800 Ringgit for each person, but it was a bit late that one of our beautiful friend was nearly raped by the agents in Golok. We could do nothing, but crying all the time. I got married in September 2006. By the help of my husband, we called my younger brother to Malaysia so that we can support our family more. In February 2008, the RELA raid into the apartment we live and arrested me with my three month-old baby. You might not be able to imagine how is the mother's feeling for her child to be with in a detention center where there is no bed and sufficient food. After three months in KLIA detention center, the UNHCR rescued us. My dream is just to stay in a secure place. I don't want to get rich but want to make my child live in a secure and peaceful place. By the blessing of God, we will fly to Australia in the coming July, 2009 by the UNHCR resettlement program. I wish Australia is a safe place for us.

(Ms Thluai, June 30, 2009)

Story 3: Pa Luai, 41 years old man, has been working in Malaysia more than six years and now resettled to USA.

I am a father of three. I came to Kuala Lumpur with my eldest son in the year 2003. Just two years later, my wife got married with another man. My two children are with their grandma now. I have been moving around more than ten work sites now. At first, we were working in a car-workshop that our boss denied to pay us our wages for three months and reported us to police. Then, we moved to Genting highland construction for nearly one year and a half. During this time, we collected some money to send my daughter to go

to college in Kalaymyo. My son was deported to my border area more than three times already, but each time, I can manage for the bribery. For me, I was deported there once. In 2005, while working near Lok yew area in Kuala Lumpur, I got arrested and kept in detention center for more than three month, but by the help of UNHCR, I was released and also get the UNHCR card. My son managed to escape at that time. Once, my son remitted some money to his siblings, but the agents cheated us and send only half amount of the money. It was about 2000 Ringgit. When we went again to the agent, they were not there anymore. We can't get any news of them until now. They did the same thing to many people.

I am one of the leaders in our community fellowship. We collect 30 Ringgits from our community members that we have assisted each other in case of health, arrest, and other social problems. For most of the migrants, they cannot afford for their medical fee when they are sick, so, to some amount of money, they are helped from the community. We have been also helping people who are deported to border area to be sent back to Kuala Lumpur. 12 of our community members already passed away in Malaysia because of sickness and accidents. My son was among them. He was passed away because of accident in work in 2007. Their boss reported about them as he didn't want to pay their salary. The immigration officers raid their work place. My son jumped down from the second floor of the building but, crushes his head with the concrete floor and passed away there. There was no compensation for him as he is illegal workers. I don't know why there is no penalty for the boss who hired all these illegal migrants.

I am now working in restaurant near Jalan Imbi area. As I can speak both Malayu and Chinese, my boss is kind to me. I will be resettled to third country with my younger son soon. As he is only 12 years old, I have attached his name when I took interview in UNHCR and he will be able to come along with me. But for my daughter, she can't join us. I am not happy totally as my wife betrayed me, and my elder son passed away in Kuala

Lumpur, and now we have to separate again with my only daughter. I wish I have a happy family life together. (Pa Luai, September 14, 2009).

According to the above stories, difficult to make sufficient living in Chin State, rampant human rights abuse, racial and religious discrimination are the main factors that lead the people to run outside from Chin state and migrate to Malaysia. Other than economic reason, in some cases, the migration of some Chin people is the causes of forced factors that they need to escape away from the impairment that will come upon them. For some people, they have been participating in their concern community activities, while some other people are not taking sides. In some vital cases, they irregular Chin migrant people have noticed the exploitation that come upon their fellow people, but they can do nothing as they also have been struggling out from the dilemma. Especially, in case of irregular migrant women in the work place, there is no other choice than skip away from the job and left the entire wage they have to get. For some irregular migrants, they come along with their children who are old enough to work that it help them to remit more money to their family in Chin state. It can be found out that family problems like disloyalty of the wife or husband after they left Chin State and remarried in Malaysia also is common. In brief, in the phenomenon of Chin people migration, not only eco-political problems but also social problems among themselves in the home state and Malaysia are mixed.

CHAPTER IV

LIVING CONDITIONS AND SURVIVAL STRATEGIES OF IRREGULAR CHIN MIGRANTS IN MALAYSIA

This chapter highlights the general living conditions and survival strategies of irregular Chin migrants and Malaysians' response to them.

4.1 Occupation

Once the Chin people are in Malaysia, their relatives and friends assist them to find a job. Those who come by plane with a tourist visa are not allowed to work. Along with other irregular migrants who come by land, they have to work illegally. For three months, they can go around Malaysia, and it is easier to find a job than other irregular migrants who cannot move freely. Under the government's labor law, Malaysian companies can rent migrant workers with work permits for two to four years. But because of the long bureaucratic procedure and strict regulations, many people enter Malaysia illegally.

In order to survive themselves or keep their families alive, Chin irregular migrants are relegated to the informal work sector. Normally, Chin laborers can be found in jobs in factory and industrial settings, construction sites, agricultural activities, shopping malls and restaurants. Jobs in the informal work sector are often dangerous, low-paying, and temporary. Many Chin irregular women migrants in Malaysia are able to find jobs in restaurants, shopping malls and services. Many of them work for international non-governmental organizations engaged with migrants and refugees in Malaysia. A young man who works at the ACTS clinic in Kuala Lumpur states:

As I can speak English and have some general knowledge about medicine, I have applied for a volunteer job in ACTS clinic. My daily needs

are met by working here and I can send money back home. I am just waiting to resettle in a third country. (Pa Thawng, June 24, 2009).

Many of those who work in restaurants have to work from around 10 a.m. until 1 to 2 a.m. without stopping. Those who work in construction and hard labor work at least eight to ten hours per day, and even longer when the projects so require. On the other hand, as the supply of labor is much higher than the demand in Malaysia, job scarcity is very common. Because of the oversupply of labor, the pay rate has also become low. However, the migrants have to work in whatever job is available just to survive. As undocumented workers, they have to compete with documented workers for existing jobs. The companies prefer undocumented workers who can speak *Malayu* and have skills in specific types of work. Besides, employers prefer undocumented workers, because they are not required to make contributions on their behalf to the Employee Provident Fund or the social security fund. One irregular migrant in Malaysia said:

First, I came to Malaysia with a work permit. As I cannot speak their language and the salary was so low, I secretly run away from the job, leaving my passport in the hands of the construction company owner. I have been working in an automobile workshop with my friends who came to Malaysia before me. Their get paid more than I do as they can speak Malayu. (Pa Aung, June 29, 2009).

The work conditions are mostly exploitative in terms of working hours and wages, for the employers know fully well that their employees cannot file complaints due to their immigration status. They are subject to long work days in hazardous conditions without mechanisms to enforce promised payments. Chin irregular migrants are constantly at risk of workplace raids by immigration officers, too. On the other hand, working conditions for undocumented workers are often harsh, and making complaints can have severe consequences for them. Many companies repeatedly pay less than promised for the work, or even refuse to make any payment at all. Many companies promised to pay workers their wages after finishing their

project, but when they finished the project, the bosses simply reported their workers to the immigration authorities, causing them to be rounded up and arrested by immigration officers, the police and RELA. A Construction worker complained about the working situation in Malaysia as follows:

We have to work from dawn until midnight. The boss promised us more pay for the overtime shift. If we have an accident at work, there is no insurance for us. RELA and the police can raid the workplace any time. Even though the work is very hard, we dare not complain, as jobs are very scarce now and, on the other hand, we have no proper documents. In my last job, since the boss didn't want to pay our wages, just before finishing the construction, he reported us to the immigration authorities. We were rounded up by police and RELA and were arrested. We never received our back wages. (Pa Sui, June 28, 2009).

The most common form of employment for the women is as waitresses or dishwashers in small restaurants, or working in a shopping mall. Without legal status, undocumented Chin women are systematically arrested, detained, whipped and deported. Within the few economic opportunities available, undocumented women actually increased their risk of exploitation and abuse. Women are at risk of sexual assault and rape because of their lack of legal status. They cannot file cases without disclosing their immigration status, so they do not report incidents to the authorities.

Because of job scarcity and insecurity, many irregular migrants are unemployed. They therefore have no income to survive, which makes them dependant upon their friends and relatives, who are earning money.

4.2 Income and Remittance

To survive in Malaysia, despite the volatility and danger involved in the informal work sector, more than one-third of the Chin community in Malaysia is employed. Those who are employed are often subject to exploitative employers. The

typical wage received by Chin laborers ranges from 19 to 35 ringgit per day (about US\$5.15 to US\$9.50). Incomes differ depending on the sort of job. Remittances are one type of economic impact on migrants' families. According to a survey, the remittances Chin irregular workers send from Malaysia are overwhelmingly used to assist their families in basic survival. The income and remittance of funds and savings are different depending on the particular kind of job. The work is also irregular, so their income is unstable. Those who work in restaurants, construction, or wire production can remit approximately 900 to 1,000 ringgit per month. Those who work in services earn 40 to 50 ringgit per day, but the work is irregular. Undocumented women can save and remit more money than male workers.¹ There are many money transfer agents in Kuala Lumpur who help send money to many parts of Myanmar. The migrants send money through these agents and pay them in Malaysian currency (ringgit), while a member of the agent's family in Myanmar pays the migrants' families in Myanmar currency (kyats). Frequently, the amount received is different, depending on the exchange rates. As the money transfer system operates on the basis of mutual understanding alone, migrants never transfer a lot of money at once, as they are afraid of being deceived by the agents.

I cannot remit money to my family as I do not have constant work. When I am jobless, my friends share what they have with me, so I also have to share with them what I have when they are jobless. Once, the money transfer agent cheated me, so my mother didn't receive the money. I can't find him anymore.
(Pa Hmung, June 29, 2009)

4.3 Living Conditions

The living conditions of Chin irregular migrants are deplorable. Room rents average 700 - 1000 ringgit per month but each undocumented migrant earns less than 500-1000 ringgit per month. So, they establish "community centers" in apartments, which several people share. About 10-20 people, or even more in many places, have

¹ Google chatting interviews on March 29, April 4 and 5, 2009.

to share a two-bedroom apartment. This only applies to those who can afford to live near Kuala Lumpur and the other bigger towns. As these people are irregular migrants, the factory or company they work for never provides housing, since it is against the law. However, it is easier for the police and RELA to raid and arrest people living in a group. Food is also shared by others who have a job and save money. Many more thousands of migrants are living in the jungle of Putrajaya and Cameron Highland Plantation in makeshift tents with plastic roofs. Repeatedly, police have searched their jungle camps and burnt their tents. The irregular migrants usually come back and rebuild their tents, as they have nowhere else to go. Living conditions are unhygienic and insecure, and dietetic needs are not being sufficiently met. In many places, the migrants share toothbrushes, razors, and tools that can transmit diseases easily.

Figure 10 Pictures of Living Conditions of Chin Migrants

Migrants who share same apartment in Kuala Lumpur



Source: Amy

Tents of migrants in the jungle



Source: Internet search

Toothbrush shared by everyone



Source: CRC

4.4 Social Problems among Irregular Chin Migrants

Living together as groups in community centers, Chin irregular migrants have encountered lots of social problems as well.

The first case is dependency on community members. Because of job scarcity, not working at all increases migrants' dependency on community members, which leads easily to misunderstandings. In some cases, the jobless people borrowed money from those who have job, but the inability to repay these loans for a long time creates trouble among the migrants.

About two years ago, because my friend was jobless, he borrowed 800 ringgit from me. Because he got a job outside Kuala Lumpur, he moved there and until now, he has not repaid me my money. When he was jobless, I treated him to food and everything he needed. But now he has betrayed me. (Vante, June 28, 2009).

Second, living under conditions in which everything is shared, illnesses are easily transmitted among the migrants because of the unhygienic environment. Third, women having multiple lovers, adultery among couples and unwanted pregnancy among unmarried and young people have become common, leading to serious social problems. Many migrants are uneducated and as there is no direct control over them, sexual harassment towards the women irregular migrants occurs habitually.

One young girl who shared a room with us was loved by two men. One day, the men got drunk with the girl's brother and accidentally mentioned the girl's pregnancy. The girl's brother stabbed the man with a knife. Another case involves a man who stayed with his wife and children, along with other migrants in the same apartment. He fell in love with another young girl and got divorced from his wife. Many young men cannot control their lust, so they humiliate the young women they stay together with verbally or even sometimes try to get love by force. It causes us so many problems. (Nu Ngun, June 23, 2009).

Fourth, valuable things are stolen among the migrants. Accusing the wrong person brings out mistrust and hatred among the migrants. Fifth, in many cases, mocking each other brings argument and even fighting among the migrants. Sixth,

fighting and misunderstanding among young children can even cause the parents to quarrel. Many young men drink alcohol, get drunk and fight, which attract the attention of RELA and the police, who can easily launch raids.

Other key cases involve the children of irregular Chin migrants and the situation of irregular Chin migrant women.

4.4.1 Children of Irregular Chin Migrants

There are many children who come along with their parents to Malaysia or are born in Malaysia. Because they have no access to government education in Malaysia, self-supported organizations such as the Chin Students' Organization (CSO), Chin Women's Organization and some other private Burmese refugee schools have been providing educational assistance to these children.

Figure 11 Migrant children in CSO School



Source: Amy

CSO, which was founded in 2005, is the very first refugee school founded by foreigners in Malaysia with the purpose of teaching Chin language and culture to the Chin children in Malaysia, uplifting the educational level of Chin people, and fostering superior ethics. CSO has five levels of classes: kindergarten, pre-school, and grades one to three. CSO has more than 500 students in its seven schools, ranging in age from five to seventeen. It is estimated that there are more than one thousand Chin children in Malaysia. In CSO schools, the admission fee is 10 ringgit and school fees are 10 ringgit for each month. Chin culture and literature, English, mathematics, sciences, Bible study, and basic computer skills are the main courses in CSO schools. Setting the curriculum for these refugee schools, the UNHCR provides *Longman* textbooks for the schools. CSO classes are held five days per week with lunch, from 10 a.m. to 3 p.m. The UNHCR provides a forwarding letter to each refugee school from the previous year. Chin children in the CSO schools have fellowship with other refugee schools in Malaysia through events such as the Faisal football cup. There are many children who cannot even attend these refugee schools for various reasons. A mother from Ampang area in Kuala Lumpur said:

My son is already six years old. As his father is working in Genting Highland, and as I have no proper documents, it is not easy to send my son to the school opened by the Burmese refugee community. Since I work in a restaurant in the daytime, there is no one to take my son to school. He is still too young to go by himself. I wish I could have my son study soon. If it were in Burma, he would be in grade 1 now. (Nu Dar, June 29, 2009).

Malaysia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW), the main international instrument for the protection of migrant workers and their families. Although Malaysia is a state party to the Convention on the Rights of the Child (CRC), having acceded to it on 17 February 1995, Malaysian authorities have not protected undocumented migrant children, who are at constant risk of being arrested,

detained, and deported. The case of Dally Sui² has drawn attention to the lack of adequate protection for the Burmese migrant children in Malaysia. Concerning the situation of migrant children in Malaysia, an officer from Tenaganita said:

As Malaysia is a state party to the CRC, we have a responsibility to take care of every child, regardless of their status. We have learnt that migrant children have accidents on the road, and some have even been murdered by gangsters. However, the authorities never take effective action on these cases, so migrant children are now in jeopardy of being tortured and detained by gangs. (Fay, June 22, 2009)

Notwithstanding their compulsion to abstain from randomly depriving a child of his or her liberty under Article 37(b) of the UN Convention on the Rights of the Child, the Malaysian authorities are persistently to blame for the unwarranted arrest and detention of undocumented Burmese children. The children are placed together with adults in detention, which is a practice in contravention to the Convention on the Rights of the Child, in which Article 37(c) states, "...every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so...."

Although Malaysia has signed the UN Convention on the Rights of the Child, which provides the right to registration at birth for every child, children born to irregular Chin migrants are regularly arrested and detained together with their parents when trying to register the child birth with the National Registration Department. Under Malaysian law, every child born in the country, including those of undocumented parents, must be registered with the National Registration Department within 14 days of birth. The children are then issued a birth certificate upon registration, but the birth certificate itself does not grant citizenship rights.

² Dally Sui is seven year old Chin girl who was abducted on 20 March, 2007. Her body was later found with her hands severed at the wrist on 27 March, 2007. Despite repeated requests for their involvement, the authorities failed to exert any effort.

4.4.2 The Situation of Irregular Chin Migrant Women

Irregular Chin migrant women make up approximately forty percent of the whole irregular Chin migrant population in Malaysia. The most common form of employment for the women is as waitresses or dishwashers in small restaurants, or working in shopping malls. Without legal status, undocumented Chin women are systematically arrested, detained, whipped and deported. With few economic opportunities available, undocumented women are actually at increased risk of exploitation and abuse. Women are at risk of sexual assault and rape by Malaysian bosses, police, immigration officers and RELA while in detention, and even by members of their own community, because of their lack of legal status. They cannot file complaints without disclosing their immigration status, so they do not report incidents to the authorities. While these women desperately need to work, without legal protection and legal status, they are extremely vulnerable to violence and exploitation perpetrated by employers, who are able to act with impunity, because the women face deportation if they go to the police. Leaving the house to go to work puts the women at great risk of arrest and attack. Not working at all increases women's dependency on community members, spouses and neighbors, which also increases their risk of abuse. The most vulnerable are female heads of households, who cannot leave their small children alone while they go to work, those fearing a repeat arrest, young single women, and those with disabilities. Many women stay in their apartments and cook and clean for male household members, who are generally not related to them but are from the same ethnic group.

I was working in a Chinese restaurant. The manager steadily increased our workload day by day but we dared not complaint because we desperately needed a job. One day while taking box of bottled beverages to the store room, the manager followed me and tried to sexual assault me. I fled the restaurant and never received back payment for my work. I dare not file a complaint with the police since I am staying here illegally. (Nu Par, June 27, 2009).

Although INGO livelihood projects teach the women to make handicrafts, this occupation is neither sustainable nor market-based, since they cannot actually sell the crafts they produce without facing a great risk of arrest. The fact that the UNHCR has been resettling many of the undocumented Burmese woman migrants in Malaysia to third countries has acted as a pull factor and attracted more people to migrate into Malaysia irregularly. A volunteer from France in one livelihood project in Malaysia said:

Even though we try to help out the irregular Chin migrant women by having them make handicrafts, we can't even cover two to three percent of them. On the other hand, as this program is not a daily income basis program, many women take a risk to work outside where they can earn more money to survive in Malaysia. The crafts we produce are not well sold, so our program is not sustainable yet. (Ms. A, June 26, 2009).

Figure 12 Chin migrant women learning in a livelihood project



Source: Author

Because of their limited economic opportunities and lack of legal status, vulnerability to gender-based violence (GBV) is constant. Lack of legal status makes them more vulnerable to domestic abuse, abuse at the workplace and abuse while in detention. Gender based violence \frequently occurs in the form of employers sexually

harassing women on the job and refusing to pay them if they protest. Along with other groups helping migrants, Women Aid Organization and UNHCR have paid great attention to the priority processing of those with GBV claims. They have provided legal, psychological, and medical assistance to the irregular migrant women. For pregnant women, ACTS supplies medical assistance every Saturday. An officer from WAO stated that:

These undocumented women are at risk of sexual harassment both at work and even among their fellow people. Their employers take advantage of their illegal status and try to sexually assault many of them. What we are doing with them, with the help of other NGOs, is giving counseling to women who are raped, psychologically weak, and in some cases, we help them to get their unpaid salaries and provide medical assistance. With the help of UNHCR, ACTS is giving maternal care to pregnant women every weekend.
(WAO Officer, June 23, 2009)

4.5 Insecurity: Arrest, Detention and Deportation

Security is a major concern for Chin irregular migrants, as they do not hold proper documents or a valid visa. According to the Malaysia Trade Unions Congress, “Undocumented foreign workers” includes anyone who does not hold a proper travel document or a valid visa to stay in the country. Refugees, asylum seekers and trafficked persons without documents proving that they are staying legally stay in the country are included in this category (MTUC, 2005). Immigration raids are repeatedly carried out on a house-to-house basis as well as in the workplace. Besides, the irregular migrants are exposed to the constant danger of being approached in any public place by immigration officers.

A non-citizen arrested or detained under the Immigration Act can be held for up to 14 days before being brought before a Magistrate. The Magistrate will then make an order as to his or her detention for such period as required by an immigration or police officer to investigate offences against the Act, or by an immigration officer

to make inquiries or effect the removal of the person (paragraph 51(5)(b)).²⁰ Under section 117 of the Criminal Procedure Code, further detention may only be ordered for a period of 14 days. In contrast, a citizen may only be held for 24 hours before being brought before a Magistrate (paragraph 51(5)(a)). After their removal, undocumented migrants often come back to Malaysia, where they will be subject to section 36 of the Act, which states that if apprehended again by immigration enforcement officers, they will be liable to a fine not exceeding ten thousand ringgit, imprisonment for a term not exceeding five years, or to both, but also, to whipping of not more than six strokes.

As the Malaysian Immigration Act of 1959/1963 does not distinguish between undocumented migrant workers and refugees, all those without valid residency status are subject to arrest, detention, and deportation. Large numbers of people are arrested by the police, immigration officials and especially the RELA. Irregular migrants from Burma are usually sentenced to serve one to six months in an immigration jail or camp if arrested in Malaysia, by immigration authorities, RELA or the police force. RELA is an abbreviation for *Ikatan Relawan Rakyat*, meaning People's Volunteer Corps, which was founded in 1972 under the 1964 Emergency (Essential Powers) Act and is intended to help maintain national security. However, now, they are responsible for rounding up irregular immigrants and possess powers beyond those of the regular police force, such as arrest without warrant and search and seizure. The Malaysian government has been heavily criticized for its policy of providing 80 ringgit (US \$ 25) for each irregular migrant arrested. The "Catch a Migrant and Get Paid for It" policy has led to serious human rights violations (Project MAJE, 2007). Since 2007, international organizations have urged the Malaysian government to ban the RELA. The government still supports the RELA, although the bounty which was previously paid out for each irregular immigrant arrested has now been cancelled.

In many cases, the irregular migrants have connections with the leaders of the police or RELA in their area and bribe them monthly. When a raid is going to be executed, the police leader informs the migrants to stay away for a while.

Our community leaders collect 50 ringgit from each person and they give it to the police officer in our area, Ampang. We have to bribe this police officer every month regularly. The police officers have our community leaders' contact number so that when a raid and checking for irregular migrants is going to happen, they inform our leaders in advance so that we can stay away for a while and avoid being arrested. But in some cases, another group of police are assigned to raid in a different area, so that irregular migrants get arrested. Even though RELA's standard is also low, they look down on us and have cheated us many times by asking for more money even after we pay them monthly. And if we cannot pay, they beat us and arrest us. ” (Pa Hnin, June 29, 2009).

One June 22, while I was going to Alliance of Chin Refugee office, I was arrested by six RELA who were standing near Hang Tuah station. I have tried to explain them that I have a legal visa and came to Kuala Lumpur to make research. The problem is they didn't understand English. And on the other hand, there are some Burmese people who hold fake visa. I was bring to big house near KLIA, and there I met one officer who can speak English. After explaining my situation and showing the calling letter from Malaysia National University, I was released after two hours of detention. (KSK, June 22, 2009)

Those who are arrested by RELA and the police are severely beaten before being brought to the detention centers. As the RELA are uneducated, they sometimes even arrest people with proper documents and refuse to accept the explanations provided by the workers. In many cases, the RELA broke down the doors of apartments in their raids to arrest the migrants.

Figure 13 Pictures of RELA arresting irregular migrants



In Malaysia, the so-called *Penjara* is a jail for criminals where both Malaysians and foreigners are kept together. Most Chin irregular migrants who get arrested end up in one of the following prisons: Sungngai Buloh Prison, Kajang Prison, Tapah Prison, Taiping Prison, Penor Prison, Penjara Jahor Bahru Prison and Kamuting Detention Center. Another one is the “immigration detention camp,” which is only for foreigners who fall under jurisdiction of the Immigration Act. Chin irregular migrants mostly end up in one of the following detention camps when they are arrested: Samuyith Camp, Lengeng Camp, Langkap Camp (Cameron Highland), KLIA Camp, Ajil Camp, or Pekannanas Camp.

Figure 14 **Detention centers**



According to interviews with the irregular Chin migrants who come out from these detention centers and jails, the detention centers are overcrowded and have reached a critical stage. This has resulted in deplorable living conditions, giving rise to concerns regarding the lack of adequate access to healthcare, unsanitary environments, risks of diseases and possible deaths. Conditions vary from one detention center to another, but conditions in the remotely located centers are worse. Because of the shortage of water, some detainees even resort to drinking water from the toilets. Medical facilities are unavailable in most of the detention centers and jails, so those detainees who get sick are given only two tablets of Pandol or penicillin-based pills. The spread of communicable disease is a serious concern among the detainees. Even young children have been placed together with adult inmates.

We were just kept in one big hall together and we did not even have enough space to lay down. We also did not get a blanket or bedding, so people had to sleep on the concrete. We didn't get enough drinking water or food. While I was in the detention center, we didn't even get a chance to take a shower. We were treated like animals. My friend got dysentery in the detention center, but the police ignored him for three days, so the disease was transmitted to other detainees. Only after the UNHCR staff came to rescue us did we get medical assistance outside. Little children and even babies were

detained together with their mothers. It was more difficult for women who had their monthly period. (Pa Rung, June 30, 2009).

Little Baby sleeping in the detention center



Source: AP

After their sentence is served, the Chin irregular migrants are deported over the Malaysian-Thai border at Golok. They bribed border officers 2,000 – 3,000 ringgit when deported in order to facilitate their re-entry into Malaysia. Many reported that those unable to pay bribes to the authorities were trafficked from the border to work on fishing boats or in the commercial sex trade (WCRWC, 2008).

I was deported to the border area two times already. The police themselves brought us back to Kuala Lumpur if we could pay the amount of money they demanded. My two brothers paid money to the smugglers and officers at the border so that I could re-enter Kuala Lumpur. I don't know where my friends are now who could not pay the money. (Pa Hre, June 29, 2009).

The fate of children deported along with their parents who were sold out to Thai fishing boats and brothels is not known. Children and teenagers may be particularly vulnerable during this stage, especially if they are separated from parents. People actually disappear during in this process.

Deportation is ineffective, as corrupt immigration officers can gain more personal benefit from the government's policy of repatriating illegal migrants.

4. 6 Support and Social Services for Irregular Chin Migrants

4.6.1 Support and Services from NGOs

Generally, the NGOs have been helping the irregular Chin migrants in the area of health care. Besides, they have educated and counseled the migrants on the rights-based approach and, in some cases, supported livelihood projects.

Chin irregular migrants have very limited access to medical care. Living conditions are unhygienic and insecure, and dietetic needs are not being sufficiently met. Burmese undocumented migrants, including the vulnerable, such as women, children, and the ill, have no access to health care and social services from the Malaysian government. They are hesitant to seek medical assistance from private service providers because they are afraid they might be arrested if they leave their flats or jungle huts. They therefore resort to buying medicine from local pharmacies based on their limited knowledge, with the risk that the impact can be even more harmful to their health..

Twice a month, a local NGO, ACTS (A Call to Serve), conducts mobile health clinics in the jungle and also attends to the health needs of those in urban areas. Medicins Sans Frontier works in cooperation with ACTS by supporting their pharmacy. The medical attention from ACTS cannot meet the needs of all undocumented Burmese migrants in Malaysia. Those who have been recognized as refugees can access government health care but must pay 50% of the foreigner's rate, which is still prohibitively expensive. (CSW HK, 2006). ACTS also runs a permanent clinic and biweekly mobile clinics at two detention centers and two recuperating homes in the Kuala Lumpur area.

We are not a government hospital. We treat as many patients as possible and as many as we can reach. We also have limited funds, but we try our best to heal everyone who comes to us. With the help of UNHCR and other NGOs and communities, we have cooperation with the government hospital for patients in serious condition and help to find ways to address their medical fees. (Ms. Doctor, June 24, 2009)

Most of the medical cases are either anxiety-related or due to exposure to pesticides. Because of pressures from work, many people become mentally weak and need to meet psychiatrists regularly, but on the other hand, they need associate who will follow them to the clinic and lost his daily wages and the absent to his work also can make him lost his job. ACTS, which started in 2003 with the help of Jesuit Refugee Service (JRS), now has eight local full-time staff, more than 20 full-time Myanmar refugee volunteers and around 50 part-time volunteers of various nationalities and religions.

Figure 15 Health exam of migrants in ACTS



Source: Author

Migrants held in Immigration Detention Centers (IDCs) face great difficulties getting access to healthcare. Ex-detainees complain of having suffered from skin diseases, fungus growth and difficulties getting treatment for illnesses such as stroke,

epilepsy, complicated hernia, obstetric complications, ante-natal problems and abdominal problems requiring emergency healthcare. HIV detainees have been denied medical treatment. Detainees have also suffered from mental health problems, including depression, severe and chronic post-traumatic stress disorder, anxiety disorder and suicidal ideation.

Figure Migrants waiting for health exam in ACTS clinic



Source: Author

For serious cases, the General Hospital of Kuala Lumpur (GHKL) cooperates with the UNHCR in Malaysia and gives treatment to irregular migrants and refugees in Malaysia.

Local NGOs like Tenaganita and SUARAM have documented the cases of migrants in Malaysia and have been trying to solve them by getting the attention of the authorities. All Women's Action Society (AWAM), Malaysia Bar Council's Legal Aid Centre, Malaysia and Woman Aid Organization are working on educating and counseling the migrants on the rights-based approach and, in some cases, livelihood projects.

4.6.2 Community Based Support

Chin migrants in Malaysia have dialectal and religious based fellowships. Each fellowship generally includes members from the same village. Each fellowship group has a community center in Kuala Lumpur, so that people who are working outside Kuala Lumpur do not need to worry about finding shelter when they come to the city. Hence so-called “Inn-pi” community centers are rented by each community group, paid for by monthly membership fees collected from each member. Each fellowship collects membership fees monthly for a fund, which is used to rent the community center room, to help patients with medical fees, to pick up fellowship members from prisons and detention centers, to bribe immigration officers to release fellowship members who are to be deported to the Malaysian-Thai border, to help cover the expenses for those who pass away in Malaysia, and for many other social activities. For foreigners, the fee for health care is two times higher than the fee for locals. Those who have proper documents can get 50% discount off medical fees. Nevertheless, these fees are still too high for irregular Chin migrants. Under these circumstances, each community group helps its members with medical fees. For many migrants who have no relatives or friends to pay for their release from deportation to the Malaysian-Thai border, the community group advances the money for them, and the migrants then pay back the money after they get a job earn some income. Most families and communities in Chin State have been relying very much on migrant workers in Malaysia for the development of their villages and communities, and migrant workers in Malaysia have felt the need to contribute individually or as a group.

Being the only Christian state in Burma, most Chin migrants in Malaysia are Christians. Some migrants from Paletwa and Mindat are Buddhists. Each community based fellowship has worship services on the weekends and has social activities. There are more than 20 Chin churches and religious based fellowships in Malaysia. Regardless of denomination, the churches are local churches that aim to help and lead the migrants through the teaching of their religion and beliefs. As people from the same place, Chin Buddhist migrants are also helped. Besides religious activities,

each fellowship provides assistance to its members regarding health, marriage, social activities, funerals, etc. The Chin Refugee Committee states that:

More than a hundred Chin in Malaysia have lost their lives since 2000. Most of the dead bodies were buried at KL cemetery with the help of Chin Christian Fellowship and CRC. Eighty percent of the Chin who died in Malaysia were between 20-30 years old and 98% were young boys. Most of the deaths happened through accidents such as being hit by cars, falling from buildings under construction, and other work place accidents. No Chin ever receives compensation, even though their death occurred while working or they are hit by cars because of their irregular immigrant status. (Pa Sui, June 29, 2009)

Chin community based organizations such as ACR, CRC, and ZAM have registered the irregular Chin migrants in Malaysia and provide a card with a serial number that the migrants can use to apply for refugee status with the UNHCR. These groups have been working to obtain the release of irregular migrants from prisons and detention centers and assisting irregular migrant patients to get health assistance in ACTS clinic and the General Hospital of Kuala Lumpur by getting a letter of request from the UNHCR for health assistance.

Figure 16 Funeral service of Chin migrant



Source: CRC

Regarding communication among the migrants, there are some weekly newsletters like ACR Newsletter, BAWINU, CRC Newsletter, Faiceu Newsletter, and Seihngam that deliver information necessary for the migrants.

4.6.3 Refugee Status from United Nations High Commission for Refugees

The Chin people's exodus to Malaysia is not occurring mainly for economic reasons. For most undocumented Chin migrants, in spite of the risky and dangerous conditions they encounter on a daily basis in Malaysia, remaining in Malaysia is a better choice than returning home. They know very well that a more dangerous situation awaits them if they return to Myanmar. In Malaysia, they are insecure because they do not hold proper documents or a valid visa. In addition to being exploited by their employers at work, they are afraid of arrest and detention. Chin people are unsafe in Burma and unprotected in Malaysia.

Because of this insecurity in Burma and Malaysia, many Chin people have been applying for refugee status. Chin asylum seekers first came to the attention of the UNHCR in 2000. But UNHCR records show that the UNHCR did not start to register the Chin until 2004. Anticipation of resettlement by the UNHCR to third countries is a major factor that pulls many Chin people to migrate to Malaysia, too. There are six countries that have resettlement programs for Chin, Kachin and Karen who have received Refugee Status Determination (RSD) cards from the UNHCR in Kuala Lumpur, namely USA, Australia, Canada, Denmark, New Zealand, Norway, and Sweden. The number of refugees each country accepts for resettlement each program year varies greatly. Nearly everyone who does not hold proper documents in Malaysia has applied for refugee status. However, since only a few among the many are resettled, the rest remain as irregular migrants in Malaysia.

To be able to apply to the UNHCR for refugee status, Chin people have to first register with the Alliance of Chin Refugees, the Chin Refugee Committee, and Zomi Association of Malaysia. Even if they are issued membership cards from these groups, it does not mean they are guaranteed to receive refugee status. As Malaysia has not

signed the 1951 Refugee Convention, both undocumented workers and refugees have no legal status and no right to work legally. Because they are unsafe in Burma and unprotected in Malaysia, they have no other choice than to apply for refugee status to resettle in third countries. One Chin woman who is going to a third country soon said:

I wish there were peace in my homeland but it is just like a dream. And I also wish the Malaysian government gave us freedom to work in Malaysia but it is also like a dream. Hence, we have to find a safe and secure place for ourselves. Third countries may grant us freedom and rights, but on the other hand, until my country changes, I cannot return home. I don't think I will be able to meet my elderly parents in this life again. If it were possible, I would choose to live together with my family rather than living alone in a third country. I need to make a living and sacrifice to support the family I have left in my home so that they may have a better living. (Nu Men, June 30, 2009)

There are also undocumented migrants who have become undocumented because of the strict limitation on length of stay that host countries apply, combined with their own need to keep a job overseas. Fearing detention if deported, most of the undocumented Burmese migrants applied for UNHCR status in order to gain entitlements as “refugees” and “asylum seekers.” Holding UNHCR documents at least protects the undocumented migrants from detention. However, it provides no guarantee of access to benefits in Malaysia. If applicants are unqualified, they face the possibility of being returned to their country of origin, legally known as *refoulement*. The Rohingya up until now have never been resettled to a third country from Malaysia.

Noteworthy in the case of Chin refugees in Malaysia is that there is no refugee camp for them. Even after getting a UNHCR card for resettlement to a third country and while waiting for the resettlement process, refugees can still work full time in Kuala Lumpur.

4.7 Malaysians' Response to Irregular Chin Migrants

Bilateral relations between sending and receiving countries may not be the best option to resolve problems of migrant labor (Aris, 2004). The inflow of migrant workers to Malaysia is governed by immigration policies and related foreign worker employment policies to facilitate labor market adjustments. The 1991 Policy on the Recruitment of Foreign Workers introduced specific terms and conditions on the employment of migrant workers, which had the effect of raising the cost of hiring migrant workers. This was the first comprehensive policy that detailed the terms and conditions of employment of migrant workers, including the responsibilities of the employers for the housing and health of migrant workers. The employer has to sign a contract of employment with the worker and also bear the cost of recruitment and repatriation. The policy also states that foreign workers are to be accorded similar wages, benefits and terms and conditions of services as provided for in the labor legislation. In other words, employers should not discriminate between local and foreign labor to ensure that they do not replace local labor with cheaper foreign labor. The employers have to contribute to the Social Security Scheme and foreign employees must be given an option to participate in the Employment Provident Fund. In addition, employers are also required to provide accommodation for their foreign workers. It is also mandatory for employers to ensure that foreign workers they hire remain employed with them and are periodically sent for medical examinations to check for contagious diseases. In practice, with the exception of the larger establishments, employers seldom accord migrant workers similar wages and benefits, even to those who are legally employed.

Because of the direct impact of the economic downturn, Malaysia's Cabinet has forbidden the employment of foreign workers in major work places and the services sectors to deal with growing job losses and jobless citizens. On the other hand, skilled foreign workers desirable in some manufacturing sectors may be

excluded from the ban. AP reports that over 10,000 Malaysians and almost 3,000 foreign workers were laid off between October 2008 and January 2009.³

The arrival of foreign workers is also alleged to impose a public safety and security risk, as some migrant workers, particularly the irregular migrants, have been engaged in criminal activities. It has also been argued that migrant workers have displaced Malaysians and depressed wages in agriculture and construction, thereby opposing national poverty eradication objectives. Migrant workers, especially the undocumented workers who avoid compulsory health screening, have been suspected to be the conduit for highly communicable diseases, such as malaria, tuberculosis and leprosy. These are diseases that were either eradicated or under control until the arrival of migrant workers. For example, police arrested two Myanmar women and seized 3.15 kilograms of heroin worth RM157,000 in a raid at Taman Segar in Cheras on April 8, 2009. At the same time, companies prefer undocumented workers who can speak *Malayu* and have skills in specific types of work. Besides, employers prefer undocumented workers because they are not required to make any contributions to the Employee Provident Fund or the social security fund on their behalf. Many local people have an aversion to the behavior of immigration officers and RELA toward the Chin irregular migrants. It has also been argued that migrant workers have displaced Malaysians and depressed wages in agriculture and construction, thereby opposing national poverty eradication objectives. Groups helping migrants and human rights groups are the only and best ally standing on the side of migrants.

As a signatory to the Universal Declaration of Human Rights, Malaysia undertakes to respect each person's rights, regardless of their status. At the same time, there are groups helping migrants like SUARAM, TENAGANITA, All Women's Action Society (AWAM), Malaysia Bar Council's Legal Aid Centre, as well as many INGOs that are helping the Chin irregular migrants in the area of labor rights in Malaysia.

³ Asian Migration News: *Malaysia*. Retrieved from <http://www.smc.org.ph/amnews/amn0901/amn0901.htm#Malaysia> on April 14, 2009.

4.8 Conclusion

In conclusion, migration has both positive and negative effects, but public debate tends to center on the apparent unfavorable effects of immigration. Mostly, Chin irregular migrants can be seen in the 3D jobs (difficult, dangerous, and dirty). It is observed that the immigration status of Chin people leads to exploitation in terms of occupation, income, and living conditions. While insecure in work, they are constantly at risk of work place raids by immigration officers. Furthermore, living in a group directly or indirectly affects the social situation of the migrants in areas such as health, jobless migrants' dependency on migrants with jobs, sexual harassment of migrant women by their own community members, adultery and mockery. Moreover, arrest, detention and deportation of the irregular migrants leads to bribery of the concerned immigration officials. Those who are sent to the detention centers face a critical situation because of the lack of adequate access to healthcare, unsanitary environments, risks of diseases and possible death. It is of great concern that even babies and young children are put in detention centers together with their parents.

Even though NGOs, iNGOs and communities have been supporting the irregular migrants, they are still unable to meet all of their needs. While the migrants in Kuala Lumpur receive partial assistance in health and other support from NGOs, migrants in other regions have no access to this very basic humanitarian assistance. It is also very intricate to rapid proceed of the resettlement process for the rising population of Chin irregular migrants that the causes the irregular migrants have facing and creating is raise, too.

Malaysia has concerns about its citizens' competition for jobs with the foreign workers and also about public security and safety. Malaysia needs the migrant work force, but does not want migrants. Malaysia has forbidden the employment of foreign workers in major work places and those service sectors with growing job losses and jobless citizens, but it cannot adopt a tough policy because of the economy's dependence on the migrant workforce. Many of the policies set by the government are not followed by most of the employers. Since their work force is not legally employed

but consists of irregular migrants, they do not need to follow the rules of the Social Security Scheme or Employment Fund, nor do they need to comply with the requirement to arrange periodic medical examinations for the migrant workers.

The Malaysian government opposes consideration of irregular migrants in order to maintain the freedom to regulate migration according to policies that are in the national interest, unencumbered by limitations deriving from international agreements.

CHAPTER V

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The largest undocumented migrant population from Burma living in Malaysia is the Chin. They hope to find safety and protection, and dream of resettlement in another country, but undocumented Chin migrants are in an at-risk situation. The Chin people do not have an easy life in Malaysia. In the following section, the research aims to answer research questions regarding irregular Chin migrants.

First, there are several reasons why Chin people choose to migrate irregularly into Malaysia rather than Thailand and India. First, going to Malaysia is safer than going to Thailand, as Chin migrants in Malaysia are not directly deported back to Burma and it is possible to re-enter Malaysia through bribery. The existence of a migration network also plays a key role in assisting Chin people to migrate to Malaysia, as networks that might help them to migrate to other countries are less well developed. Even though India is closest country for migration, it is not chosen because it is insecure, as migrants can be deported anytime. Besides, the economic situations and resettlement options to third countries are more attractive in Malaysia. In Thailand, other ethnic displace people who are directly affected by the civil war in Burma get more attention than the Chin, so the Chin have fewer opportunities to find jobs. On the other hand, the level of risk involved in migrating from border areas of Burma to Thailand and Malaysia is the same, so Chin people choose to migrate to Malaysia, where there are better job opportunities for them. Being able to work to support families while waiting for the process of resettlement to a third country is also a factor that makes Chin people prefer migration to Malaysia. Social factors, such as the need to escape from punishment from the government, or to join family members, are among the most common factors that motivate the Chin people to migrate. One of the main pull factors in the past was the agreement between the governments of Malaysia and Burma, but this agreement is no longer functional. Nevertheless, there

are still connections between job agencies in Malaysia and Burma, but utilizing these connections costs more money than Chin people can effort. Aside from those who lawfully enter and find employment in Malaysia, irregular migrants assume high risks just to have irregular status for a variety of reasons. Unlike the employment of highly-skilled labor, legal recruitment of low-skilled labor involves several intermediaries both in the sending and receiving countries, which raises the transactions costs of migration. In contrast, illegal employment is less time-consuming and cumbersome, and cheaper for both employers and migrants.

Push factors are more important than pull factors in relation to Chin people's migration to Malaysia. Besides economic factors, ethnic and religious discrimination are the main factors that push Chin people to migrate out of Chin State. For example, the Three-B-Policy, meaning Burmese, Burmanization and Buddhism, has been practiced by the Junta to assimilate other ethnic nationalities into its united policy. In case of Chin, the Chin identity as being a Christian is unsecured in Chin State. As Christians, the Chin people have been subjected to many rights-abuses by the military junta. There is also an unwritten Burmanization policy being carried out by the military and government administrators that aims to eliminate the Christian culture and traditions of the Chin people in order to assimilate them into a homogeneous Burman culture. Hoping for better economic opportunities that guarantee higher incomes to support the families left behind are also one of the general key pull factors. On the other hand, discrimination against the Chin Christian population in the form of restrictions on humanitarian aid supply, strict limitations on economic opportunities, and the lacks of infrastructure development projects for Chin State are serious economical push factors.

The reason for Chin people's migration to Malaysia is also related to the situation of extreme human insecurity resulting from the structural violence endemic across Chin State. Structural violence against the Chin people is visible in the systematic ways employed by the military to exploit them slowly by preventing them from meeting their basic socioeconomic and political needs.

The migration systems approach implies that the Chin people's migration to Malaysia can be seen as the result of interacting macro and micro structures of chain migration. The approach focuses solidly on the decision-making of individuals according to socio-economic and political pressures in the environment. The approach also draws attention to political, economic and cultural structures of the sending and receiving countries. Chin people migrate to Malaysia not because of war, but mainly because of racial and religious discrimination and the abuse and exploitation of the Chin Christian population

Second, regarding the survival strategies of irregular Chin migrants in Malaysia, the irregular Chin migrants can be seen in the so-called 3D jobs (difficult, dangerous, and dirty). The Chin people remain at risk in Malaysia, primarily because the Malaysian government has not signed international agreements that protect migrants and refugees' rights. Refugees and irregular migrants are treated the same by the Malaysian government, which regards them as illegal.

To survive in Malaysia, generally Chin irregular migrants are relegated to the informal work sector. Jobs in the informal work sector are often dangerous, low-paying, and temporary. Their illegal status leads to job insecurity, with no compensation or life insurance fund, as illegal jobs are not entitled to benefits from the Employee Provident Fund or Social Security Fund. Chin migrants have worked in several sectors: construction, industrial factories, restaurants, and agricultural plantation. Working conditions for undocumented workers are often harsh, and making complaints can have severe consequences for them. The work conditions are mostly exploitative in terms of working hours and wages, since the employers know fully well that their employees cannot file complaints because of their illegal immigration status. Chin irregular migrants are constantly at risk of workplace raids by immigration officials. Some migrants have even died in accidents while trying to escape from such raids by jumping out of high buildings or being hit by cars while trying to run across the road. Many companies repeatedly pay less than promised wages for the work, or merely refuse to pay their employees at all. This situation creates criminal activities on both sides that allegedly impact on public security.

As many of the Chin migrants are jobless, dependency on other migrants is one of their survival strategies. Most of the jobless migrants have been dependant on their relatives and friends for food and shelter. Because of unstable jobs and temporary contracts, these problems eventually affect all Chin migrants, who at some points have to depend on other migrants for survival, yet at other times have to provide support to those who provided them assistance when they themselves were jobless. Not working at all increases women's dependency on community members, spouses and neighbors, which also increases their risk of abuses. For some migrants, relatives and friends who have resettled to third countries have provided support in times of need. Relatives and friends have remitted money for rent, shelter and food.

Community fellowships play a vital role not only in religious activities, but also in social occasions such as death, marriage and other social activities. These community fellowships handle problems among the irregular migrants which cannot be referred to the authorities. It is magnificent that the community members respect the decisions and penalties imposed by their community body. These religious based community fellowships, which are composed of the irregular migrants themselves, are the most effective helping groups that make life in Malaysia a little easier. For example, in case of need, members can assist each other, such as to rent a community center room, to help patients who need money to pay for medical fees, to get fellowship members out of prisons and detention centers, to bribe immigration officers to obtain the release of fellowship members who are to be deported to the Malaysian-Thai border, to help cover funeral expenses for those who pass away while in Malaysia, etc..

It was observed that the immigration status of Chin people makes them vulnerable to exploitation in terms of occupation, income, and living conditions. They are insecure at work, and are constantly at risk of work place raids by immigration officials. While Malaysia is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), without legal protection and legal status, irregular Chin migrant women are still extremely vulnerable to violence and exploitation perpetrated by employers, who are able to act with impunity because the

women face deportation if they go to the police. Under Malaysian law, every child born in the country, including those of undocumented parents, must be registered with the National Registration Department within 14 days of birth. The children are then issued a birth certificate upon registration, but the birth certificate itself does not grant citizenship rights. Children born to irregular Chin migrant women are regularly arrested and detained together with their parents when trying to register the child's birth with the National Registration Department. Notwithstanding their compulsion to abstain from randomly depriving a child of his or her liberty under Article 37(b) of the UN Convention on the Rights of the Child, the Malaysian authorities are persistently to blame for the unwarranted arrest and detention of undocumented Burmese children. The children are placed together with adults in the detention center. This practice is in contravention to the Convention on the Rights of the Child, in which Article 37(c) from page 10 states, "...every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so" (UN, 1990). It is a serious concern that the fate of migrant children, who are deported along with their parents who were sold to Thai fishing boats and brothels, is not known. Children and teenagers may be particularly vulnerable during this stage, especially if they are separated from parents. People actually disappear during in this process.

Living in a group directly or indirectly affects the social situations of the migrants, especially in the areas of health, jobless migrants' dependency on migrants with jobs, sexual harassment of migrant women by members of their own community, adultery and mockery. Arrest, detention and deportation of the irregular migrants lead to payment of bribes to immigration officials. Irregular migrants who are sent to detention centers have faced critical situations because of lack of adequate access to healthcare, unsanitary environments, risk of disease and possible death. It is of great concern that even babies and little children are put in detention centers with their parents.

Gender-based violence among irregular migrant women is also a serious problem. Women are at risk of sexual assault and rape because of their lack of legal

status. Lack of legal status makes them more vulnerable to domestic abuse, abuse at the workplace and abuse while in detention. Gender-based violence occurs frequently, mostly perpetrated by employers sexually harassing women on the job and refusing to pay them if they protest. Because migrant women are unable to report and file complaints with the relevant authorities without disclosing their immigration status, employers often dare to act audaciously. Not working at all increases women's dependency on community members, spouses and neighbors, which also increases their risk of abuse. Women are at risk of sexual assaults and being raped by the Malaysian police, immigration officers and Malay people volunteer group (RELA) while in arresting and in detenting processes.

The ongoing flow of Chin migrants into Malaysia highlights the ineffectiveness of border controls, which are circumvented by the participation of officials in human trafficking. Finding a way to control irregular migration and employment is vital to developing effective migration policies. The task is complicated by the involvement of a large private sector recruitment industry, well-established informal networks and the relative ease of concealed migration to the country owing to its long coastline. Countries of destination have addressed, in particular, border controls, sanctions against the employment of unauthorized migrants and reduction in the number of unauthorized migrants through registration and repatriation. Countries of origin have attempted to address irregular recruitment as a crucial node in the unauthorized migration process.

Malaysia needs cheap migrant workers but does not want them. The country's primary interest is economic, along with other ASEAN countries, not rights and integration. Nonetheless, irregular migrants contribute to economic growth and development of the country. They help alleviate labor market imbalances, and especially enhance labor market flexibility by providing a reserve labor pool that can be easily tapped when needed. It has also been argued that migrant workers have displaced Malaysians and depressed wages in agriculture and construction, thereby opposing national poverty eradication objectives. The arrival of foreign workers is also alleged to endanger public safety and security, as some migrant workers,

particularly the irregular migrants, have been engaged in criminal activities. Malaysia has concerns about its citizens' competition for jobs with the foreign workers and also about the public security and safety. Malaysia needs the migrant work force, but it does not want it. Malaysia has forbidden the employment of foreign workers in major work places and the service sector in order to deal with growing job losses and jobless citizens, but it has not been able to adopt a tough policy because of the economy's dependence on the migrant workforce. Many of the policies set by the government are not followed by most of the employers, as their work force consists of irregular migrants for whom they need not worry about the Social Security Scheme, Employment Fund, periodic medical examinations, etc.

Malaysia opposes international consideration of irregular migrants in order to maintain its freedom to regulate migration according to its national policies that are in their national interests, unencumbered by limitations deriving from international agreements. The policies to control irregular migrants are however unsuccessful, as bribery and corruption are still practiced by the officials themselves. Deportation itself appeals to immigration officials involved with human trafficking, as it is a channel for receiving bribes to allow the migrants to come back into Malaysia. Security is a major concern for Chin irregular migrants, because they do not hold proper documents or a valid visa. Immigration raids are repeatedly carried out on a house-to-house basis, as well as in the workplace. Besides, the irregular migrants are exposed to the constant danger of being approached in any public place by immigration officers. Malaysian government policy regarding migrant workers in Malaysia has been marked by changes in direction. In the first phase of migration until the 1980s, irregular migrants were ignored by the government, since their labor was needed and they were not visible to most of the population. The 1991 Malaysian Comprehensive Policy on the Recruitment of Migrant Workers was set to regularize labor migration when the demand for migrant labor spread to other sectors and the population of irregular migrants increased in a second phase of migration. The third phase of migration policy was set after the 1997 economic downturn. Being viewed in a social and security context as well as economic context, policy has become harsh.

There is also a wide gap between policy intent and policy implementation with respect to Malaysia's foreign worker policy. The policy is heavily skewed towards controlling the supply of migrant labor, while efforts to enhance the supply and demand for labor have been compromised by pervasive ethnic-based affirmative action policies. On the other hand, the policies to control the flow of foreign migrants are not directly implemented by the agencies working on the ground, so the policy intentions are not met. Finding a way to control irregular migration and employment is vital to developing effective migration policies. The task is complicated by the involvement of a large private sector recruitment industry, well-established informal networks and the relative ease of clandestine migration to the country owing to a long coastline. The heavy reliance of the economy on this manpower reserve is clearly evident in policy reversals each time a crackdown on irregular migrants is implemented.

Because of the insecurity in Burma and in Malaysia, many Chin people have been applying for refugee status. Anticipating resettlement in third countries by the UNHCR is a major factor that pulls many Chin people to migrate to Malaysia, too. However, only a few among the many are resettled, and most of the irregular migrants are left to live in chaos in Malaysia. For irregular migrants who seek refugee status in Malaysia or third countries, in the long run, it is necessary to consider other solutions.

In conclusion, the Chin people's migration is neither forced migration nor voluntarily migration. Since the Chin people's migration is not because of the civil war insides Burma, they are not internally displace or force by the causes of wars and the so-called government's developmental projects. However, on the other hand, as the migration of Chin people is not mainly because of searching for the greener pasture, economic reasons, it cannot be entitled as voluntarily migration. Racial discrimination and religious repression by the authorities in Chin State have resulted in structural violence that pushes Chin people to migrate outside Chin State. Unsafe in Chin State, Burma, and unprotected in Malaysia because of their immigration status, Chin irregular migrants are relegated to the informal work sector in Malaysia. Dependency on other migrants while jobless, support from community-based groups,

and support from friends and relatives in third countries enable the irregular Chin migrants to survive. Irregular Chin migrant women are extremely vulnerable to violence and exploitation perpetrated by employers. The Malaysian authorities are persistently to blame for the unwarranted arrest and detention of undocumented Burmese children. Arrest, detention and deportation of the irregular migrants itself leads to bribery of the concerned immigration officials. Those who are sent to the detention centers face critical problems due to lack of adequate access to healthcare, unsanitary environments, risk of disease and possible death. Malaysia opposes consideration of irregular migrants in order to maintain the freedom to regulate migration according to policies that are in their national interest, unencumbered by limitations deriving from international agreements. Malaysian policy towards foreign workers is heavily skewed towards controlling the supply of migrant labor, while efforts to enhance the supply and demand for labor have been compromised by the pervasive ethnic-based affirmative action policies. On the other hand, the policies to control the flow of foreign migrants are not directly implemented by the agencies working on the ground, so the policy intentions are not met. Finding a way to control irregular migration and employment is vital to developing effective migration policies. The policies to control irregular migrants are unsuccessful, because bribery and corruption are still practiced by the officials themselves. Deportation itself appeals to immigration officials involved in human trafficking, as it is a channel for them to receive bribes to allow the migrants to come back into Malaysia. Malaysia is concerned about its citizens' competition for jobs with the foreign workers and also about public security and safety. However, it cannot adopt a tough policy because of the economy's dependence on migrant workforce. The heavy reliance of the economy on this manpower reserve is clearly evident in policy reversals each time a crackdown on irregular migrants is implemented. Many of the policy set by the government are not followed by most of the employers. For most of the irregular Chin migrants, anticipation of resettlement in a third country enables them to keep struggling in Malaysia amidst much destitution.

International bodies have generally focused on Burmese migration, especially that of the ethnic Karen to Thailand, migration of the Rohingya from Arakan State to

Bangladesh, Malaysia and Thailand, and the ethnic Shan migration to China. Even though the Chin are one of the major ethnicities in Burma, Chin people's migration is unobserved by international bodies. For most of the other Burmese migrants, there are still ways to return to Burma. However, there is only a "way out" of Burma for irregular Chin migrants in Malaysia. In Malaysia, the INGOs and NGOs have paid more attention to migrants from other countries like Indonesia and the Philippines than they have to those from Burma. Migrants from Burma get attention mostly only in their political related activities and in criminal cases. Irregular migrants from Burma, mostly the Chin people, gained international attention only after 2005, when the UNHCR have started resettling them to third countries. This resettlement program has created a more rapid flow of irregular Chin migration into Malaysia. Most of the irregular Chin migrants have applied for refugee status. While waiting for the UNHCR resettlement process, they have been working and living in Malaysia irregularly, facing the negative consequences detailed above.

The State Peace and Development Council will hold a general election in 2010 as the fifth step of their "Seven Step Road Map," neglecting the interests and demands made by ethnic nationalities¹ and concerned political bodies. Since the SPDC is still neglecting the interests of the ethnic nationalities, it apparently has little intention of trying to reduce the population outflow of Burmese illegal migrants into other countries. Regarding political rights in Burma, it is opting for a "tripartite dialogue" as a means to achieve its goal. The "tripartite dialogue" means dialogue among the military regime, the 1990 election winning party led by Daw Aung San Suu Kyi, and ethnic nationalities, who are the founding members of the Union, as called for by the United Nations General Assembly since 1994. To reduce the rate of migration to other countries, Burma needs to have a stable rule of law that protects its own people socially, economically, and politically.

¹ Burma has 153 ethnic groups and sub-groups. Burma has a population 50.2 million with as many as 135 groups speaking over one hundred language and dialects (UNHD Report, 2006).

5.2 Recommendations

It is impossible to stop the process of migration from Chin State anymore as it has already been activated and the magnitude of the push factors is still gradually increasing. The best alternative at this moment is that the migrants must be able to have a safer environment in Malaysia and have stable incomes to support their families left behind in Burma who rely on their support. To achieve this goal, recommendations are made to the following concerned group and agencies:

- (i) To the administrative and managerial bodies at the country level:

Burma should have a memorandum of understanding with the Malaysian government as it has with Thailand in order to pave the way for more legal job opportunities for Burmese citizens in Malaysia.

Like Thailand, the Malaysian government should create an official program to give working documents to undocumented migrants in Malaysia so that they can work legally in Malaysia. The government should enact immigration law within Malaysia that can cover up all the migrants regardless of nationality, religion and gender.

- (ii) To NGOs, Malaysian Civil Society, Organizations and aid agencies:

Migrants would like local NGOs and aid agencies to provide humanitarian assistance to the Chin refugees in Malaysia, especially in the areas of health care and the provision of welfare to the most vulnerable groups of people, such as the elderly, women and children on the same basis as the health care provided to Malaysian citizens (as also required by Article 24 of the Convention on the Rights of the Child and Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women).

A focused appeal is being made to local NGOs, INGOs and aid agencies to provide child care services and promote cottage industry work that women can do

from home or in other locations of their choice. Having the ability to work from home would alleviate the widespread fear of arrest and harassment, as well as the frequently reported need to lock children, unable to attend school, in the apartment while mothers go to work.

Although community-based schools have provided some education to the irregular migrant children, it is still insufficient. Greater opportunities for education in public schools for the migrant children are urgently needed.

According to the tripartite working process, Malaysia Trade Union is the organization that can have direct coalition with the migrants. Through ministry of human resources, Malaysia trade Union must compel Malaysian government to comply with ILO standards on the rights to all labor in approaching the rights of all workers regardless of their immigration status.

(iii) To Chin communities:

The Chin community inside Burma should find legal ways to go abroad for work so that they will not be subject to exploitation and deprivation of labor rights by the companies they work for.

The Chin community in Malaysia should have more connections with groups that help workers and INGOs that work with migrants so that they can handle cases in a more proper way, according to national and international standards.

(iv) To UNHCR:

The UNHCR's resettling of many undocumented Burmese migrants in Malaysia has created a "pull factor" that attracts more irregular Burmese migrants to Malaysia. Resettlement solves the problem of undocumented migrants to some extent, but it will be impossible to resettle all the undocumented Burmese migrants. Those who are not resettled will get neither legal status in Malaysia nor have the audacity to

return to Burma. Therefore, continuing advocacy needs to be done with the Malaysian government to gain unhindered access to irregular migrants and refugees living in Malaysia.

5.2.1 Recommendation for Further Research

Due to time constraints, this research could not cover all the coping strategies of Chin irregular migrants in Malaysia. The Chin people are only one among nine nationalities in Burma, so the overall situation of irregular Burmese migrants in Malaysia should also be studied.

Specifically, the situation of Burmese migrants turning to refugees in Malaysia should be studied. Even though most of the push factors responsible for their migration to Malaysia are similar, not all Burmese ethnic groups are granted refugee status. In addition, the overall situation of Burmese irregular migrants who are unqualified to be resettled as refugees in third countries and who are unable to return to Burma should be studied more.

REFERENCES

Primary Data

AFP. (2009, January 14). *US probes Malaysian officials' link to human trafficking*. Retrieved January 14, 2009, from THE FREE LIBRARY:

<http://www.google.com/hostednews/afp/article/ALeqM5iu2NdQBGVU0U9ISMjhCcoUb-7GgQ>

Project Maje. (2007, July). *We Built This City: Workers from Burma at Risk in Malaysia*. Retrieved June 13, 2009, from Project Maje Mekong Network:

<http://www.projectmaje.org/malaysia.htm>

Refugee International. (2005, March 28). *Burmese Chin refugees on the run*.

Retrieved March 29, 2009, from ReliefWeb:

<http://www.unhcr.org/refworld/topic.463af2212,47fa2a362,47a6eeb81e,0.html>

SCALABRINI MIGRATION CENTER. (2009, January 1-31). *Asian Migration*

RefWorld:UNHCR. (2008, June 19). *World Refugee Survey 2008 - Malaysia*.

Retrieved May 4, 2009, from:

<http://www.unhcr.org/refworld/topic.4565c2252,4565c25f8f,485f50c385,0.html>

Secondary Data

Battistella, G. (2002, December). Unauthorized Migratns As Global Workers in ASEAN. *Kyoto University Research Information Repository Southeast Asian Studies, Kyoto University* , pp. 350-371.

Borjas, G. J. (1992). *Immigration and the work force: economic consequences for the United States and source areas*. Chicago: University of Chicago Press.

Chin Human Rights Organization. (2007, April 6). *Malaysia Must Protect Chin Children Now*. Retrieved February 20, 2009, from Chin Human Rights Organization: <http://www.chro.ca/action-alerts/refugees-concern/222-chro-malaysia-must-protect-chin-children-now.html>

Chin Human Rights Organization. (2005, Ocotober 18). *Nowhere to Go: Chin Refugees in Malaysia*. Retrieved June 2, 2005, from Online Burma Library: http://www.ibiblio.org/obl/docs3/Nowhere_to_Go_Chin_Refugees_in_Malaysia.pdf

- CHRISTIAN SOLIDARITY WORLDWIDE HONG KONG. (2006, March). *Burmese Chin Refugee in Malaysia*. Retrieved April 12, 2009, from CHRISTIAN SOLIDARITY WORLDWIDE HONG KONG: http://csw.hkbiz.hk/wp-content/uploads/2008/04/2006_malaysia_report_booklet.pdf
- Ducanes, G & Abella, M. (2008). *Labor Shortage Responses in Japan , Korea, Singapore, Hong Kong, and Malaysia: A Review and Evaluation*. Bangkok: Asian Regional Programming On Governance of Labour Migration, ILO.
- Galtung, J. (1969). Violence, Peace, and Peace Research Vol. 6, No. 3. *Journal of Peace Research, Vol. 6, No.3, Sage Publication* , 167-191.
- Gurowitz, A. (November 2000). *Migrant Rights and Activism in Malaysia: Opportunities and Constraints*. The Journal Of Asian Studies 59. No.4 , 863-888.
- Human Rights Watch. (2009, January). *Malaysia*. Retrieved May 4, 2009, from Human Rights Watch: http://www.hrw.org/sites/default/files/related_material/malaysia.pdf
- Human Rights Watch. (2009). *We Are Like Forgotten People. The Chin People of Burma: Unsafe in Burma, Unprotected in India*. New York, USA: Human Rights Watch.
- International Labour Office. (2008). *International Labour Standards on Migrant Workers's Rights*. Bangkok: ILO.
- Jaafar, A. B. (2008, May 28). *Malaysia : Labour Migration, Manangement, Trends, and Challenges*. Kuala Lumpur, Penisulla, Malaysia.
- Kanapathy, V. (2008). *Controlling Irregular Migration:The Malaysian Experience*. Bangkok: Asian Regional Programming On Governance of Labour Migration, ILO.
- Kanapathy, V. (2001). *International Migration and Labour Market Adjustment in Malaysia*. Japan: JETRO, Chiba: Institute of Developing Economies.
- Kaur, A. (2008). *International Migration and Governance in Malaysia: Policy and Performance*. UNEAC Asia Papers No. 22 , pp. 4-18.
- Khambil, Victor S.(2006). *Why and How Chin refugees fled to Malaysia from Myanmar*. Retrieved on August 19, 2009 from Chin Refugee Committee: <http://crc.civiblog.org/attachments/2782141/Thai%20border%20trafficking.doc>.
- Malaysia Trade Union Congress. (2005). *Country Report: Migrant workers Situation in Malaysia: Overview and concerns*. Malaysia Trade Union.

- Massey, D. S. (1993). Massey, Douglas S., Joaquín Arango, Graeme Hugo, Ali Kouaouci, Adella Pellegrino, and J. Edward Taylor. Theories of international migration: a review and appraisal. *Population and Development Review (New York)*, Vol.19, No.3, pp. 431-466.
- Massey, D. S. (1998). *Worlds in motion: understanding international migration at the end of the millennium*. International Union for the Scientific Study of Population. Oxford: Oxford University Press.
- NCGUB. (2003). *Burma Human Rights Year Book (2002-2003)*. Retrieved April 18, 2009, from The National Coalition Government Union of Burma: http://www.ncgub.net/staticpages/index.php?page=HYB_2002
- NCGUB. (2008, September). *Burma Human Rights Year Book (2007)*. Retrieved June 5, 2009, from The National Coalition Government of Union of Burma: <http://www.ncgub.net/BHRY/2007/pdf/YB2007.pdf>
- Sakhong, L. H. (2003). *In Search Of Chin Identity: A Study in Religion, Politics and Ethnic Identity in Burma*. Denmark: Nordic Institute of Asian Studies.
- Somwong, P. a. (2008). *Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination*. Selongor, Malaysia: FIDH-SUARAM.
- United Nations. (1990). *Convention on the Rights of the Child*. New York: United Nations
- Women's Commission for Refugee Women and Children. (2008, May). *Desperate Lives: Burmese Refugee Women Struggle to Make a Living in Malaysia*. Retrieved March 7, 2009, from Women's Commission for Refugee Women and Children: [http://docs.google.com/gview?a=v&q=cache:kJfVhyVUHkEJ:www.womensrefugeecommission.org/component/remository/funcstartdown/52/+Women%E2%80%99s+Commission+for+Refugee+Women+and+Children.+\(2008\).+Desperate+Lives:+Burmese+Irregular+Migrant+Women+Struggle+to+M](http://docs.google.com/gview?a=v&q=cache:kJfVhyVUHkEJ:www.womensrefugeecommission.org/component/remository/funcstartdown/52/+Women%E2%80%99s+Commission+for+Refugee+Women+and+Children.+(2008).+Desperate+Lives:+Burmese+Irregular+Migrant+Women+Struggle+to+M)
- Interview:**
- Individuals:
- Agent. (personal communication, June 6,2009). Insein, Yangon.
- Agent. (personal communication, June 9,2009). Pansoedaan, Yangon.
- Chalene Fay. (personal communication, June 24,2009). Tenaganita, Kuala Lumpur.

Coordinator. (personal communication, June 23,2009). Alliance of Chin Refugee, Kuala Lumpur.

Coordinator. (personal communication, June 23,2009). Chin Refugee Committee, Kuala Lumpur.

Doctor Caroline Gunn. (personal communication, June 26,2009). A.C.T.S Clinic, Kuala Lumpur.

Immigration officer. (personal communication, June 30,2009). Putra Jaya, Kuala Lumpur.

Leader. (personal communication, June 26,2009). Jalan Imbi area, Kuala Lumpur.

Malaysian agent. (personal communication, June 22,2009). Time Square, Kuala Lumpur

Ms. Shoba. (personal communication, June 25,2009). Women Aid Organization, Kuala Lumpur

Pastor from one of the Chin Christian fellowships. (personal communication, June 21,2009). Pudu Area, Kuala Lumpur.

Teacher. (personal communication, June 23,2009). Chin Student Organization, Kuala Lumpur.

Temme Lee. (personal communication, June 22,2009). SUARAM office, Kuala Lumpur

Group:

2 local people (personal communication, June 30,2009). KLCC, Kuala Lumpur.

2 Malaysian employers. (personal communication, June 29,2009). Construction site in Look Yeaw area, Kuala Lumpur

6-community-leaders. (personal communication, June 24,2009). Apartments in Ampang area, Kuala Lumpur.

6 women. (personal communication, June 27,2009). Restaurant in Hang Tuah area, Kuala Lumpur.

22 migrants. (personal communication, June 23,2009). Alliance of Chin Refugees Office. Kuala Lumpur.

27 migrants (personal communication, June 24,2009). Zomi Association in Malaysia, Kuala Lumpur

58 migrants. (personal communication, June 20,2009). Apartment in Jalan Imbi area
Kuala Lumpur.

62 migrants. (personal communication, June 29,2009). Apartment in Lok Yeaw area
Kuala Lumpur.

8 Students (grade 1 – 4). (personal communication, June 23,2009). CSO school in
Jalan Imbi, Kuala Lumpur

APPENDICES

APPENDIX A

MALAYSIA MIGRATION LAW

What is Migration law?

Immigration deals with sometimes complicated and ever changing laws controlling entry in Malaysia.

Immigration law is the nation's border gatekeeper. The law determines who may enter, the duration of stay, when they must leave, whether a person is an alien, their duties and obligations in Malaysia.

The main legislation governing the Malaysia immigration is the Immigration Act 1959/1963.

The Immigration Act 1959/1963 governs the admission into and departure from Malaysia, entry permits, and procedures on arrival in Malaysia, removal from Malaysia, offenses and special provisions for East Malaysia.

There are also others immigration rules and regulations such as the Passport Act 1966 and Immigration (Exemption) Order 1963.

Which is the Government body Giving Permission to Entry Malaysia?

The Immigration Department Of Malaysia is a department under the the Malaysia Ministry of Home Affairs and enforces the immigration laws.

The Immigration Department Malaysia has a duty to keep out aliens who have a criminal record, aliens who are not able to finance themselves and people who are lying about their intentions for coming to Malaysia.

To enter Malaysia, generally the Malaysian Embassy or Consulate in your home country will give you a visa, stamped into your Passport.

Who Can Enter Malaysia

A Malaysia citizen and a person

- in possession of a valid Entry Permit lawfully issued to him or her
- with his or her name endorsed upon a valid Entry Permit and he or she is in the company of the holder of the Permit
- in possession of a valid Pass lawfully issued to him or her to enter Malaysia is permitted to enter Malaysia.

When Is A Person Deemed To Have Entered Malaysia?

Under the Immigration Act 1959/1963, a person is deemed to have entered Malaysia

- in case a person arriving by sea, disembarking in Malaysia from the vessel, ship or boat in which he or she arrives.
- in case a person arriving by air at an authorized airport, leaving the precincts of the airport.
- in case a person entering by land and proceeding to an immigration control post and produces particulars in such form as may be required and leaving the precincts of the post for any purpose other than of departing from Malaysia by an approved route and
- in any other case, any entry into Malaysia by land, sea or air.

Do Malaysia citizen Need A Permit To enter Malaysia?

A Malaysia citizen has the right to enter Malaysia without having to obtain Permit or Pass.

However, there is a restriction on citizen's right of entry into an East Malaysian State.

West Malaysian citizen shall not be entitled to enter an East Malaysian State without having obtained a Permit or Pass unless

- he is a member of Federal Government or of Executive Council or Legislative Assembly of the East Malaysian State
- he is a judge of the Federal Court or of the High Court in Sabah and Sarawak, or is a person designated or nominated to act as such, or he is a member of any Commission or Council established by the Federal Constitution or by the Constitution of the East Malaysian State
- he is a member of any public service of the Federation or of the public service of the East Malaysian State or a joint public service serving the East Malaysian state or is seconded to any such service
- he is entering East Malaysian State for sole purpose of engaging in legitimate political activity or
- he is entering East Malaysian State as temporarily required by the Federal Government in order to enable that Government to carry out its constitutional and administrative responsibilities.

Nevertheless, the burden of proof that a person is a citizen shall lie upon that person such as Identity Card and Passport.

What Is The Procedure On Arrival Of An Aircraft In Malaysia?

The captain of an aircraft which arrives in Malaysia shall land his aircraft at authorized airport.

The captain of the aircraft arriving or leaving Malaysia shall:

- produce to an immigration officer a passenger list
- produce to an immigration officer in relation to every passenger landing in Malaysia such particulars in such form as may be prescribed
- produce to an immigration officer a complete list of members of crew of his aircraft
- produce to an immigration officer the members of the crew and passengers of aircraft for inspection and interrogation as directed by immigration officer

- submit to such search of his aircraft by an immigration officer as may be necessary to establish the presence or absence of other person on board and
- report to an immigration officer the presence on board of any stowaway or unauthorized person or any person proceeding to any state or country on his removal from any other state or country by the competent authorities of that state or country.

If any person is found on aircraft whose presence has not been reported as aforesaid, the captain of the aircraft, shall be guilty of an offence and shall, on conviction, be liable to fine not exceeding RM\$1,000.00 in respect of each such person.

All disembarking passengers are required to complete a Disembarking Card in triplicate and to enclose it in their passports for presentation to the immigration officer.

Every person arriving in Malaysia, shall appear before an immigration officer at such time and place as the officer may direct for examination as he may consider necessary.

Where an immigration officer is in doubt as to the right of any person to enter Malaysia, it shall be lawful for the officer to direct the person to an immigration depot and in such case, the person shall proceed to the depot and shall remain there until permitted to leave by the officer.

Where after examination, a person is considered to be prohibited from entering Malaysia, such person shall not leave the precincts of the airport except for a place approved by the immigration officer, and he shall leave and depart from Malaysia by the first available means in accordance with the instructions of the officer to his place of embarkation or to the country of his birth or citizenship.

What Is The Procedure On Arrival In Malaysia By Land?

No person shall enter Malaysia by land between the hours of 7:00 pm and 6:00 am unless such person entering by land as a passenger or railway official in the normal course of a railway journey.

Any person entering Malaysia by land must enter at an authorized point of entry and shall proceed therefrom by an approved route, to the nearest immigration control post.

Such person shall then appear before the immigration officer in charge of the post and if require, produce particulars in such form as may be prescribed.

If an immigration officer considers that a person is prohibited from entering Malaysia under the Immigration Act 1959/1963, inform the person of his finding, and the person shall in accordance with the instructions of the immigration officer leave and depart from Malaysia.

What Is The Penalty For A Person Who Unlawfully Return To Malaysia After Removal?

Under the Immigration Act 1959/1963, Section 36, any person who, having been lawfully removed or otherwise sent out of Malaysia, unlawfully enters Malaysia or unlawfully resides in Malaysia shall be guilty of an offence and shall, on conviction,

- be liable to a fine not exceeding RM\$10,000.00 or
- to imprisonment for a term not exceeding 5 years or
- to both and
- shall also be liable to whipping of not more than 6 strokes, and
- shall in addition to any penalty for the offence, be removed or again removed as the case may be, from Malaysia.

Does An Immigration Officer Has The Power To Arrest?

Yes, in respect of offenses against the Immigration Act 1959/1963.

An immigration officer may arrest without warrant any person believed to be a person liable to removal from Malaysia under the Immigration Act 1959/1963.

An immigration officer have the authority and powers of a police officer to enforce any of the provision of the Immigration Act 1959/1963 relating to arrest, detention or removal.

An immigration officer also have the authority to appear in Court and conduct any prosecution in respect of any offence against the Immigration Act 1959/1963.

A senior immigration officer may without warrant and with or without assistance,

- enter and search any premises or
- stop and search any vessel, vehicle or person or search any aircraft, whether in a public place or not

if he has reason to believe that any evidence of the commission of an offence against the Immigration Act 1959/1963 is likely to be found on such premises or person or in such vessel, vehicle or aircraft and may seize any evidence so found.

However, no woman shall be searched except by a woman.

APPENDIX B

EMPLOYMENT LAW IN MALAYSIA

What is employment?

Employment means work or service performed by an individual to the task at hand for another person or entity in exchange for wages or other remuneration.

What is Employment Law?

Employment Law is the law which regulates the operation of the labour market in general and the employment relationship between employers and employees in particular. Examples include hiring process, suspension from work, maternity rights, layoff and wages.

The obligations and rights of an employment contract are covered by the Employment law.

When an offer for employment is made by an employer to an employee, the law governing the relationship between an employee and an employer begins.

What Are the Basic Terms Used To Describe The Employment Relationship?

An employer in relation to an employee or a workman, means a person by whom the employee or workman is employed. An employer obtains the services of another to perform work and has direct control of the way in which the work is to be done.

An employer shall provide the means through which the services will be performed such as providing a place where the work is to be performed and tools required getting the job done.

Contract of service means any agreement, whether express or implied, and if express, whether oral or in writing where the employer agrees to employ and the employee agrees to be employed and includes an apprenticeship contract.

In general, an employee means a person who has entered into or works under a contract of employment. There are different interpretations for the term, employee, in different Acts governing the labour market in Malaysia. Those interpretations will determine whether you are an employee protected under the scope of an Act.

Where an employee begins employment with an employer and for a period of more than one month, such employee must be given a written contract of employment with particulars of the terms and conditions of employment including the notice period required to terminate the contract of employment.

What Are The Laws Governing Employment In Malaysia?

The principal legislation governing the labor market and employment relationship in Malaysia is the Employment Act 1955. However, the application of these rules to Sarawak and Sabah references made under the Act shall be substituted by references to the Sarawak Labor Ordinance (Cap. 76) and Sabah Labour Ordinance (Cap. 67) or other written laws in force in Sarawak or Sabah, as the case may be.

Some other legal regulations include:

- Pensions Act 1980
For the administration of pensions, gratuities and other benefits for officers in the public service and their dependants.
- Employees Social Security Act 1969 (ESSA)
For social security protection to all employees and their dependants as well as the employers. This Act is administered by the Social Security Organization (SOCSO) or Pertubuhan Keselamatan Social (PERKESO), Malaysia.
- Employees Provident Fund Act 1951
For the provision of financial security to its members particularly after retirement, through a compulsory savings scheme. This Act is administered by the Employees Provident Fund (EPF) or Kumpulan Wang Simpanan Pekerja (KWSP), Malaysia.

- **Occupational Safety and Health Act 1994 (OSHA)**
For the safety, welfare and health of persons of workplaces or in the operation of high risk machinery against risks to safety or health. This Act is administered by the Department of Occupational Safety and Health or Jabatan Keselamatan dan Kesihatan Pekerjaan, Malaysia.
- **Private Employment Agencies Act 1981**
This Act is administered by the Manpower Department, Ministry of Human Resources or Jabatan Tenaga Rakyat, Kementerian Sumber Manusia, Malaysia.
- **Human Resources Development Act 1992**
This Act is administered by the Human Resources Development Council or Majlis Pembangunan Sumber Manusia, Malaysia.
- **Factories and Machinery Act 1967**
This Act is administered by the Department of Occupational Safety and Health or Jabatan Keselamatan Dan Kesihatan Pekerjaan, Malaysia.
- **Petroleum (Safety Measure) Act 1984**
This Act is administered by the Department of Occupational Safety and Health or Jabatan Keselamatan Dan Kesihatan Pekerjaan, Malaysia.
- **Trade Unions Act 1959**
This Act is administered by the Trade Union Affairs Department or Jabatan Hal Ehwal Kesatuan Sekerja, Malaysia.
- **Workmen's Compensation Act 1952**
For compensation to foreign workers injured in the course of their employment and to worker's dependents in the event of fatal accident. This Act is administered by the Department of Labour or Jabatan Buruh - Peninsular Malaysia, Sabah and Sarawak.
- **Industrial Relations Act 1967**
An Act which governs the relationship between employers and workmen or employees and their trade unions and generally deal with trade disputes. This

Act is administered by the Industrial Relations Department or Jabatan Perhubungan Perusahaan, Malaysia.

- **Wages Council Act 1947**
This Act is administered by the Department of Labour or Jabatan Buruh - Peninsular Malaysia, Sabah and Sarawak.
- **Employment Information Act 1953**
This Act provides the Department of Labour with power to obtain and collect information and data on employment, terms and conditions relating to an employment, from any industries in the private sector. This Act is administered by the Department of Labour or Jabatan Buruh - Peninsular Malaysia, Sabah and Sarawak.
- **Employment (Restriction) Act 1968**
This Act is administered by the Department of Labour or Jabatan Buruh Peninsular Malaysia.
- **Worker's Minimum Standards of Housing and Amenities Act 1990**
This Act is administered by the Department of Labour or Jabatan Buruh Peninsular Malaysia.
- **Weekly Holidays Act 1950**
This Act is administered by the Department of Labour or Jabatan Buruh Peninsular Malaysia.
- **Children and Young Persons (Employment) Act 1966**
This Act is administered by the Department of Labour or Jabatan Buruh Peninsular Malaysia.

APPENDIX C

EMPLOYEES PROVIDENT FUND

What is Employee Provident Fund?

Employees Provident Fund is a compulsory savings scheme in Malaysia. Its primary aim is to provide a measure of security for old age retirement to its members. It also provides supplementary benefits to members to utilize part of their savings for house ownership and other withdrawal schemes.

EPF is the abbreviation for Employees Provident Fund. Employees Provident Fund is commonly known in the Malay term as KWSP or Kumpulan Wang Simpanan Pekerja.

Employees Provident Fund Act 1991 is the act governing the Employees Provident Fund in Malaysia. This Act is administered by the Employees Provident Fund, Malaysia.

Who Should Contribute Towards The Fund?

All employees in Malaysia who have reached the age of 16 and employed under a contract of service whether express or implied, and whether oral or in writing must be registered as a member of the Employees Provident Fund.

An employer will contribute 12% of the employee's wages and the employee contributes 11% of the monthly wages towards the employee's account.

Prior to 1st August 1998, expatriates and foreign workers were not required to contribute to the EPF although they may elect to do so.

However, with effect from 1st August 1998, all foreign workers and expatriates earning less than RM2,500 per month are also required to contribute to EPF with the exception of certain categories.

Those who are exempted from making the compulsory contribution are

- employees or workers holding Employment Pass or expatriates holding Visit Pass (Temporary Employment) whose monthly wages is not less than RM2,500
- Thai workers who enter Malaysia with a Territorial Pass
- Seamen
- Foreign domestic maids
- Self-employed persons
- Out-workers who do cleaning and alteration repair works
- Persons detained in custody, in prison, Henry Gurney School and mental hospital
- Pensioners

Nevertheless, the above can choose to contribute to the fund.

Where a member continues employment after withdrawing the contributions upon retirement, such member may opt to continue contributing to the EPF by submitting the KWSP 20/20A Form.

The statutory rates of contributions are as follows :

	% of contributions of employees' wages	
	Employer	Employee
All except expatriates and foreign workers	12%	11%
Expatriates and foreign workers (except those excluded)	RM5 per person	11%

Employers and employees are, however, allowed to elect to contribute at higher rates.

What Is the Procedure To Register An Employment With The EPF?

Employers must register their employees with the EPF within 7 days of employment under law.

Under section 41(2) of the EPF Act 1991, an employer who contravenes the above shall be found guilty of an offence and shall be liable, on conviction to imprisonment for a term not exceeding 3 years or fine not exceeding RM10,000 or to both.

An employer shall register the company or firm with the EPF by submitting the KWSP 1 Form. This can be obtained from the nearest EPF branch office.

Thereafter, for each employee, the employee and the employer is required to complete the KWSP 3 (AHL) Form. Generally, an employee will also be required to submit the Nomination Form KWSP 4 (AHL) which is attached together with the KWSP 3 (AHL) Form.

Once the application is approved, the employee will be sent a Membership Card.

The EPF contribution by employer and employee shall commence on the first month of salary payment pursuant to section 45(2) of the EPF Act 1991.

When Should Employment Pay Contribution to EPF?

An employer shall before the end of the first week in the first month in which he is paying required to pay contribution to the Employees Provident Fund.

An employer shall prepare and furnish a statement of wages to each employee.

An employer who fails to make contributions to EPF shall be guilty of an offense and shall be liable on conviction to imprisonment for a term not exceeding 3 years or to a fine not exceeding RM10,000 or to both.

What Happens To the EPF Monies If A Member Dies?

Under the Death Withdrawal Scheme, the beneficiary which has been registered by the deceased as his or her heir or where the deceased has not named a beneficiary, certain person deemed acceptable by EPF has the right to apply for the deceased savings.

The next-of-kin or beneficiary is allowed to withdraw the entire savings.

If a member dies before reaching 60 years of age, the member's dependants will be paid Death Benefits.

Nominees of the member are entitled to monies upon the member's death irrespective of whether there is a Will or not.

However, nominations made before marriage, are automatically canceled and fresh nominations must be made.

Where a member dies without named beneficiary, the following persons will have the right to withdraw the savings:

- If the deceased is married :
 - Inheritance Administrator
 - Spouse of the deceased
 - Children of the deceased or their guardians
 - Parents of the deceased
 - Siblings of the deceased
 - Anyone who is deemed acceptable by the EPF as qualified to receive the monies
- If the deceased is single
 - Inheritance Administrator
 - Parents of the deceased
 - Siblings of the deceased
 - Anyone who is deemed acceptable by the EPF as qualified to receive the monies

Where the deceased has not named a beneficiary, there are 3 kinds of payments made by EPF.

Where the deceased total savings is not more than RM20,000 and a Probation Letter or Administrative Letter or Distributing Command is not submitted within 2 months from the date of the death, EPF has the right to

- relay the monies to parties whom the EPF deems qualified to hold of these letters.
- relay the monies to parties which the EPF deems qualified to receive interest from the deceased.

Where the total savings of the deceased is between RM20,000 and RM30,000, EPF cannot pay more than 50% of the total savings to the above persons.

Where the total savings of the deceased is more than RM30,000, EPF can pay up to 25% of the total savings or RM30,000 whichever is lower, to the above persons.

Where the member is a Muslim with named beneficiary, the beneficiary will only acts as an executor or "wasi" who will upon the member's death be responsible for the distribution of the deceased savings in accordance with Faraid (inheritance) laws to the legal heirs.

The nominees can make the claim from the Employee Provident Fund by completing the KWSP 9(KM) Form.

Named beneficiary who has not reach 18 years of age will have to complete additional KWSP 22 Form and for applicants who is legal heir to the named beneficiary that passed away after the deceased member will have to submit KWSP 10A Form in addition to KWSP 9(KM) Form.

Members are always encouraged to name their beneficiary to avoid any inconvenience for the beloved ones or next-of-kin in the event of death.

How Does One Nominate A Beneficiary?

Only members above the age of 18 years can nominate any person or persons to become his or her beneficiary.

A member must complete and submit the KWSP 4 (AHL) Form for the record of EPF.

A witness is required during the naming of the beneficiary. The witness cannot be a beneficiary.

To change the nominee or nominees, a member shall complete and submit a new KWSP 4 (AHL) Form. This will automatically replace the previous nomination.

In the event of the member's death, immediate payment will be made to the named beneficiary.

Under What Circumstances Can A Member Withdrawal The Entire Of The EPF Contributions?

EPF members are entitled to withdraw the full amount of contributions :

- on attaining the age of 55 years
- on the death of the member (withdrawal made by beneficiaries)
- if the member is prevented from engaging in any further employment by reasons of physical or mental incapacitation
- for those expatriate foreign workers who have contributed but are excluded
- on leaving Malaysia permanently

Where a member withdraws all the savings at the age of 55, application can be made by filling in the KWSP 9B (AHL) Form and enclosing a photocopy of the identity card.

Withdrawal under the Retirement Withdrawal Scheme is being offered in three options :

- Lump sum withdrawal
- Periodical payment withdrawal scheme
- Annual dividend withdrawal scheme
- Annuity scheme

Where a member is an expatriate or have canceled their citizenship of Malaysia and leaving Malaysia with no intention of returning, such member is allowed to withdraw the entire savings by proceeding to the EPF office and submit the form KWSP 9B (AHL) and KWSP 9 (DN).

Where a member experiences physical or mental disability which robs him or her of his or her ability to continue working, such member can withdraw the entire of the EPF savings under the Physical or Mental Incapacitation Withdrawal Scheme.

Under the above scheme, if a member has withdrawn all the EPF savings before reaching 60 years of age, such member will also receive a Disability Benefit.

To withdraw under the Physical or Mental Incapacitation Withdrawal Scheme, a member must submit the KWSP 9B (AHL) Form and a photocopy of identity card and a medical report must be attached. The medical report must include

- information on the illness or accident that caused the disability
- information on present state of health

Reports from the a Government or University Hospital must not be more than 1 year old while report from a private hospital or clinic must not be more than 6 months from issuing date.

Member's letter of resignation stating the cause of resignation or retrenchment from employer must also be enclosed. Where such letter is not available, a member may also submit a Statutory Declaration made before a Magistrate stating the following information :

- Name of last employer
- Date of resignation
- Last position held
- Reasons for resignation

The member will be referred to the panel of doctors of the EPF for check up, when the EPF is satisfied with the application. The approval of application will depend on the approval of the EPF panel of doctors. The member can also obtain approval from a Medical Practitioner in a Government Hospital.

What Are The Requirements To Partial Withdraw Of EPF Contributions?

For the purpose of withdrawal from the EPF, a member's account is subdivided and maintained in 3 separate sub-accounts

		% of contributions
Account I	For retirement purposes at age 55	60
Account II	For housing, education, computer purchase and withdrawal at age 50	30
Account III	For health and medical	10

Certain conditions must be fulfilled for any withdrawal of the EPF savings.

A member can withdraw the entire saving from the Account II at the age of 50 by completing the KWSP 9B (AHL). This is a pre-retirement savings.

Withdrawal under Account III is only possible to meet medical treatment costs.

An EPF member can withdraw all his or her contributions or the cost of treatment in Account III on medical grounds subject to approval by a medical board.

The Medical Withdrawal Scheme can be used to cover spouse, children, siblings and parents. The list of critical illnesses that qualifies for withdrawal can be obtained from the EPF office. A member shall submit the KWSP 9D (AHL) Form for such withdrawal.

Under the Education Withdrawal Scheme, members are also permitted to withdraw the savings in Account II to pay the fees for themselves or their children further studying in any institutions locally or abroad.

Subject to certain conditions, members are allowed to withdraw for purchasing personal computer for themselves or their children under the Computer Withdrawal Scheme.

EPF members who are still serving the public sector and have been emplaced of a pensionable status are allowed to withdraw the employees' share of contribution exclusive of dividends. Members can apply for withdrawal by submitting the KWSP 9J (AHL) form together with a certified true copy of Identity Card and confirmation letter regarding the service period (JPA/PEN228/11/5-6) from the Head Department and Appendix A and A-1.

Under the Members' Investment Scheme, members with more than RM55,000 in their Account I are allowed to invest a portion of their savings in fund management companies approved by the Ministry of Finance.

Finally, there is the Annuity Scheme which allows members to withdraw from their EPF accounts to purchase an annuity plan from insurance companies which provides members a guaranteed regular income from age 55 for the rest of their lives.

Am I Eligible To Withdraw Under The Education Withdrawing Scheme?

As a member, you are personally entitled to withdraw to pay fees if pursuing studies at diploma level. Withdrawal for your children is only possible if pursuing degree and postgraduate degree courses.

The amount which qualifies for withdrawal is either

- the maximum amount of total fees
- the total amount of contributions in your Account II, whichever is lower

Withdrawal can be made on each academic year subject to the availability of funds in your Account II.

EPF will make payment in either of these 3 modes:

- direct payment to the local institutions of higher learning
- payment to you if you or your children are pursuing studies abroad or any payment made by you, subject to certain terms and conditions
- direct payment to the financial institutions to settle or reduce the balance of study loans you have taken up under certain condition you or your children currently studying in institutions of higher learning including study loans under your name or both you and your children's name.

Before you make any application for withdrawal, you are required to check the balance in your EPF Account II and obtain a letter from EPF on the amount allowed to be withdrawn.

In order to obtain the letter from EPF, the following documents have to be submitted :

- letter of acceptance from the university or college stating that you will be pursuing studies at diploma level and above or your children who will be pursuing their first year studies at degree level and above or letter of registration for subsequent years of study.
- photocopy of your identify card

You can apply this scheme by submitting the KWSP 9H (AHL) Form together with the relevant supporting documents to the EPF office.

Am I Eligible To Withdraw Under The Computer Scheme?

Under the Computer Withdrawal Scheme, you are allowed to withdraw up to RM3,500 or subject to the balance in your Account II, whichever is lower.

For joint application, you can also withdraw up to RM3,500 only or subject to the balance in the Account II, whichever is lower. Application must be submitted together for joint application.

You are only permitted to withdraw once under this scheme. You are not eligible to apply again where you have withdrawn previously under this scheme.

To apply for withdrawal, you are to submit the KWSP 9K (AHL) Form from appointed dealers, Pos Malaysia Berhad or Bank Simpanan Nasional, together with the relevant documents.

Once your application is approved, the dealer will deliver the computer to you.

How Much Can I Withdraw Under The Members' Investment Scheme?

The Members' Investment Scheme allows members with more than RM55,000 in their Account I to invest up to 20% of the excess in approved unit trusts funds.

The minimum amount for investment is RM1,000.

The amount you can withdraw can be calculated using the formula below :

$(\text{Balance in Account I} - \text{Amount above RM55,000 in Account I}) \times 20\%$

You can withdraw for a second time, three months after the first withdrawal.

However, in any withdrawal, you must have a minimum savings of RM55,000 in your Account I.

You can only invest your savings in unit trusts funds approved by the Ministry of Finance.

You should note that EPF does not take any responsibility for investment made by you.

To withdraw, you have to obtain the Statement of Account and submit the KWSP 9F (AHL) Form for investment purposes.

There are currently 33 approved Fund Managers :

Fund Manager	
Mayban UBS Asset Management Sdn Bhd	Mayban Management Bhd
Kuala Lumpur Mutual Fund Bhd	Amanah Saham Sarawak
Perdana Merchant Bank Bhd	Amanah Merchant Bank Bhd
Rashid Hussain Asset Management Sdn Bhd	Permodalan BSN Bhd
Amanah Saham Nasional Berhad - ASN2	BHLB Asset Management Bhd
HLG Asset Management Sdn Bhd	Asia Unit Trust Bhd
Utama SSSB Unit Trust Management Bhd	TA Unit Trust Management Bhd
Jardine Fleming Apex Unit Trust Bhd	Philip Capital Management Sdn Bhd
Affin Fund Management Sdn Bhd	AMMB Asset Management Sdn Bhd
Arab-Malaysia Unit Trust Bhd	SBB Asset Management Sdn Bhd
BBMB Unit Trust Management Bhd	Pacific Mutual Fund Bhd
Bumiputra Merchant Bankers Bhd	Lembaga Tabung Haji
BHLB Pacific Trust Management Sdn Bhd	RHB Unit Trust Management Bhd
Commerce-BT Unit Trust Management Bhd	SBB Unit Trust Management Bhd
ASM Mara Unit Trust Management Bhd	HLB Unit Trust Management Bhd
OSK-UOB Unit Trust Management Bhd	MBF Unit Trust Management Bhd
MIMB Aberdeen Asset Management Sdn Bhd	

How Does The Annuity Scheme Works?

The Annuity Scheme is for members to manage their post-retirement fund. You are eligible if you are not the public sector pensionable employees.

You can withdraw from your EPF Account I, II and III to purchase an annuity plan from insurance companies approved by the Ministry of Finance. This scheme provides you with a guaranteed regular pension income for life starting from the age of 55.

EPF is offering 2 types of annuity schemes

- Conventional Annuity Scheme
- Takaful Annuity Scheme

Both these schemes have two products.

The first product is known as deferred annuity. You can purchase the annuity policy before reaching the retirement age of 55 and receive the monthly income as soon as you reach 55. Under the Takaful Scheme, you will receive the monthly payments until 100 years of age.

The second product is known as immediate annuity. You can purchase the annuity policy between age 55 and 70. The monthly pension income will commence 1 month after the date of purchase. Under the Takaful Scheme, you will receive the monthly payments until the age of 100.

The premium rates for both products depend on your age and gender.

The annuity is purchased on a unit basis. 1 Unit provides a guaranteed minimum monthly income of RM100 per month for the rest of your life. However, there is no such guarantee under the Takaful Scheme.

You may purchase as many annuity units as you wish to meet your retirement needs and there are no requirements for medical examinations.

Payment of premium can be made to the insurance companies once every 3 months for the first product and one-off single premium applies for the second product.

In the event of death before the age of 55, the annuity policy holder's beneficiaries will receive the monthly payments for a guaranteed 10 years starting from the year the member dies. The policy will be null and void after the 10 years period.

Similarly under the Takaful Scheme, the beneficiaries will receive yearly annuity payments for 10 years.

In the event of death after the age of 55, the beneficiaries will receive the monthly payments for the balance of the guaranteed 10 years.

If a member dies after the age of 65, no annuity will be paid to the beneficiaries.

In the event of total and permanent disability, member will receive the monthly payments for life or until death occurs, and the beneficiaries will receive the payments for the balance of the guaranteed 10 years.

All applicants will be automatically accepted. You need to submit the KWSP 9G (AHL) Form and enclose the statement showing the number of annuity units you are eligible to purchase.

You will be given a "Cooling Off Period" of 15 days to cancel the policy without incurring any penalty. Thereafter should you decide to surrender the policy, a service charge is levied. The total premium and bonus minus the service charge will be returned to you.

The "Cooling Off Period" does not apply to the Takaful Scheme.

What Are The Conditions for Withdrawal Under The Housing Withdrawal Scheme?

The Account II of 30% can be withdrawn for purchase or construction of a residential house or shop house or to reduce the mortgage for the purchase.

Members can withdraw the difference between the price of the house and loan with and additional 10% of the price of the house or all the savings in Account II, whichever is lower.

$(\text{Cost of house} - \text{Loan amount}) + 10\% \text{ of cost of house}$

Members shall submit the KWSP 9C (AHL) Form together with supporting documents for withdrawal under this scheme.

The withdrawal for the purchase of a house must be within 2 years from the date of signing of the Sale and Purchase Agreement.

With effect from 2nd January 2001, no withdrawal is possible for the purchase of a second house unless the first house, which was funded via the EPF savings is being sold.

For the purchase of the second house subject to the above condition, member is required to submit documentation of the sale of property :

- Title Deed under the name of member
- Memorandum of Transfer (KTN 14A)
- Deed of Assignment or
- Loan Agreement cum Assignment

Members can continue to make further withdrawals once every 3 years from Account II to service the loan for the existing house if

- the outstanding balance of loan used to buy a house or shop house and the mortgage on house is the first mortgage
- member has not reached the age of 55 years during approval of the application
- the purchase of the second house or shop house is before 2nd January 2001.

You cannot withdraw for house renovation or repair to your existing property or to collateral the house to acquire finance for the purpose of other than to purchase or build a house.

For withdrawal to service your housing loan, you can withdraw all your savings in Account II or the balance of your housing loan, whichever is lower.

Under joint application, both parties can withdraw all their savings in Account II or the balance of their housing loan, whichever is lower. Under this circumstance, EPF will process the application from buyer 1 and if the savings is insufficient, EPF will then process the application from buyer 2.

APPENDIX D

CHRONOLOGY OF CHIN PEOPLE'S MIGRATION

Figure 17 Graph of Chronology of Chin People's Migration

Year	To	Cause
1937	Separation of Chinram into Burma and India. East Chinram into the Frontier Areas of Burma and West Chinram of present Mizoram into India	Burma Act and India Act 135
1950s	Yangon, Maymyo, Mandalay, and some other towns where military battalions existed	Joining military
Early 1970s	Kalay Velly (Sagaing Division)	Joining military and searching for green pasture
Late 1970s	Gangaw, Kalay, Mandalay, Yangon	Serving in government sectors, for education, and business
Late 1970s and early 1980s	India	Trading and study
Late 1980s	Malaysia, Singapore	Working as semi-skilled workers with work permit
Early 2000s	Australia, Canada, Denmark, Holland, Japan, New Zealand, Norway, Singapore, South Korea, Switzerland, USA,	Resettlement by UNHCR
2007-2008	India	Starvation and devastation caused by bamboo flowering which happened once in fifty years

BIOGRAPHY

Khen Suan Khai is from Hnaring, the hill-tribe of Lautu, which is located in Thantlang Township, Chin State in northern Burma. He was born in Tedim, a small town in Chin State and raised in Tedim, Tonzang and Falam townships in Chin State and Yangon, Burma. Being the younger son of a devoted Christian minister and lenient senior nurse, he has been an enthusiastic youth member of his church and active member in the university students' fellowship, where he was the first editor of BAWINU magazine, the very first formally published magazine among the fine Lautu tribe in 2006.

The revolution throughout Burma in 1988 made him repeat his KG class at the age of five in 1989. He spent 12 years in No. 2 Basic Education Primary School (Tedim), Basic Education High School (Tonzang), No. 2 Basic Education High School (Falam), and No. 2 Basic Education High School (Insein, Yangon) to complete his matriculation in Y2K. He acquired two bachelor degrees in the same month, October 2006, from different schools: a Bachelor of Arts (English Major) from Dagon University, and a Bachelor of Arts in Religious Studies from Myanmar Institute of Theology, Yangon, Burma. In 2006, he was then admitted into the graduate program in Mae Fah Luang University, Thailand, where he carried out research on the situation of illegal Burmese migrant workers in Bangkok, Chiang Mai, Chiang Rai, Mae Sai, Mae Sot and Mahachai, Thailand and obtained his Master of Public Administration degree in 2008. Just one week before Cyclone Nargis hit Burma in May 2008, he returned home from Thailand, and assisted victims from Hliangtharyar area in Yangon with the help of friends from all over the world. Again in 2009, he did a case study about irregular Chin migrants from Burma in Malaysia. He obtained an M.A. in International Development Studies from Chulalongkorn University in the year 2009.