

Stateless Refugees from Myanmar, in Thailand

Prologue

The first unified state of Burma was founded in 1057 by King Anawrahta. Between 1057 and 1886 Burma was ruled by various local dynasties - except for a brief period in 1287 when it was conquered by Kublai Khan's Mongol army.¹

In 1886, following various battles which started in 1824, Britain captured Burma and it became a province of British India.

'The British also further divided the numerous ethnic minorities by favouring some groups, such as the Karen, for positions in the military and in local rural administrations. During the 1920s, the first protests by Burma's intelligentsia and Buddhist monks were launched against British rule. By 1935, the Students Union at Rangoon University was at the forefront of what would evolve into an active and powerful movement for national independence.'²

In 1937 Britain separated Burma from India and declared it a crown colony.³ Like other countries in South-East Asia, Burma, fell to the Japanese during World War Two (WW2). The invading Japanese were aided by the, Japanese trained, Burma Independence Army, which would later be known as the Ant-Fascist People's Freedom League (AFPFL).⁴ The AFPFL had, as its leader, the charismatic Aung Sun - a young lawyer educated at Rangoon University.⁵

Aung Sun had agreed to ally the AFPFL with the Japanese as he had been promised, that following the defeat of the British, Burma would be granted independence. As it became clear that the invading Japanese had no intention of doing so; Aung Sun and the AFPFL collaborated with the British to defeat the Japanese.⁶ Following the end of WW2, Aung Sun negotiated with the British for Burma's independence, and an agreement was reached in January 1947.

In 1947 Aung Sun and six members of his interim government were assassinated by political opponents. U Nu, a member of Aung Sun's interim government, was appointed as the new leader of the AFPFL.⁷

Burma was accorded full independence in January 1948⁸ with U Nu as prime minister. Following a decade of lacklustre growth and separatist insurgencies, the military, led by army Chief of Staff, General Ne Win ousted U Nu and formed a caretaker government.⁹ In the 1960 general election, U

¹ BBC News Asia, Myanmar profile, <http://www.bbc.co.uk/news/world-asia-pacific-12992883> (accessed on July 1, 2014)

² Canadian Friends of Burma, History of Burma, <http://www.cfob.org/HistoryofBurma/historyOfBurma.shtml> (accessed on July 1, 2014)

³ BBC News Asia, Myanmar profile, <http://www.bbc.co.uk/news/world-asia-pacific-12992883> (accessed on July 1, 2014)

⁴ Ibid.

⁵ Canadian Friends of Burma, History of Burma, <http://www.cfob.org/HistoryofBurma/historyOfBurma.shtml> (accessed on July 1, 2014)

⁶ Ibid.

⁷ BBC News Asia, Myanmar profile, <http://www.bbc.co.uk/news/world-asia-pacific-12992883> (accessed on July 1, 2014)

⁸ BBC News Asia, Myanmar profile, <http://www.bbc.co.uk/news/world-asia-pacific-12992883> (accessed on July 1, 2014)

⁹ Ibid.

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Nu's party won a decisive victory, and U Nu was once again named prime minister. His 'promotion of Buddhism as the state religion and his tolerance of separatism anger(ed) the military'.¹⁰

In 1962, a military coup led by General Ne Win overthrew U Nu and his government. Ne Win established the Burmese Way to Socialism, 'nationalising the economy, forming a single-party state with the Socialist Programme Party as the sole political party, and banning independent newspapers'.¹¹

The military junta, in various incarnations such as; the People's Assembly, the Socialist Programme Party and the State Law and Order Restoration Council, ruled Burma with an iron fist. There were occasions of anti-government protest and demonstrations, the biggest of which were in 1987 and 1988¹², but these were brutally suppressed.¹³ In 1989 the military junta rename Burma, Myanmar.¹⁴

The military junta implemented a series of oppressive policies aimed at stamping out resistance, specifically by ethnic resistance groups, to their rule.¹⁵ 'Many areas occupied by ethnic resistance groups, particularly in the eastern regions of the country, were burned, raided or forcibly evacuated, and turned into free-fire zones in which soldiers were allowed to abuse or kill residents with impunity.'¹⁶ (See **Exhibit 1** for Map of Myanmar according to ethnicity)

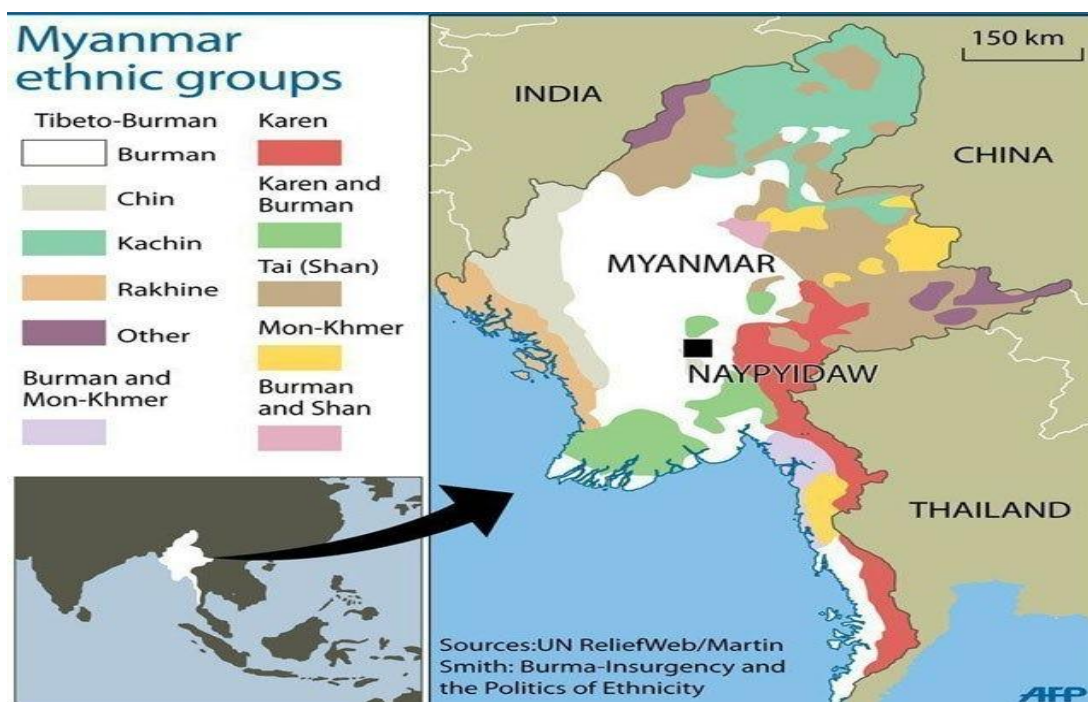


Exhibit 1 Source: Neal Rauhauser, Rohingya: Stateless in Myanmar, <https://nealrauhauser.wordpress.com/2013/02/>

¹⁰ Ibid.

¹¹ Ibid.

¹² In September 1987, Burma's ruler U Ne Win suddenly canceled certain currency notes, on the advice of his astrologers. This led to a currency crisis which wiped out the savings of many.

¹³ Infoplease, World, Countries, Myanmar, <http://www.infoplease.com/country/myanmar.html?pageno=2> (accessed on June 28, 2014)

¹⁴ BBC News Asia, Myanmar profile, <http://www.bbc.co.uk/news/world-asia-pacific-12992883> (accessed on July 1, 2014)

¹⁵ Safe Haven, Sheltering Displaced Persons from Sexual and Gender-Based Violence, Case Study: Thailand, May 2013, University of California, Berkeley, School of Law

¹⁶ Ibid.

Due to the continued conflict, millions of people in Eastern Myanmar, particularly ethnic minorities, have had to migrate to rural regions or across the border into neighbouring countries. Thailand has the largest number of Myanmar refugees.

According to the Thai National Security Council and the Ministry of Labour and Social Welfare, in 1998, the majority of the estimated 750,000 undocumented migrants working in Thailand were from Myanmar, with another source claiming 20,000 within the commercial sex industry alone.¹⁷ Recent estimates suggest that 2 million Burmese refugees live outside of refugee camps¹⁸, with the 9 refugee camps along Thai-Myanmar border holding more than 100,000 refugees¹⁹.

Case Study

Robert Lucas²⁰, a recent PhD graduate from a distinguished university, was often teased by his classmates that he would one day outrank his namesake – the famous Nobel Laureate. Robert Lucas (the younger version) had produced a brilliant thesis on the subject of Macro-dynamics, namely dynamic macroeconomic analysis. However, he surprised everyone by not seeking a privileged faculty position, instead ending up as a Young Professional at the Asian Development Bank in Manila, in July 2013. Robert anticipated that his boss at the ADB would get him on board to formulate complex macroeconomic models for Asian economies.

However, the instruction he received on his first day was as follows:

Mae Sot is an urban centre in Thailand on the border with Myanmar. The border-divide is in fact the River Moei. A Friendship Bridge across the river links the two countries.

Since 1984, several thousand refugees and economic migrants from Myanmar have moved across this border and settled in several makeshift refugee camps. These camps have become home to these people and have borne second and third generations of people who remain stateless. Please assemble as much information as you can on the plight of these people and suggest the various policy options for resolving the issues.

This was hardly the kind of general equilibrium aggregate, demand and aggregate supply analysis that Robert expected. However, being a diligent researcher, he set about studying the issue.

Myanmar Refugees in Thailand

The first major influx of asylum seekers across the Moei River arrived in January 1984. They were mainly Karens. In 1988, after the pro-democracy uprising in Rangoon (now Yangon) was crushed, about, 1,700 student activists also crossed the border, choosing to reside in the Ratchaburi province near Bangkok. The relocation programme within the Burmese Shan state in 1996 further drove another 100,000 Shans into Thailand.

Despite the number of Myanmar refugees in Thailand, a comprehensive legal framework has yet to be formulated to manage and care for their existence. Thailand has not signed the 1951 Geneva Convention relating to the Status of Refugees, nor does it have a specific law on refugees or refugee

¹⁷ Lang, Hazel J. *Fear and Sanctuary: Burmese Refugees in Thailand*. (2002). Cornell Southeast Asia Programme Publications. Ithaca, New York.

¹⁸ Brees, Inge. *Burden or Boon: The Impact of Burmese Refugees on Thailand*. (2010) *The Whitehead Journal of Diplomacy and International Relations*.

¹⁹ Campbell, Charlie. *Burmese refugees remain in limbo by the border despite political reforms*. *Time*. 7 Aug 2013.

²⁰ Fictional person

status determination. Instead, the only legal act which has an impact on those seeking asylum is the 1979 Immigration Act²², which stipulates the following:

Section 12: Aliens which fall into any of the following categories are excluded from entering the Kingdom:

1. Having no genuine and valid passport or document used in lieu of passport
2. Having no appropriate means of living following entrance into the Kingdom

Section 54: Any alien who enters or comes to stay in the Kingdom without permission or when such permission expires or is revoked, the competent official will deport such aliens out of the Kingdom.

Section 81: Any alien who stays in the Kingdom without permission or with permission expired or revoked shall be punished with imprisonment not exceeding two years or a fine not exceeding 20,000 Baht or both.

The fragile legality of the refugee's residency hinges on only one clause:

Section 17: In certain special cases, the Minister, by the Cabinet approval, may permit any alien or any group of aliens to stay in the Kingdom under certain conditions, or may consider exemption from being in conformity with this Act.

As such, Myanmar refugees living in the camps are often confined to them. A UNHCR report²³ states that, "Anyone who leaves the camps without documentation to do so, however, regardless of their camp registration status is regarded as an irregular or illegal migrant. In this respect, refugee status, [...] is based more on an individual's physical location in Thailand than on the circumstances that motivated the individual's departure from Burma." Should the refugees violate their physical boundaries then; they become vulnerable to arrest, and may be subjected to either intimidation, detention, or forced return.

The Rohingya in particular, have been subjected to brutal treatment, with thousands being sold to human traffickers by Thai immigration officials.²⁴ A February 2014 deportation of 1,300 Rohingya refugees triggered uproar amongst human rights campaigners.²⁵

Refugee Settlements

Robert collected some information about the refugee settlements.

The UNHCR administered some refugee camps in the Mae Sot area. Those registered with the UNHCR were selected for resettlement in a third country – mainly Australia or Canada. Some claimed that those resettled were mainly Christians. The nine official refugee settlements in Thailand only hold an estimated 120,000. (Refer to **Exhibit 2** for the detailed breakdown)

²² The 1979 Immigration Act, http://www.immigration.go.th/nov2004/en/doc/Immigration_Act.pdf

²³ Freccero, Julie and Seelinger, Kim Thuy. Safe haven: Sheltering displaced persons from sexual and gender-based violence – Case study: Thailand (2013) Human Rights Centre, Sexual Violence Program

²⁴ Reuters, "Szep, Jason and Marshall, Andrew R.C. Special report: Thailand secretly dumps Myanmar refugees into trafficking rings", 5 Dec 2013.

²⁵ South China Morning Post, "Fury as 1,300 Rohingya refugees are sent back by Thailand", 13 Feb 2014.

	The Border Consortium			Feeding Figure ^B	MoI/UNHCR Population ^C
	Verified Caseload ^A				
Province/Camp	Female	Male	Total	Total	Total
Chiangmai					
Wieng Heng (Ethnic Shan)	269	269	538	538	
Mae Hong Son					
Ban Mai Nai Soi	5,748	6,120	11,868	10,700	9,577
Ban Mae Surin	1,538	1,551	3,089	2,827	1,430
Mae La Oon	5,999	5,958	11,957	11,802	8,675
Mae Ra Ma Luang	6,839	6,611	13,450	13,220	8,421
Subtotal:	20,124	20,240	40,364	38,549	28,103
Tak					
Mae La	21,883	21,372	43,255	42,755	25,156
Umpiem Mai	6,630	6,524	13,154	13,059	9,816
Nu Po	6,477	6,095	12,572	12,412	7,927
Subtotal:	34,990	33,991	68,981	68,226	42,899
Kanchanaburi					
Ban Don Yang	1,679	1,572	3,251	3,188	2,449
Ratchaburi					
Tham Hin	3,440	3,120	6,560	6,353	4,314
Total:	60,502	59,192	119,694	116,854	77,765

Exhibit 2: Refugee Camp Populations (Dec 2013)²⁶

The refugees were predominantly of the minority Karen ethnic group. (Refer to **Exhibit 3** for the detailed breakdown) The Karen people comprised of both Christians and Buddhists.

Karen	Karenni	Burman	Mon	Other
77.6%	11.9%	2.9%	0.8%	6.8%

Exhibit 3: Ethnicities of Refugees in Camps (Dec 2013)²⁷

Resettlement Programme

In 2005, the UN refugee resettlement programme was introduced. So far, over 80,000 refugees have been resettled. However, in order to be eligible for participation in the programme, one must be officially registered, a severe limitation for many camp residents.²⁸

In 2013, the US announced that it would no longer be supporting the resettlement programme. The UNHCR declared the final deadline, for eligible applicants to the scheme, to be in 2014, claiming that the programme had reached its “natural end”.²⁹

²⁶ The Border Consortium, <http://theborderconsortium.org/> (accessed June 20th 2014)

^A The Verified Caseload includes all persons verified as living in the camps and eligible for rations, registered or not (including students). It excludes all previously verified residents now permanently out of camp.

^B The Feeding Figure is the actual number of beneficiaries recorded as having collected food rations at distribution the previous month.

^C MoI/UNHCR figures are registered refugees. Most new arrivals since 2005 are not registered. UNHCR records an additional 248 people who have been submitted to the Provincial Admission Boards.

²⁷ The Border Consortium, <http://theborderconsortium.org/> (accessed June 20th 2014)

²⁸ Safe Haven, Sheltering Displaced Persons from Sexual and Gender-Based Violence, Case Study: Thailand, May 2013, University of California, Berkeley, School of Law

²⁹ Saw, Yan Naing. Group resettlement of Thai border refugees to end early 2014: UNHCR. The Irrawaddy. 12 Dec 2013.

Brain Drain

Although the impact of the resettlement programme on participants was generally a positive one, the effects on the residual refugee community were not as uplifting. As a result of the resettlement programme, many talented and experienced individuals, essential to the provision of local services, left. The Mae Tao Clinic, for instance, witnessed the exit of 200 staff members, whilst the International Rescue Committee lost around 80% of its camp-based staff. Elderly and unskilled refugees make up the bulk of those remaining.³⁰

Eventual Return to Myanmar

With the opening up of Myanmar, the Thai government has promoted the return of refugees to Myanmar, as a realistic option. In a speech to the Asia Society in 2010, then-Thai foreign minister Kasit Piromya remarked that he was going to “launch a more comprehensive program for the Myanmar people in the camps [...] to prepare them to return to Myanmar after the elections.”³¹

Yet, concerns still exist regarding to the safety of the refugees when upon their return to Myanmar. Andy Hall, a consultant to the Human Rights and Development Foundation in Bangkok, said, “We have no reason to believe the political activists or ethnic groups will be able to return safely to Burma”.³² The armed conflict between the Myanmar government and ethnic separatist groups has yet to come to a satisfactory conclusion.

Further, there are refugees who, never want to return to Myanmar. A 2013 survey revealed that 90% of the refugees in Mae La camp do not want to go back to Myanmar.³³

Lack of Safe Living Facilities

As an indication of the risks associated with the makeshift living arrangements in the refugee camps, large fires are a regular occurrence. In February 2012, more than 1,000 homes were destroyed in Umpiem Mai. Another blaze in the same refugee camp burnt 11 houses two years later. In December 2013, a fire torched 120 homes in Mae La, and March 2013 saw the deadliest inferno yet, wiping out most of the shelters in the Ban Mae Surin camp, killing 37 people.³⁶

Education Facilities

There are around 34,000 refugee children. 81 schools operate in the camps to provide for these children’s educational needs. These are run, primarily, by volunteer groups, either through local and international non-governmental organisations (NGOs) or community-based organisations (CBOs). Curricula in these schools have been approved by Thai authorities.³⁷

However, the Thai Ministry of the Interior has placed certain restrictions on the provision of education in the refugee camps. Expatriate staff members are not allowed to work as teachers. This limits the extensiveness and the effectiveness of teacher training in the area. A lack of funds mean that teachers only earn about US\$15 a month, a small sum given the long hours and difficult circumstances in which they operate.

³⁰ Myanmar-Thailand: Refugee camps cope with brain drain. IRIN. 24 Oct 2011.

³¹ Asia Society, <http://asiasociety.org/video/policy/thailands-kasit-piromya-complete>

³² The Economist, “Banyan. Welcome withdrawn”, 15 Oct 2010.

³³ South China Morning Post, “Karen refugees in Mae La camp live in fear of forced return to Myanmar”, 24 Oct 2013.

³⁶ KarenNnews, “Fire reported at Umpiem refugee camp”, 3 Feb 2014.

³⁷ Oh, Su-Ann. Education in refugee camps in Thailand: policy, practice and paucity (2010) Education for All Global Monitoring Report, United Nations Educational, Scientific and Cultural Organization, p1

The Thai government also prohibits the construction of permanent school buildings. As such, the schools are generally primitive and poorly built.³⁸ The area designated for school buildings is not allowed to be expanded.³⁹

Medical Facilities

Other than problems in the education sector, healthcare is another thorny issue. Only registered migrant workers – excluding family members – can benefit from the 30-Baht health scheme implemented in 2001.⁴⁰ Further, due to funding cuts and unfavourable exchange rates between 2010 and 2012, NGOs have had to limit the treatment they can provide to those in the camps. The French organisation, *Premiere Urgence Aide Medicale Internationale* (PU-AMI) for example, has had to downsize its number of staff due to a 40% budget cut.⁴¹ The Mae Tao clinic, established by a Burmese Karen, Dr. Cynthia Maung, is possibly the only community-based healthcare provider offering free medical assistance to the refugees. It too is affected by budget cuts, with the reduction of Australian aid, by agency AusAID in 2013, contributing to a possible loss of \$4.5bn over four years.⁴² With many donors uncertain about continued commitment, 40% of current funds may be eliminated by 2015.⁴³

Illegal Activities

Robert also found that Mae Sot was the centre of illegal activities involving the smuggling of jade and other valuable items from Myanmar. Much of the activity was nocturnal and took place beneath the Friendship Bridge. Further, corruption on both the Myanmar and Thai sides played a prominent role as revealed in a BBC story.⁴⁷

Exploitation as Labour

The lack of legal status has had an impact on the lives of the refugees in the sphere of employment. As of 2007, about 50% of Burmese migrant workers in Mae Sot had no proper work permits, leaving them open to abuse by their employers.⁴⁹ Most of the workers in Mae Sot earn about 65 to 120 baht (US\$2 to US\$3.70) a day. This stands in contrast to the Thai minimum wage, as of 2013, of 300 baht (US\$9.30) a day.⁵⁰ The average wage rate in Thailand is about US\$8000 per year.

There have been incidents of migrant worker organisation in the past, aiming to alter the poor working conditions of the Burmese refugees. The *Yaung Chi Oo Workers' Association* is an example of such an organization. In 2004, it successfully pushed for 18 migrant workers in Mae Sot to be awarded 1,170,000 baht in compensation against the *Nut Knitting Limited Partnership*.⁵¹

However, other cases have demonstrated that the odds are stacked against the refugees. The Mae Sot police deported 420 Burmese workers in 2003 after their dismissal by the *King Body Concept* garments factory, where they had complained about their working conditions to the *Tak Labour*

³⁸ Mae Sot NLD School burmarelief.org, <http://www.youtube.com/watch?v=iF96T3qXao8>, uploaded 18 Jul 2011

³⁹ Ibid.

⁴⁰ Brees, Inge. *Burden or Boon: The Impact of Burmese Refugees on Thailand*. (2010) *The Whitehead Journal of Diplomacy and International Relations*.

⁴¹ Ad hoc and inadequate: Thailand's treatment of refugees and asylum seekers, (2012) Human Rights Watch.

⁴² News.com.au, "Aid cuts may weaken Myanmar refugee clinic", 3 Nov 2013.

⁴³ *The Diplomat*, "Life gets harder on Thai-Myanmar border", 2 Dec 2013.

⁴⁷ BBC News, "Illicit trade on the Thai-Burma border", 8 Mar 2007.

⁴⁹ BBC News, "Life on the Burma-Thai border", 26 Feb 2007.

⁵⁰ Karen News, "Border boomtown: A tale of winners and losers", 27 Mar 2013.

⁵¹ Arnold, Dennis and Hewison, Kevin. *Exploitation in global supply chains: Burmese migrant workers in Mae Sot, Thailand* (2005) *Journal of Contemporary Asia*

Protection Office. In the same year, the Siritwat Garments factory fired 48 Burmese workers as they had refused to work further overtime on top of the approximately 40 hours of continuous labour they had clocked.⁵²

Special Economic Zone and Special Administrative Zone

In an article published in *The Nation*, bureaucrats discussed the implementation of “a special administration zone (SAZ) at Mae Sot to help restructure taxes so (that) they contribute more to public services and (the) oversight of migrant workers”.⁵³

Since the launch of the 7th and 8th National Economic and Social Development Plans, in Thailand, there has been talk of the establishment of a Special Economic Zone (SEZ) in the Tak Province, particularly in Mae Sot. In 2005, Suchart Triratwattana, Chairman of the Tak Chamber of Commerce, said, “the chamber has been calling for the establishment of the special economic zone for the last 10 years now as it believes that its creation would help develop Thai-Burmese border communities in both economic and social aspects and upgrade Mae Sot to an international town and a gateway to Europe”.⁵⁴

In February 2013 the Thai cabinet approve of the proposal, amidst the ongoing East-West Economic Corridor project of, a 1,500km multi-lane highway linking Vietnam and Myanmar through Laos and Thailand, which passes through Mae Sot.⁵⁵

Robert’s Thoughts

In Robert’s view the creation of these zones – the special economic, and the special administrative - would have to have two important pre-requisites; the construction of housing projects and the establishment of formal schools. The administrative arrangements must also ensure that children complete schooling and that child labour is prohibited.

The SAZ had to ensure that illicit trade and corruption ceased. All trade across the Thai-Myanmar border should be formalized, such that a two-way flow of goods and services would enhance the welfare of both countries.

Robert noted that regardless of these challenges the SEZ and the SAZ if taken together as a composite project should benefit both countries. He wondered how Cost-Benefit Analysis (CBA) could be applied to guide the policy makers.

Robert figured that a suitable starting point would be to identify a set of sub-projects that would constitute the establishment of the SEZ and the SAZ. Then, the key benefits and costs stemming from these projects could be identified, including intangible benefits such as instilling a sense of dignity to a group of stateless people. Further, appropriate methodologies for valuing some difficult benefits and costs could to be utilized.

He then designed a quasi-hypothetical project based on his reading of agro-industries in the region.

⁵² Ibid.

⁵³ The Nation, ‘Booming Mae Sot eagerly waits to become special administrative zone’, <http://www.nationmultimedia.com/home/Booming-Mae-Sot-eagerly-waits-to-become-special-ad-30162771.html> (accessed June 25th 2014)

⁵⁴ Arnold, Dennis. Capital expansion and migrant workers: Flexible labour in the Thai-Burma border economy. Office of Human Rights Studies and Social Development, Mahidol University

⁵⁵ Karen News, “Border boomtown: A tale of winners and losers”, 27 Mar 2013

A simple (quasi-hypothetical) project:

1500 hectares could be allocated for the establishment of an industrial crop plantation. The fruits of this crop would provide a specific type of oil, which could replace an active ingredient of aviation fuel. This ingredient (a fossil fuel derivative) was currently sold in the world market at US\$ 0.20 per kg. It was believed that the oil from the industrial crop could be competitively marketed at US\$ 0.15 per kg. An agronomist had advised that it would be possible to plant 330 trees per hectare and that the trees would take six years to establish. Further, each tree could conservatively yield sixty (60) kg of fruits per year. The fruits could be processed on an adjacent parcel of land. The fruit to oil conversion was conservatively estimated at 40%.

The major establishment cost items in (Year 0) were expected to be:

- Planting of seedlings – valued at US\$ 0.1 million, of which 20% represented labour costs. If the refugees were recruited, one could assume that they were presently unemployed;
- Establishment of the processing plant was valued at US\$ 2.6 Million.

The plantation itself would have very low operating costs owing to the self-mulching properties of the tree's leaves and bark. The only operating cost item was the utilisation of 100 local people, at an annual wage of US\$ 8000. Again, this would provide an employment opportunity for the refugees. As indicated above, US\$ 8000 per year represents the average wage rate in Thailand. If the SAZ could enforce this wage rate, then, the exploitation of refugee and migrant workers could stop.

Robert's idea was to suggest a set of projects like that illustrated above to vitalize the region. He conceded that for such vitalization to take effect the administrative arrangements had to be in place.

Finally, Robert noted that some critics of economics had claimed that markets do generally crowd out morals and values. In this example concerning Mae Sot, was it possible that markets could usher in order and value?

Case Question

Imagine you are Robert, and have been asked by your boss to prepare a CBA for the project above. Your presentation would have to include the Net Present Value (NPV) and the Benefit-Cost Ratio (BCR) of the project. You may assume that the SAZ would issue its own bonds at 18% p.a, and that inflation in the Mae Sot region would be around 15%.

You could further assume that the oil produced would be in demand for at least another 20 years and that the processing plant would be in operation (without replacement) during this period.