

Forgotten people: Desirable solutions for protracted
refugee in Thailand

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ABSTRACT OF THE DISSERTATION

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This thesis will focus on Burmese protracted refugees in Thailand who, for more than thirty years, have been residing in Thai-Myanmar border camps. As of January 2016, there are 106,213 refugees, of which 52,971 are unregistered, living in nine camps

The Thai government stopped registering refugees in 2005. Unregistered refugees, therefore, must remain within the border camps where their freedom of movement is restricted by the Royal Thai government. Unregistered refugees are not eligible to apply for resettlement programs. Local integration is not an option either, as the Royal Thai government has demonstrated its desire to push Burmese refugees back to Myanmar, complementing negative stereotypes of Burmese immigrants held by the Thai general public. One final option is repatriation, but even so the option remains a challenging prospect.

The central problem of this study is to determine the most desirable solutions for the protracted refugee crisis in Thailand. The present analysis will consider case studies of protracted refugee situations in other parts of the world, an evaluation of the ongoing situation in Myanmar, and the Thai general public's attitude toward Burmese refugees integrating in Thai society.

Among the three durable solutions, resettlement was ruled out as the U.S. decided to close registration to all camps in Thailand in 2013. As for local integration, it would be difficult for Burmese refugees to integrate since they and migrants are

perceived as a burden in terms of competition for scarce resources, as well as a threat to national security. I believe that voluntary repatriation is the most possible durable solution for the long term, but the whole process has to take time. In the short term, international organizations could provide more funding toward the aid of protracted refugees for the purpose of life improvement so that they can prepare themselves for any options available to them in the future.

Preface

This thesis is submitted in partial completion of the requirements for the degree of Master of Arts in Political Science at Rutgers, The State University of New Jersey. The research described herein was conducted under the supervision of Professor Elizabeth Hull in the department of Political Science, Rutgers, The State University of New Jersey-Newark between January 2015 and May 2016.

I would like to dedicate this thesis to Ms. Thanyaluk Boonmee, who has striven to provide me a better educational opportunity in the U.S. since I was seventeen. Throughout my career as a student, through my ups and downs, she has supported me, and it was during these times of priceless opportunities when I found myself, what I want to dedicate my life to, and what kind of person I want to be. There were countless times when I felt discouraged while working on this thesis, but through your love and support I found the strength in me to persevere. I am grateful for the chance you provided me to prove myself.

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CHAPTER 1: Research Approach

Introduction

There were pictures of an emaciated boy sitting in the mud and holding a bottle of water that did not look sanitized. One could see his bones. Many familiar pictures and stories have gone viral in the media, but that was the first time I learned that in the twentieth (and now twenty-first) century there was still some part of the world in which people continue to live in what looks like an age before civilization. From what I remember, the picture hit a lot of people in addition to me, arousing the same feeling that we are living in modernity while our fellow human beings on the other side of the world must struggle every day merely to survive. Donations from all over the world were given to various non-profit organizations in the hope that this would end hunger and better the lives of those most at risk.

There were pictures of hundreds of people on boats, sailing away from their motherlands to new, hopeful destinations. The boats were small, inadequate, lacking roofs, and crowded with the elderly, women, children, and young men. One could tell from the look and shape of these boats that the people on board were not riding for pleasure. They raised their hands up as a sign for help. They were called “boat people.” The situation, at the time, drew worldwide attention to the conflict surrounding Australia’s policy on asylum seekers.

Recently, there was a photograph of baby Aylan, a drowned Syrian boy whose body washed ashore in Turkey. Undeniably, it was considered one of the most depressing pictures one could ever see at the time, and at least temporarily it galvanized people around the globe into attempting to address the issue of migrants from Syria seeking refuge in Europe, why they were fleeing in the first place. Hundreds of stories came out describing the difficulty Syrians faced when sailing to

Europe. Despite the fact that such displacement of the Syrians had been going on for several years, the humanitarian crisis did not receive as much attention from Western media as it does today. We now seem inundated with both stories of first arrivals in Europe, highlighting their journey and the transition they now face, and coverage of the refugee backlash echoing across Europe and the United States. Nevertheless, all countries in the global North have been called to take action—in particular by increasing refugee admission numbers.

Refugee crises do not stem solely from a mass of people who flee from an on-going crisis, and certainly do not only concern Syrian refugees. A refugee crisis occurs when any group of people flees from its home country and crosses international borders because its members have a well-founded fear of being persecuted in their country of origin. A refugee crisis concerns not only people living in dire situations such as those described earlier, upon which the international community has focused since the early 1990s.¹

Although the international community has delivered humanitarian assistance and provided durable solutions to those affected by war in high-profile areas such as the Balkans, Darfur, and the Great Lake Regions of Africa, 60 percent of refugees today continue to live in exile, trapped in camps for at least five years (and actual decades for some groups) with little sign of relief. These people are called '*protracted refugees*,' and comprise a group that was eventually forgotten and continues to be neglected by scholars, regional and international actors, and national policymakers because the majority of protracted refugees are settled in poor countries with unstable regions. Refugees trapped in such circumstances usually face severe restrictions on

¹ Edwards, A. (2007). *Chapter 5: Protracted Refugee Situations: The search for Practical Solutions.* The State of the World's Refugees: Human Displacement in the New Millennium. International Journal of Refugee Law, 19(3), 105-127.

their freedom of movement. The consequence of keeping so many human beings in such a static state includes “*wasted lives, squandered resources, and an increased threat to security.*”²

This thesis will focus on protracted refugees in Thailand who, for more than thirty years, have been residing in Thai-Myanma border camps. Myanmar is experiencing one of the greatest humanitarian crises and protracted refugee situations in the world. Continuous conflict within Myanmar has forced large-scale influxes of displaced peoples to the Thailand border. From 1984 to the present, nine refugee camps have formed along the border, resulting in by far the largest protracted refugee situation in Southeast Asia.³ As of January 2016, there are 106,213 refugees in nine camps; both registered and unregistered. Refugees from Myanmar are mostly Kayin, Kayah, Karen ethnics who have sought refuge in Thailand, and residing in temporary shelters along the border line.

² Edwards, A. (2007). *Chapter 5: Protracted Refugee Situations: The search for Practical Solutions*. The State of the World's Refugees: Human Displacement in the New Millennium. International Journal of Refugee Law, 19(3), 105-127.

³ Adelman, H. (2008). *Protracted displacement in Asia: No place to call home*. Aldershot, England: Ashgate.

Table 1:

MOI/UNHCR Verified Refugee Camp Populations⁴						
	Jan 2011	Jan 2012	Jan 2013	Jan 2014	Jan 2015	Jan 2016
Ban Mai Nai Soi	12,211	11,051	10,211	9,534	N/A	10,504
Ban Mae Surin	2,234	1,921	1,818	1,410	N/A	2,521
Mae La Oon	12,580	10,152	9,409	8,678	N/A	10,251
Mae Ra Ma Luang	12,087	10,272	9,229	8,421	N/A	11,683
Mae La	29,945	27,293	26,269	25,096	N/A	38,224
Umpiem	12,095	10,975	10,346	9,755	N/A	12,267
Nupo	9,602	8,799	8,483	7,875	N/A	11,297
Ban Don Yang	2,922	2,759	2,575	2,450	N/A	2,981
Tham Hin	4,291	4,283	4,264	4,328	N/A	6,485
TOTAL	97,967	87,505	82,604	77,547	N/A	106,213

Table 1 shows the number of Burmese refugees and asylum seekers in Thailand camps from 2011-2014 and 2016 (there is no data available for 2015). These camps consist of nine temporary shelters along the Thai-Myanmar border. The numbers in the figure above include both registered and unregistered refugees. Registered refugees are those who registered through the MOI/UNHCR official registration process of 2004-2005. They hold an admission slip from the Provincial Admission Board (PAB), which an individual refugee receives once he or she is qualified by the Ministry of the Interior (MOI) to register. Registered refugees are

⁴ TBC: Supporting Refugees. (n.d.). *Program reported Resources*. Retrieved Jan 22, 2016, from <http://www.theborderconsortium.org/resources/key-resources/>

qualified to apply for a third country resettlement program, conducted by various NGOs from willing host countries (e.g., the IRC conducts resettlement to the United States). Unregistered refugees are those who entered Thailand after 2005, and therefore are not qualified to register with the MOI according the RTG rules. According to the UNHCR Refugee Population Report, as of March 2016 there were 52,971 unregistered refugees in nine camps along the Thai-Burmese border, where Mae La camp is holding the most unregistered refugees. Numbers per camp are broken down in table 2 below.

Table 2: Unregistered refugee population in nine camps in Thailand⁵

Camp	Unregistered refugees
Ban Mai Nai Soi	2,934
Ban Mae Surin	1,651
Mae Ra Ma Luang	6,254
Mae La Oon	4,479
Mae La	20,642
Umpiem	6,511
Nupo	5,919
Ban Don Yang	1,219
Tham Hin	3,362
TOTAL	52,971

Statement of problem

⁵ UNHCR Thailand-Myanmar Cross Border Portal. (n.d.). *Thailand-Myanmar border refugee population overview*. Retrieved April 4, 2016, from <http://data.unhcr.org/thailand/regional.php>

The Thai government stopped registering refugees in 2005, as Thai authorities then feared that doing so would attract more arrivals from Myanmar.⁶ Thus, asylum seekers arriving from Myanmar after January 2005 could not register with the UNHCR and thus could not obtain an admission slip from the PAB. Since 2005, the UNHCR has been unable to conduct Refugee Status Determination (RSD) for Burmese asylum seekers in Thailand. Only those who attained refugee status from the UNHCR and admission from the PAB before 2005 were eligible to apply to resettlement programs.⁷

Unregistered refugees, therefore, must remain within the border camps where their freedom of movement is restricted by the Royal Thai government. Local integration is not an option either, as the Royal Thai government has demonstrated its desire to push Burmese refugees back to Myanmar. Thailand was further pressured when ASEAN announced that no ASEAN member nations will host refugees. The Royal Thai government has since worked toward reducing as many of the number of refugees within its borders as possible.

One final option for unregistered Burmese asylum seekers is repatriation. However, to date there is no official process on repatriation. The Burmese government has not confirmed that it will ever take its people back, or which specific groups they would take back. Despite encouraging signs such as an announcement of democratic reforms in 2010 which led to elections, an ending of the military junta in 2011, the release of prominent democratic activist Aung San Suu Kyi and hundreds of other political prisoners, and ceasefire agreements between some armed opposition

⁶ Lee, C. C., & Glaister, I. (2005). Burmese asylum seekers in Thailand: still nowhere to turn. 33-34.

⁷ *ibid*

groups, repatriation remains a challenging prospect. Armed conflict continued in 2011 in the Kachin state, and some violence leading to displacement of people in the Rakhine state. This ongoing conflict suggests that similar incidents may occur elsewhere at any time; thus, a way to peace remains remote.

In this study I seek to both determine the most desirable solutions for the protracted refugee crisis in Thailand, and how United Nations agencies, international organizations, NGOs, and the Royal Thai government can contribute toward those solutions. To this end I will consider case studies of protracted refugee situation in other parts of the world, of the ongoing situation in Myanmar, and the Thai general public's attitude toward Burmese refugees.

Motivation

We are undeniably living in a world rife with problems, and each country must determine for itself if and how to manage them. The issues with highest priority today are likely to concern global financial systems and power struggles between countries. While humanitarian issues are also deemed important by some, the leading countries or even nongovernmental organizations have done little besides express disapproval of other countries' actions.

Historically, wherever states have prosecuted their own people, or engaged in wars, people have been forced to leave their country. From the Holocaust to the Cold war, to various ethnic conflicts in the post-colonial period, to the consequences of the war on terror in Afghanistan and Iraq, to the oppressive backlash from governments both before and after the Arab Spring, the results have been refugees. While refugees are most commonly thought of as those who have fled conflict in the post-War era,

mass displacement of populations has been happening since at least the 16th century.⁸ Well-known examples from European history include the departure of more than 170,000 Huguenots from France during the Revocation of the Edict of Nantes in 1685, and the displacement of 240,000 Moors in Spain in 1609.⁹ The number of displaced people in those times was much fewer than those displaced in the twentieth century and beyond. In the past few decades the number of displaced persons seeking refuge from their home country due to political oppression or war has been increasing. While international studies of refugees abound, the main purpose of this thesis is to bring attention to one tragic situation that has received far too little international attention: the protracted refugee situations taking place along the Thailand-Myanmar border today. In this thesis I intend to provide background information on recent changes in refugee-related issues that have impeded the attainment of durable solutions, and to explore some of the possibilities for durable solutions.

The continued existence of massive numbers of refugees worldwide is not only a human rights issue, but also one that could destabilize the international community. Their existence has a root cause in policy and international politics. In the post-War era, more action has been taken by governmental, international, and intergovernmental organizations. The cause of departure today is usually war stemming from religious and political turmoil whereas earlier mass-departures were mainly caused by environmental events and socio-economic events such as droughts, famines, and epidemics.¹⁰ As Emma Haddad states, “*the figure of the refugees is an integral part of the international system, symbolizing the failure of the state-citizen-*

⁸ ELIE, J. (2014). HISTORIES OF REFUGEE AND FORCED MIGRATION STUDIES. *The Oxford Handbook of Refugee and Forced Migration Studies*, 27.

⁹ *ibid*

¹⁰ ELIE, J. (2014). HISTORIES OF REFUGEE AND FORCED MIGRATION STUDIES. *The Oxford Handbook of Refugee and Forced Migration Studies*, 27.

territory relationship assumed by the state system to seamlessly ensure international order and justice."¹¹ The causes, consequences, and responses to refugees' crisis are closely connected to the fundamental concerns of international relations. Betts, therefore, suggested that to understand the problem of refugees, one should also look at the state system, as well, for without the latter, one cannot understand the former.¹² Yet, the study of refugees has received limited study and attention from scholars even though they play a significant role in the international system and can indicate a failure within the state, citizen, and territory relationship. Betts believes that the refugee problem indicates problems within the countries of origin whereby fundamental protections are not provided by governments to their own citizens. It also shows signs of political and economic inequality.¹³

The refugee problem demonstrates a weakness in international law in which sovereign states are given the right to decide on how far they can honor universal moral obligations.¹⁴ Hedly Bull, the founder of the English School, which focused on methods for exploring the evolution of international society, discusses the challenges facing refugee protection in international society, finding that a great number of refugees are associated with the evolution of state system; indeed, that refugees are inherent to the state system.¹⁵

¹¹ Haddad, E. (2008). *The refugee in international society: between sovereigns* (Vol. 106). Cambridge University Press.

¹² BETTS, A. (2014). International relations and Forced Migration. *The Oxford Handbook of Refugee and Forced Migration Studies*, 60.

¹³ BETTS, A. (2014). International relations and Forced Migration. *The Oxford Handbook of Refugee and Forced Migration Studies*, 60

¹⁴ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications, 14

¹⁵ BETTS, A. (2014). International relations and Forced Migration. *The Oxford Handbook of Refugee and Forced Migration Studies*, 63

Refugees are a humanitarian issue, but they are also a geopolitical one affecting the international order. They are both a consequence and a cause of insecurity and conflict searched for the conditions under which refugees may exacerbate existing conflict.¹⁶ She found out that in some cases refugees are used as resources of war by both states and non-state actors.¹⁷ For example, if refugees are not provided enough protection or durable solutions, they can become an obstacle for the peace-building process; they may disrupt post-conflict reconstruction, which delay possibilities for repatriation.¹⁸

Refugee crises demand durable solutions not only because of the cost to the international community, the burden on the host countries, and the toil on the refugees themselves, but also because in their second, third, and fourth generations of displacement refugees can be a violent and destabilizing social force. The problem of a protracted refugee crisis is not only a domestic one solely concerning the Burmese government, nor an immigrant issue that Thailand, a host country, has to manage. The consequence of civil conflict in Myanmar spreads to its neighboring countries, particularly Thailand. There are still currently 53,600 refugees in the Thai-Myanma border camps.

I hope this thesis will contribute to a greater knowledge of protracted refugees residing in refugee camps in Thailand. Such knowledge will be useful for those who wish to study and/or work on the behalf of refugees, and who have a desire to gain a more in-depth understanding of their situation, which is shaped by the Thai government and its policies toward refugees.

Methodology

¹⁶ Haddad, E. (2003). The refugee: The individual between sovereigns. *Global Society*, 17(3), 313

¹⁷ *ibid*

¹⁸ *ibid*

In an effort to examine possible solutions for protracted refugees residing in Thailand, I will employ a literature review and qualitative methods such as cross country comparison of ongoing situations in both the origin country (Myanmar) and a host country (Thailand) with regard to their policies and movement toward durable solutions. I will also survey Thai citizens' attitudes toward the integration of Burmese refugees in Thailand.

The literature will include primary sources such as Thai government documents, some unavailable in English, and secondary sources from scholars and international organizations. Case studies of other countries which failed or succeeded to deal with their respective refugee dilemmas will also be reviewed. Finally, interviewees will include Thai nationals, and among the interview questions themselves will be ones soliciting their perspectives on local integration options available to refugees.

Previous Research

In the three decades since Thailand allowed Burmese refugees to stay in temporary camps within its border, there have been numerous studies concerning Burmese refugees in Thailand, but considerably less research on solutions for protracted refugees in Thailand. Most of the research, moreover, focused on the ways Burmese are mistreated in nine camps by the RTG, i.e., lack of free movement, security, protection, unequal access to education, health care, and their consequences. These include, for instance, economic and social impacts, human trafficking, domestic violence, and an overall waste of humanity.^{19 20 21 22} Other work has focused on the

¹⁹ Brees, I. (2010). Burden or boon: The impact of Burmese refugees on Thailand. *Whitehead J. Dipl. & Int'l Rel.*, 11, 35.

changing circumstances for Burmese refugees living along the border, as well as policies which concern them, Rangoon, and the RTG.^{23 24 25} One of the most common subjects of research on Burmese refugees is, understandably, Thai government policy towards them, in particular their unfair treatment by the RTG, and on conditions in camps.^{26 27}

However, there do exist some studies on potential durable solutions for protracted Burmese refugees in Thailand. Hazael Lang published “The Repatriation Predicament of Burmese refugees in Thailand: A Preliminary Analysis” in 2011, in which they emphasized the political complexity surrounding repatriation, one of the three most commonly espoused durable solutions for refugees. Lang’s article provides an insight on the preconditions for voluntary repatriation that both Myanmar and Thailand must satisfy.²⁸ Before Burmese refugees can return to their homeland, there must be a process of reconstruction and reconciliation in accord with international repatriation standards. All international actors and the RTG should agree upon an official process before deciding to initiate any steps toward repatriation.²⁹ Lang,

²⁰ Lenton, J. (2004). The Effects of the Current Thai Administration Policy on Post-Secondary Educational Opportunities for Burmese Refugees in Thailand. *EDUCATION IN EMERGENCIES AND POST-CONFLICT SITUATIONS*, 45.

²¹ Smith, M. (2004). Warehousing Refugees. *World Refugee Survey*, 38, 38-56.

²² Wichita State University. Dept. of Administration of Justice. (1995). *Human trafficking: the case of Burmese refugees in Thailand*. International Journal of Comparative and Applied Criminal Justice (Vol. 18). Department of Administration of Justice, Wichita State University.

²³ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications, 14

²⁴ Baek, B. S. (2008). Myanmarese Refugees in Thailand: the Need for Effective Protection. *Cornell Legal Studies Research Paper*.

²⁵ Hargrave, K. (2015). Refugee-state distrust on the Thai-Burma border. *Forced Migration Review*, (49), 95.

²⁶ Human Right Watch. (1998). *Unwanted and unprotected Burmese refugees in Thailand*. Human Rights Documents, (10), 6.

²⁷ Colm, S. (2004). Out of sight out of mind: Thai policy toward Burmese refugees. *Human Rights Watch*, 16(2 (C)), 1-47.

²⁸ Lang, H. (2001). *The repatriation predicament of Burmese refugees in Thailand: a preliminary analysis*. United nations High commissioner for refugees (UNHCR).

²⁹ *ibid*

however, still doubts whether repatriation could be a durable solution for Burmese refugees in Thailand due to the ongoing situation in Myanmar.³⁰

Sebastien Marette published “The Challenge of Durable Solutions for Refugees at the Thai-Myanmar border” in 2015. He analyzed the three traditional durable solutions that could apply to refugees: resettlement, local integration, and voluntary repatriation. Marette believes that a resettlement program is not a permanent solution either for the Burmese refugees in Thailand or for refugees in general. Only 1-2% of the refugees in the world have a chance to access resettlement solutions. Since many Burmese refugees in Thailand hold a pass from the MOI, the resettlement program cannot be a durable solution for them. Marette argues that local integration is even a less likely durable solution in Thailand since the RTG has indicated a strong desire to push refugees back to Myanmar. The author also states that meeting the condition of readiness for voluntary repatriation is not a sufficiently strong reason to close the camps in Thailand. Thus, Marette proposes that perhaps a durable solution for the Burmese refugees in Thailand might not be among the traditional three. He believes that the best policy for now is to adjust the refugee status system in Thailand.

The present study, however, is intended to develop a better academic and policy-centric understanding of the forces that give rise to protracted refugee situations in the context of contemporary patterns of violent conflict. Variable contexts across countries of origin result in different kinds of protracted refugee situations elsewhere. I believe that lessons from historical cases can be implemented in contemporary crises. By examining past case studies I will be able to determine whether there is a common approach to modern protracted refugee situations, or if

³⁰ *ibid*

different situations always require different approaches, and whether, moreover, one of the three traditionally considered durable solutions could effectively resolve the present protracted refugee crisis in Thailand.

This thesis will also focus on the consequences of continued exile, the implications of protracted refugee situations, and how these situations can be resolved. The thesis will analyze possible policy solutions for refugees that will involve the Thai government, non-governmental actors, and states in the region. I believe that the need for research on this subject, as with all issues affecting refugees anywhere, is global.

CHAPTER 2: Refugees

“Refugees are not a breed apart. Nearly all have had prior settled lives, often thriving existences -- as farmers, merchants, herders, teachers, businesspeople, students, government officials. They are not just the passive objects of domestic or international policy -- the helpless or inert victims -- often portrayed in the media. They are subjects, persons with objectives and life-plans and the capabilities to take action to better their own lot if given a reasonable chance. Most never expected to find themselves tagged with the label of refugee, and most find the restrictions and boredom that are characteristic even of a well-run refugee camp stifling and diminishing.” - David A Martin¹

According to the UNHCR, there were 13.9 million refugees in the world at the end of 2014. These people had to flee from their homeland due to persecution, human rights abuse, violence, and conflict forcing them to seek protection elsewhere, either inside their home country or another country entirely. Refugee situations usually occur in developing countries and the place sought for refuge is often also a developing country.² Ten years ago, developing countries held 70 percent of all refugees worldwide but today the figure is 86 percent.³ In 2014, Turkey became the world's largest refugee hosting country with 1.59 million refugees and a total non-refugee population of 12.4 million persons.⁴ Turkey was followed by Pakistan (1.51

¹ Martin, D. A., Hamilton, K. A., & Wilson, J. (2005). *The United States Refugee Admissions Program: Reforms for a new era of refugee resettlement*. Migration Policy Institute. 1

² UNHCR. (2014). *UNHCR Global Trends Forced Displacement in 2014*

³ *ibid*

⁴ *ibid*

million), Lebanon (1.15 million), Iran (982,000), Ethiopia (659,500), and Jordan (654,100).⁵

The legal definition of “refugee,” established in the 1951 United Nations Refugee Conventions, is “*a person who is outside his/her country of origin owing to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.*”⁶ Andrew Shacknove, however, argued in 1986 that the definition provided by the 1951 UN Refugee Convention is erratic and limited.⁷ He argued that a proper definition of refugee is a “[person] whose basic needs are unprotected by their country of origin, who [has] no remaining resources other than to seek international restitution of their needs.”⁸ Shacknove also argued that the definition of refugee should not be limited to those who are outside of their origin country but should also apply to those who are victims of violence, severe gender-based discrimination, environmental disasters, and poverty.⁹ He focuses on refugees in conflict with their state of origin, operating on the principle that governments must provide protections to their citizens. When they fail to do so, citizens have a right to claim themselves as refugees; refugees are thus the product of the collapse or inadequacy of state structure.¹⁰ Matthew Price went beyond Shacknove, arguing that refugees can also arise when a state has no interest in providing such protections, rather than only when they *cannot* do so.¹¹

⁵ *ibid*

⁶ Martin, D. A., Hamilton, K. A., & Wilson, J. (2005). *The United States Refugee Admissions Program: Reforms for a new era of refugee resettlement*. Migration Policy Institute.

⁷ GIBNEY, M. J. (2014). POLITICAL THEORY, ETHICS, AND FORCED MIGRATION. *The Oxford Handbook of Refugee and Forced Migration Studies*, 48, 50.

⁸ *ibid*

⁹ *ibid*, 63

¹⁰ *ibid*, 68

¹¹ *ibid*

James Hathaway challenged Shacknove's argument by pointing out that the 1951 UN refugee definition is not arbitrary but rather represents "the most deserving among the deserving," and questioned what exactly Shacknove meant by "basic needs." This question remains unanswered.¹²

There are three types of refugees: Activist, target, and victim. "Activists" are those who personally committed themselves to political activity in opposition to the state.¹³ Targets are a social or cultural group singled out for abuse.¹⁴ "Victims" are persons displaced by political violence, but are not necessarily the direct targets; rather, the consequence of the conflict surrounding them makes life difficult or impossible.¹⁵ Hazel Lang argued that "activists" and "victims" are the classic refugee "types" which fit the definition of the 1951 UN refugee convention, while "victims" are a new type of refugee that extends beyond the traditional definition. This new type of refugee is a result of contemporary violence, insecurity, and large scale flight. Therefore, he argued, the Burmese are not technically 'refugees' under the formal convention definition.

The Oxford State Of The World's Refugees states: "*The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or*

¹² Hathaway, J. C. (1991). *The law of refugee status* (Vol. 104). Toronto: Butterworths.

¹³ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications, 15.

¹⁴ *ibid*

¹⁵ *ibid*

nationality.”¹⁶ This definition focuses more on objective material conditions in the country of origin and less on individuals’ subjective fear of persecution.

The term refugee is a broad definition covering many different groups of people displaced from their country or sub-region of origin. Under the umbrella term of “refugee” are several crucial distinctions. Article 1 in The 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as an individual “who is not considered as a national by any state under the operation of its law.”¹⁷ In other words, they cannot exercise their rights as citizens unless they can prove their nationality. Many stateless refugees have a desire to resolve their displacement by gaining citizenship and to integrate locally in the country of asylum, in large part because there is a high chance that they will have to deal with greater difficulties when they return to their countries of origin. It is not easy trying to convince their governments to recognize their rights and grant them citizenship.

Having asylum countries open their doors to local integration is as hard as asking host governments to recognize stateless refugees’ rights. Most of the time asylum countries contain refugees in camps close to their borders, away from the capital, and restrict refugee movement. Years pass by, and these stateless refugees become protracted refugees, lacking international support for local integration and resettlement, and facing difficulty with voluntary repatriation. As mentioned in the introduction, protracted refugee situations are long-term disturbances that have been ignored internationally.

¹⁶ The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. (2001). *Refugee Survey Quarterly*, 20(3), 141-144.

¹⁷ UNHCR. (2014). *What is statelessness?* Retrieved December 5, 2016, from <http://www.unhcr.org/pages/49c3646c158.html>

The UNHCR defines a protracted refugee situation as: *“One in which 25,000 or more refugees from the same nationality have been in exile for five years or more in a given asylum country... Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance.”*¹⁸

The 1951 Convention Relating to the Status of Refugees, 1954 Convention Relating to the Status of Stateless Persons, and the 1961 Convention Relating to Reduction of Statelessness were designed to solve the problems of stateless refugees lacking international protection, and were pivotal moments in the history of the international response to statelessness. Sixty years after the 1954 convention and fifty years after the 1961 convention, the number of stateless persons increased to 12 million worldwide and is still a largely neglected issue.¹⁹

Protracted refugee situations began after World War II when Europe was in the midst of fragile recovery.²⁰ Meanwhile 12 million people were displaced from Eastern and Central Europe and the Soviet Union; 500,000 of them were trapped in camps in Western Europe until the mid-1960s.²¹ The main causes of protracted refugee situations usually involve long-term conflict and persecution, political impasses between the country of origin and the country of asylum, lack of engagement for peace and security, and failure to address the situation in the country of origin.

¹⁸ Edwards, A. (2007). *Chapter 5: Protracted Refugee Situations: The search for Practical Solutions*. *The State of the World's Refugees: Human Displacement in the New Millennium*. International Journal of Refugee Law, 19(3), 105-127.

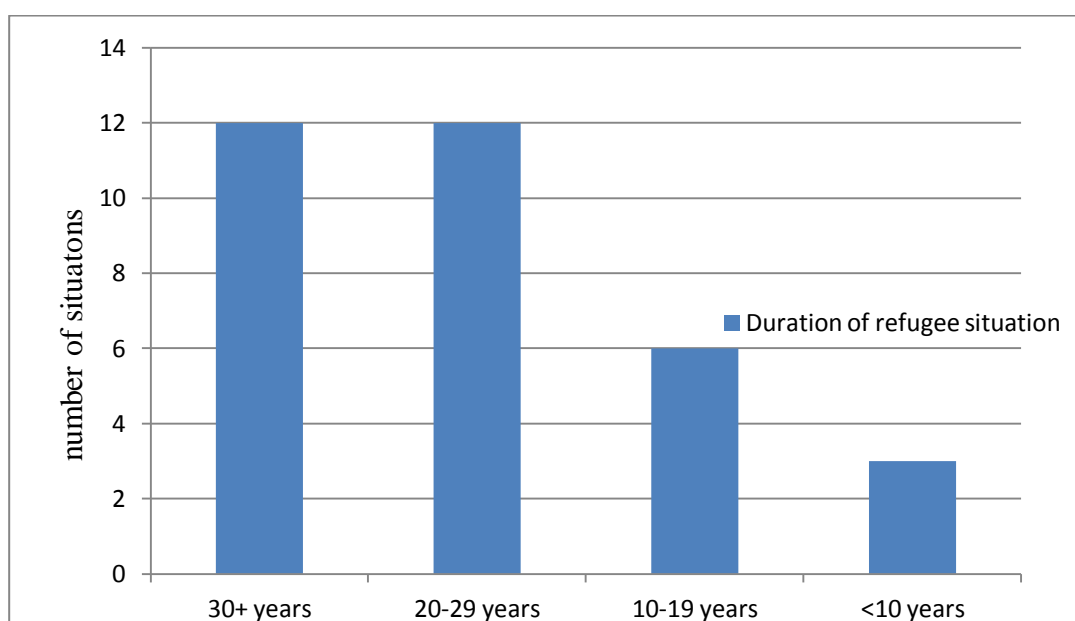
¹⁹ *ibid*

²⁰ Milner, J., Newman, E., & Troeller, G. (2008). *Protracted refugee situations: Political, human rights and security implications* (pp. 20-42). Tokyo: United Nations University Press.

²¹ *ibid*

Today, almost two-thirds of the world's refugees are trapped in protracted refugee situations, long periods of exile. The size of the long-term refugee population is greater now than at the end of Cold War period.²² It is estimated that the average ongoing protracted refugee situation is about 25 years in length, while most situations, around 24 in total, have been ongoing for 20 years or more.²³

Figure 3: Protracted refugee situations by duration, end of 2014²⁴



According to the UNHCR Global Report, 45 percent of refugees were in protracted refugee situations by the end of 2014.²⁵ These refugees are residing in 26 host countries and are part of a total of 33 protracted situations.²⁶ Less engagement

²² Edwards, A. (2007). *Chapter 5: Protracted Refugee Situations: The search for Practical Solutions*. *The State of the World's Refugees: Human Displacement in the New Millennium*. International Journal of Refugee Law, 19(3), 105-127.

²³ *ibid*

²⁴ UNHCR. (2014). *UNHCR Global Trends Forced Displacement in 2014*

²⁵ *ibid*

²⁶ *ibid*

with this problem would present threat to international peace and security. It is no less a dangerous source of instability.

A protracted refugee situation can become a threat, both direct and indirect, to origin countries, host countries, regions, and the world as a whole. Even though they exist because of conflict, refugees, themselves, can be the cause of conflict, as well. Refugees can drag host states into intrastate conflict. For example, refugee camps in Liberia were used as a base camp for terrorists, insurgents, and guerrilla fighters. Armed groups hid in the camps and received humanitarian aid, including food and medical assistance to support their activities. Some of them also maintained networks to support armed conflict in their home country.

Protracted refugee situations can also lead to illicit activities such as prostitution, illegal small arms trading, narcotics, or diamond smuggling. In 1992, Tanzania accepted 292,100 refugees.²⁷ By 2004, the number rose to 883,300.²⁸ Burundians were given a temporary camp in which to stay in Western Tanzania. The camp was accused of being a military base for Burundian rebel groups which caused tension between the two countries. Fire was exchanged across the border. There was also a rise in gun crimes resulting from the flow of small arms trading. The number of prostitutes increased by 8%.²⁹ Environmental degradation and disruption to the economy led to a bitter relationship with the locals. On March 31, 1995, Tanzania closed its border to refugees and shut down the refugee camps, sending 85,000 refugees back to Burundi in December 1996.³⁰ Was it voluntary repatriation? One

²⁷ Sommers, M. (2001). *Fear in Bongoland: Burundi refugees in urban Tanzania*(Vol. 8). Berghahn Books.

²⁸ Ibid

²⁹ ibid

³⁰ ibid

could say it was since the eventual condition in the camps made it unbearable for anyone to stay.

Another incident occurred as a result of the protracted presence of Somali refugees in Kenya. Kenya originally opened its borders to the Somalis both to win praise from the international donor community and to prevent aid suspension due to lack of responsibility for refugees and asylum seekers. There was small-arms trading which led to attacks. Kenyans feared the presence of Somali refugees because of threats from a Somali-based Islamic organization with links to Al Qaeda.

In 1998, the U.S. embassy in Central Nairobi was attacked by a car bomb. More than 250 people were killed, and more than 5,000 were injured, most of whom were Kenyan. In November 2002, three suicide bombers attacked the Paradise Hotel; killing sixteen people. People started arming themselves out of fear, which later led to rising gun crimes. Somalis and Kenyans were also unable to integrate. Kenya had received international support for hosting refugees. The support was limited but included health care and education, which made the Somalis a privileged group. However, as support diminished, Kenyans and Somalis fought over such scarce resources, and Somalis were then blamed for the region's fragile economy.

Another good lesson that one could learn from the consequences of protracted refugee situations comes from the Great Lake Region of Central Africa in the early 1990s. Tutsi refugees fled Rwanda between 1959 and 1962. In 1990, The Rwanda Patriotic Front (RPF) planned to attack while they were refugees in Uganda. The UNHCR acknowledged that the failure to address the problems of Rwandan refugees in the early 1960s caused considerable violence in the 1990s. After that, many host states in Africa perceived long-standing refugee populations as security concerns. In time governments also responded by containing and requiring all refugees to remain

in isolated areas: what Smith called the ‘warehousing of refugees,’ a practice violating the 1951 UN Convention Relating to the Status of Refugees in regard to the freedom of movement and the right to seek wage-earning employment.

The presence of long-standing refugee populations exacerbates both internal and external vulnerabilities of host states. Protracted refugees are usually perceived by the host countries’ governments and local populations as a threat to domestic stability, local government, and the local economy. As a result they can generate instability in neighboring countries and become sources of insurgency and terrorism, as well as spark competition between refugees and local populations for resources, jobs, social services, health care, education, and housing.

The existence of protracted refugees presents a challenge to human rights since the consequence of living in such a condition for a long period of time include material deprivation, psychosocial problems, violence, sexual exploitation, exploitative employment, illegal secondary migration, and living in tension with the locals. Understanding the effects of protracted refugee situations will help shape appropriate policy responses.

CHAPTER 3: Myanmar, The Land of the Golden Pagoda

After years of British colonial rule, Myanmar (then Burma) was ruled by oppressive military regimes from 1962-2011.¹ During this period, the country struggled with abuse and brutal suppression toward political dissidents. Myanmar achieved independence on January 4, 1948. Immediately afterwards, the central government experienced a communist insurgency as well as conflict from various armed ethnic groups such as the Karen, Karenni, Mon, Pao, and Kachin fighting for their own territory and right to self-government, plunging the country into civil war.

By 1949, 75 percent of towns in Myanmar had fallen under the control of at least one of these groups; one observer described this period as “*a swirling period of seemingly endlessly cycles of disarming, and rearming the disenchanted.*”² In 1949, as well, there was a coup led by the Karen National Defense Organization (KNDO) and the well-known KNU. Their goal resembled those of the other armed ethnic groups: ‘Kawthoolei,’ a land without evil, a dream of an independent, Karen state with their own political administration and army.³

In 1962, the military was established under General Ne Win, who controlled Myanmar under the Revolutionary Council (RC) until 1974.^{4 5 6} His goal at that time was to engage diplomatically with leaders of different ethnic groups, and announced

¹ BBC. (2016). Myanmar country profile. Retrieved April 14, 2016, from <http://www.bbc.com/news/world-asia-pacific-12990563>

² Callahan, M. P. (1996). *The origins of military rule in Burma* (Doctoral dissertation, Cornell University Press).

³ Sampford, C. (2013). *Protracted Displacement in Asia: No Place to Call Home*. M. H. Adelman (Ed.). Ashgate Publishing, Ltd., 62

⁴ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis. 57

⁵ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 26

⁶ Ibid, 36

that the Burmese Socialist Program Party (BSPP) was the only country legal political organization.⁷

From 1983 to 1984, the military junta launched the most intense attack to date in Southeastern Myanmar where the Karen National Liberation Army (KNLA) was based, as well as the Northern area of the Dawna range.^{8 9} The military cut off supplies to areas experiencing insurgencies, harassed civilians, razed villages, and confiscated crops.¹⁰ These abuses, later compounded by the disease that spread to the cut off areas, caused displaced people to flee to the neighboring country of Thailand.

In 1984, Thailand established temporary camps for over 9,000 displaced Karen and Mon.^{11 12} In 1988, the military junta known as The State Law and Order Restoration Council (SLORC) seized power in Myanmar after a crackdown on the previous military and widespread political demonstrations.¹³ SLORC went to great lengths to demonstrate its military strength because it believed in the need for a strong national army to save the country from impending disintegration. As a result, in 1989 Thailand received more refugees, mostly Karenni and Mon, fleeing military attack.¹⁴ By the end of 1990, there were 43,500 Karenni and Mon residing in Thailand while SLORC further armed itself with \$1.2 billion in weapons bought from its closest ally,

⁷ Ibid, 37

⁸ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis. 57

⁹ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 83

¹⁰ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis. 57

¹¹ Ibid

¹² Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 84

¹³ Ibid, 58

¹⁴ Sampford, C. (2013). *Protracted displacement on the Thai-Burmese Border*. Protracted Displacement in Asia: No Place to Call Home. M. H. Adelman (Ed.). Ashgate Publishing, Ltd. 63

China. They included jet fighters, tanks, and naval patrol boats. SLORC renamed the country Myanmar (from Burma) and held general elections.¹⁵ In 1990, Aung San Suukyi, leader of the National League for Democracy (NLD), won the election but SLORC denied her victory and began to persecute and murder members of the NLD.¹⁶ Suukyi was placed under house arrest and thousands of her supporters fled to Thailand.¹⁷

During this time, over 100 ethnic groups struggled for autonomy at different levels. Some defeated the military junta and managed to function independently for several years. The military junta, however, responded with a what it described as ‘denying water to the fish,’ a strategy also known as the Four Cuts, in reference to cutting the head off a fish on a cutting board.¹⁸ Civilian support systems, including food and funds, were denied anyone who joined or supported armed ethnic groups, forcing civilians to flee their homes.

In 1992, SLORC named General Than Shwe its leader, and he tried to present Myanmar as more pleasant and acceptable to the international community.¹⁹ He set up a ceasefire with the Communist Party of Burma (CPB) and recognized its territory, allowing it to hold arms and manage economic development.²⁰ There were also fourteen ethnic minority groups willing to compromise with SLORC, but no

¹⁵ Human Right Watch. (1998). *Unwanted and unprotected Burmese refugees in Thailand*. Human Rights Documents, (10), 28

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 37-42

¹⁹ Human Right Watch. (1998). *Unwanted and unprotected Burmese refugees in Thailand*. Human Rights Documents, (10), 14

²⁰ *ibid*

settlement was reached. Each ceasefire was negotiated on its own terms, depending on the strength of the opposing army involved.²¹

In 1996, ethnic Shans arrived in Thailand, fleeing military incursion due to a dispute over trade routes.²² Each side wanted to manage its own trade, which included opium, whose sales could fund further conflict. The more violently the military junta responded, the more civilians were affected by the conflict. Additionally, the military junta built more dams which forced people to leave their lands. In the following year, SLORC changed its political vision and renamed itself the State Peace and Development Council (SPDC), but there is no evidence that even under its new name, it did anything to improve the human rights issue. People were still abused, displaced, and fleeing to Thailand.²³

The number of people fleeing from Myanmar to Thailand increased further as the SPDC extended its village relocation operations and captured civilians for forced labor. Also in 1996, the military junta tried to negotiate ceasefire with the KNU. The attempt, however, failed. As a consequence, the junta launched an attack on the KNU with the expressed goal of taking control over the KNU controlled territory,²⁴ including an attack on the three refugee camps along the Thai-Myanma border. It began on Jan 28 near the Wangka, Don Pa Kiang, and Maela camps in Thailand, causing around 7,000 people to lose their homes and lands. There had been threats to attack refugees residing in camps in Thailand for a long time, as the military wanted

²¹ *ibid*

²² Sampford, C. (2013). *Protracted displacement on the Thai-Burmese Border*. Protracted Displacement in Asia: No Place to Call Home. M. H. Adelman (Ed.). Ashgate Publishing, Ltd. 65

²³ Human Right Watch. (1998). *Unwanted and unprotected Burmese refugees in Thailand*. Human Rights Documents, (10), 2

²⁴ Callahan, M. P. (1996). Burma in 1995: Looking Beyond the Release of Aung San Suu Kyi. *Asian Survey*, 36(2), 158-164.

to force refugees to return to Myanmar.²⁵ Their aim was to scare, but not to kill, and there were indeed very few casualties. The offensive continued for another month within Myanmar, including a massive attack on the Karen headquarters.

In recent years, international organizations and Western countries had raised concern over the conflict in Myanmar. Myanmar was condemned by the international community for human rights abuses, and most investors and donors resolved to sanction the country. The British Oil Company, for example, has reduced its investment by over \$200 million in an attempt to hurt the junta economically.²⁶ The U.S and the E.U imposed economic sanctions. Even after the SPDC released 1,500 political prisoners, the U.S and the E.U still refused to lift sanctions. As a result, in 2002, the SPDC released Aung San Suu Kyi. However, the situation in Myanmar immediately deteriorated and 2002 became the worst year of human right abuses since 1997. Abuses included forced labor, forced relocations, burnt villages, rape, killings, destroyed food pantries, stolen livestock and property. Undoubtedly, the number of people internally displaced or fleeing to Thailand was on the rise.

In 2003, Myanmar recaptured Aung San Suu Kyi and became more isolated. Myanmar was condemned by ASEAN for its treatment of civilians, and its human rights abuses embarrassed ASEAN.²⁷ In that same year, the United States established new sanctions on Myanmar which included boycotts of all its imports (which caused the loss of 350,000 jobs and over \$300 million in revenue in Myanmar), a freeze on all assets of SPDC leaders who had accounts in the U.S., and a

²⁵ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications.

²⁶ Ewing-Chow, M. (2006). First Do No Harm: Myanmar Trade Sanctions and Human Rights. *Nw. Univ. J. Int'l Hum. Rts.*, 5, 153.

²⁷ Haacke, J. (2006). *Myanmar's Foreign Policy: Domestic influences and international implications*. Routledge. 122

blacklist of SPDC's top military leaders, denying them entry into the U.S.²⁸ The U.S. also opposed IMF and World Bank loans to Myanmar. Japan, Myanmar's top donor country, halted all humanitarian and developmental aid, and the European Union continued sanctions for another year.²⁹ Under such pressure, the SPDC announced the "7-point Road Map" to democracy, which included a new constitution and elections.³⁰ Thailand strongly encouraged Myanmar to commit to the plan. Prime Minister Thaksin Shinawatra invited the SPDC to Bangkok to elaborate on the ideas in this roadmap, and the subsequent meeting became known as the "Bangkok Process."³¹ The SPDC also invited both ceasefire and non-ceasefire groups to join this roadmap. The KNU accepted and travelled at least once a month to Yangon for meetings. Aung San Suu Kyi was, however, still under house arrest.³²

The KNU and SPDC entered an informal cease-fire in 2004.³³ High level delegations met in Rangoon, where they mainly discussed the specification of rules for troop locations and deployment as well as the problems suffered by internally displaced persons.³⁴ Later that year, Prime Minister Khin Nyunt, a significant figure in the ceasefire negotiations, was placed under arrest for corruption and abuse of power. How the ceasefire process would continue became unclear at this point.

In 2006, the SPDC deployed a military attack in the Karen state in Eastern Myanmar and other areas, which led to inevitable human rights abuses that caused a

²⁸ Ewing-Chow, M. (2006). First Do No Harm: Myanmar Trade Sanctions and Human Rights. *Nw. Univ. J. Int'l Hum. Rts.*, 5, 158

²⁹ *ibid*

³⁰ Turnell, S. (2011). Myanmar in 2010. *Asian Survey*, 51(1), 148-154.

³¹ *ibid*

³² *ibid*

³³ Haacke, J. (2006). *Myanmar's Foreign Policy: Domestic influences and international implications*. Routledge. 125

³⁴ *ibid*

huge number of refugees to flee to Thailand. In 2007, the largest anti-government demonstrations in Myanmar since the 1988 uprisings took place. Tens of thousands of monks led mass demonstrations in towns and cities across Myanmar.³⁵ Thousands of Burmese civilians protestors called for an end to military rule. The SPDC responded with a brutal crackdown on these peaceful demonstrations. Over 6,000 people were arrested, including approximately 1,400 monks.³⁶ Many of the detainees were injured during the crackdown, and have been refused access to proper medical treatment. Others were tortured physically, not given enough food or water, and contained in unsanitary places where disease spread easily.³⁷

In 2009, the SPDC arranged another ceasefire with some ethnic groups and convinced them to join the military's army, Tatmadaw, to help protect the country as border guards; however, most groups were opposed.³⁸ In 2010, the first general elections in 20 years took place, which was the fifth step of the seven-step road to democracy proposed by the SPDC in 2003. Although the Union Solidarity and Development Party won the election, its victory was boycotted by the National League for Democracy due to fraud (which drew international attention to the lack of transparency).³⁹ Nevertheless, Thein Sein was sworn in as president in 2011. The administration released thousands of political prisoners, including Aung San Suu Kyi, who was allowed to register the NLD as a legal political party. President Thein Sein signed a law allowing peaceful demonstrations and ordered the military to stop

³⁵ Burma Campaign UK. (2007) 2007 Uprising in Burma. Retrieved February 8, 2016, from <http://burmacampaign.org.uk/about-burma/2007-uprising-in-burma/>

³⁶ *ibid*

³⁷ *ibid*

³⁸ Seekins, D. M. (2010). Myanmar in 2009: A New Political Era?. *Asian Survey*, 50(1), 198.

³⁹ Turnell, S. (2011). Myanmar in 2010. *Asian Survey*, 51(1), 147.

attacking ethnic groups.⁴⁰ The U.S. was willing to restore its economy relationship with Myanmar only if the path to democracy continued. The EU suspended its sanctions. In 2012, the government signed a ceasefire with the KNU.⁴¹

The situation in Myanmar remained peaceful, and a new age of economic development and political progress remained hopeful. However, violence erupted in 2012 in the Rakhine state due to long-standing ethnic and religious tensions between the government and Muslim minority groups.⁴² More than 20,000 were displaced, and more than 4,600 houses were burnt down.⁴³ Most of the population in Rakhine is comprised of ethnic Rohingya, whom the government does not recognize as Burmese citizens. In March 2013, there was a clash between Muslims and Buddhist that cost over 40 lives, and around 12,000 were displaced from their homes.⁴⁴ President Thein Sein declared a state of emergency in affected areas and warned that the government will use force to stop *"political opportunists and religious extremists from fomenting hatred between faiths."*⁴⁵

Myanmar was criticized widely for its response to the situation, and the government was accused of committing ethnic cleansing and crimes against humanity.⁴⁶ In May 2014, the U.S sanctioned Myanmar for the 2013 incident.⁴⁷ The United Nations expressed its concern over human rights issues in Myanmar and

⁴⁰ *ibid*

⁴¹ Ewing-Chow, M. (2006). First Do No Harm: Myanmar Trade Sanctions and Human Rights. *Nw. Univ. J. Int'l Hum. Rts.*, 5, 162

⁴² Holliday, I. (2013). Myanmar in 2012. *Asian Survey*, 53(1), 96.

⁴³ *ibid*

⁴⁴ Than, T. M. M. (2014). Myanmar in 2013. *Asian Survey*, 54(1), 25.

⁴⁵ BBC. (2013). *Burma's President Thein Sein warns 'extremists.'* Retrieved April 14, 2016, from <http://www.bbc.com/news/world-asia-21968040>

⁴⁶ Campbell, C. (2013, April 23). Burma Accused of 'Ethnic Cleansing' of Rohingya Muslims | TIME.com. Retrieved February 8, 2015, from <http://world.time.com/2013/04/23/burma-accused-of-ethnic-cleansing-for-rohingya-violence/>

⁴⁷ Ewing-Chow, M. (2006). First Do No Harm: Myanmar Trade Sanctions and Human Rights. *Nw. Univ. J. Int'l Hum. Rts.*, 5.

feared the reform process had regressed.⁴⁸ The situation worsened when five journalists were imprisoned for 10 years after reporting on chemical weapons factories, and the alleged raping of activists by military soldiers, demonstrated Myanmar's lack of commitment to freedom of press. Conflict in the Rakhine state continues. Ethnic and religious discrimination against Rohingya and refusal to grant them citizenship has bred hostility and violence. The government refuses to address these issues.

⁴⁸ *ibid*

CHAPTER 4: UNWANTED DISPLACED PERSONS IN THAILAND

“We are on Thailand so we have to be submissive, we can’t speak out and we have to be patient and passive. If we speak out too much, the chain around is will be tightened.”¹

Developing countries hosted 86 percent of the world’s refugee, a total of 12.4 million persons.² Each country has its own policies for dealing with refugees. Although there are universal laws on human rights, and specifically on refugees, some states choose to follow these laws and some do not. Since human rights and refugee laws do not always meet one-to-one with the principles of state sovereignty, there exist gaps in between which allow states to decide how much they would want to pursue their moral and ethical obligations.

States have established treaties, agreements, and national laws in which that they must ensure that no refugee in search of asylum is punished, dislodged, or returned without consent. All refugees should be able to enjoy the full rights and benefits to which they are entitled and that their human rights are assured. Therefore, providing protection to refugees is required by law.³ In theory, states are obligated to follow those laws in good faith. States have to merge those laws with their domestic ones so that those who are identified will be treated legally. States are also obligated to provide certain facilities to refugees while they are seeking asylum. According to

¹ Frelick, B., & Saltsman, A. (2012). *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers*. Human Rights Watch.

² UNHCR. (2014). *UNHCR Global Trends Forced Displacement in 2014*. Retrieved December 5, 2016, from <http://unhcr.org/556725e69.html>

³ GOODWIN-GILL, G. U. Y. S. (2014). THE INTERNATIONAL LAW OF REFUGEE PROTECTION. *The Oxford Handbook of Refugee and Forced Migration Studies*, 36. 36

Article 25, 27, and 28 of the 1951 refugee convention states have to provide administrative assistance, issue identity papers, and paper documents, respectively.⁴

States cannot send refugees back to their home countries where they would be at risk of indictment and prosecution, as mentioned in the 1951 convention relating to the status of refugees and the fundamentals of legal refugee protection.⁵ Michael Walzer strongly supported the idea that states are obligated to uphold their duty to not expel refugees who arrive in their territory. For him, it is immoral to send desperate and helpless refugees who flee from their home country seeking protection back to imminent danger by force.⁶ Singer believes that states should keep their borders open to refugees up to the point where *'the cost to the residents of the state of one extra refugee entrant are greater than the benefits yielded by that particular entrant.'*⁷ Walzer agreed with Singer that once the intake of refugees imperils the host country's political economy, suspension of intake is justified.⁸ For Matthew Gibney, states are obligated to participate in burden sharing (which can also be found in paragraph 4 of the Preamble of the 1951 convention relating to the status of refugees), shaping public opinion, and combatting the causes of refugee flight.^{9 10 11} The problem of asylum may fall on certain countries in the short term, but without international support long term solutions will never be achieved.

⁴ Goodwin-Gill, G. U. Y. S. (2014). *THE INTERNATIONAL LAW OF REFUGEE PROTECTION. The Oxford Handbook of Refugee and Forced Migration Studies*, 36. 40

⁵ Ibid, 39.

⁶ Gibney, M. J. (2014). *POLITICAL THEORY, ETHICS, AND FORCED MIGRATION. The Oxford Handbook of Refugee and Forced Migration Studies*, 48, 51.

⁷ Ibid 52

⁸ ibid

⁹ Suhrke, A. (1998). *Burden-sharing during refugee emergencies: The logic of collective versus national action. Journal of refugee studies*, 11(4), 412.

¹⁰ Martin Gotlwald. (2014). *'burden sharing and refugee protection'*, *The Oxford Handbook of Refugee and Forced Migration Studies*, 2014, 525.

¹¹ Gibney, M. J. (2004). *The ethics and politics of asylum: liberal democracy and the response to refugees*. Cambridge University Press.

The 1951 Convention relating to the status of refugees also expounded on some important and fundamental human rights considerations for refugees: Non-refoulement, freedom of movement, and to work, and self-settlement.¹² The main problem of all treaties and international laws regarding refugees is that they can only apply to those who are legally defined as refugees. It is a host country's job to determine who is and isn't a refugee, while international law can only establish the definition of refugee and asylum seeker. Without a doubt, states can usually make it very difficult to obtain refugee status. Host countries usually perceive refugees as a guest and implement policies that prevent them from staying permanently, and often do so by denying them their basic rights outlined above.

Host countries with large populations of refugees often require them to live in camps where their basic needs are provided for by the UNHCR and other humanitarian agencies. Activities outside of camps are restricted due to security concerns. If refugees want to go outside the camps, in most cases, they will have to pay a bribe, but their chance of being caught and deported back to their origin country is high. Some host countries allow refugees to work only in some areas close to the camps. Some host countries promote self-sufficiency among all refugees, while others do not. Most of the time, refugees allow the government to exploit them economically. In most developing countries, a small number of refugees have formal status, they are more likely to fall under the definition of asylum seekers or *prima facie* status—a temporary status for those whose refugee status is yet to be evaluated, and mostly live in camps.¹³

¹² JACOBSEN, K. (2014). *Livelihoods and forced migration*. The Oxford Handbook of Refugee and Forced Migration Studies, 99.

¹³ *ibid*

For host countries, concerns regarding refugees are associated with security. As a result, refugees are usually encamped in remote areas close to borders since refugees could attract more hostile conflict from the country of origin.¹⁴ Most of the time, host countries implement an encampment plan whereby refugees are required to live in designated areas, unless they are granted specific permission to live elsewhere. The host state however is obligated to insure that refugees receive shelter, access to food, water, hygiene, health care, and education.¹⁵ As all states should be involved in the burden-sharing process, host countries will not be the only country responsible for the cost after opening their borders. Most of the time, host countries receive additional humanitarian aid for the explicit purpose of going toward the basic needs mentioned above. In this way, it creates ‘a smooth operation’ for host countries to accept refugees in their territory.¹⁶ However, skeptics believe that the host government might want to keep the camps in existence indefinitely in order to continually receive international aid money. Additionally, humanitarian aid is not always abundant or adequate and does not cover other serious issues such as protection against sexual and gender-based violence, which are not classified as fundamental needs.

Thailand shares a 2,401 km border with Myanmar.¹⁷ For the past four decades Thailand has received a number of large-scale refugee flows continually due to its conflict in Myanmar which had produced a large number of displaced people, refugees, and undocumented migrants. These refugees are contained in warehouses with very little or no prospects of permanent and durable solutions to their plight.

¹⁴ *ibid*

¹⁵ Oliver Bakewell. (2014). *Encampment and self-settlement*. The Oxford Handbook of Refugee and Forced Migration Studies. 129

¹⁶ *Ibid*. 135

¹⁷ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications.

Thailand is not a signatory to the 1951 Refugee Convention, but rather follows '*the Asian approach*' which focuses on respecting sovereignty and economic development rather than on international human rights or refugee laws.¹⁸ Hazel Lang believes that the reason why Thailand did not join the 1951/1967 UN is because it wants greater flexibility in its response to refugee problems, and also because Thailand knows that she cannot fulfill the convention's obligations. Lang clarifies that it is most likely because those obligations were originally set up in Europe, and thus do not fit with Thailand's situation.¹⁹

Thailand does not have a mechanism for verifying refugees status. The majority of asylum seekers have remained in Thailand without protection; that means they are unregistered and not considered refugees by the Thai government. These refugees have become undocumented illegal immigrants who are vulnerable to arrest and deportation. Even so, Thailand has turned a blind eye to a large number of undocumented migrants who would qualify for refugee status, as those undocumented migrants are part of the country's revenue in cheap labor. It wasn't until the early 2000s that the Thai government allowed the UNHCR to register refugees and provide assistance. However, at the end of 2013, around 130,000 refugees were living in camps in the border region while only 82,539 were registered with the UNHCR.²⁰

The Thai government does not recognize Burmese refugees as refugees but rather as 'displaced persons fleeing fighters' and have named the camps "temporary shelters." According to MOI, a displaced person is someone who '*escaped from*

¹⁸ Kristen Mcconnachie. (2014). *forced migration in Southeast Asia, and East Asia*, The Oxford Handbook of Refugee and Forced Migration Studies, 627

¹⁹ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 93

²⁰ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis.

*dangers due to an uprising, fighting, or war, and enters in breach of the Immigration Act.*²¹ Under Thai national law, asylum seekers in Thailand are technically illegal immigrants and their punishment could be repatriation, imprisonment, and fines. The very first policy toward Burmese refugees applied to those who arrived before March 19 1976. Those people are eligible to register and stay in Thailand.²² At the time, they were welcomed by the Thai people and were provided materials and food.

Thai policies toward Burmese refugees in Thailand changed according to economic interests and security issues between the two countries. Thailand is concerned most with economic matters over natural resources, tourism, and integration of ‘long-necked women,’ whose camps have become self-sufficient due to tourist revenue.²³ However, growing problems concerning Burmese refugees encamped along the Thai border gradually caused Thai government to worry about security issue as much as economic issues. Inter-state conflict caused by refugees and economic interests have affected Thai policies toward Burmese refugees.

It all started in 1988, when there was a national strike organized by thousands of Burmese students in Myanmar. The military government feared that they were losing control, and responded brutally, causing at least 3,000 deaths and a staggering 80,000-100,000 Burmese to flee to the Thai-Burmese border seeking shelter and support from the international community.²⁴ At this point the Thai government divided Burmese refugees into two groups: Students and ethnic minorities. The Thai

²¹ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 93

²² Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 83

²³ *ibid*

²⁴ Human Right Watch. (1992). *Abuses against Burmese refugees in Thailand*. Human Rights Documents, (4), 7.

cabinet granted Burmese student dissidents asylum and sent those deemed ethnic minorities to the border area. Less than a month later, the cabinet changed its policy from granting asylum to repatriation. 328 Burmese were repatriated with no international observers.²⁵

In 1989, Thailand and Burma were on good terms economically. The Thai cabinet closed the repatriation center and allowed Burmese troops to come in to Thailand.²⁶ Numerous Burmese refugees had to flee the camps due to the subsequent attack by the Burmese military. The center remained closed until 1990, following two major events which led to a policy shift from the Thai government toward Burmese refugees: Karen student activists hijacked commercial planes and seized Myanmar's embassy in Bangkok. After the chaos in 1989, the Thai government decided to combine all small camps into one single camp at Mae La due to new security concerns.²⁷ The commander-in-chief at the time, General Chetta Thanajaro, states that *"we cannot blame the Burmese government [on invasions]. They say the attack was not carried out by their soldiers. This is true. The DKBA is a militant minority that has broken off from the other Karen group."*²⁸

During the early 1990s, the Thai government denied camp access to the UNHCR and ICRC. The camps were run by the Karen Refugee Committee and non-governmental organizations providing food. Inside the camp, the government allowed

²⁵ ibid

²⁶ Human Right Watch. (1992). *Abuses against Burmese refugees in Thailand*. Human Rights Documents, (4), 7.

²⁷ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications. 157

²⁸ ibid

these groups to set up a market, schools, health care, and religious centers.²⁹ This was a period of time in which international organizations had almost no role in refugee issues. Thailand perceived the UNHCR as a potential pull factor drawing more and more refugees into Thailand. Therefore, they could only observe how the Thai government was handling situation. Many reports from international organizations in Thailand at the time claimed mistreatment of refugees and illegal immigrants by the Thai police. Most episodes were cases of physical attack, bribery, or deportation. The most well-known case was the Immigration Detention Center (IDC) on Soi Suan Phlu in Bangkok. The center's maximum capacity was only 200 detainees, but by 1991 it held 20,000.³⁰

“They asked me for money...I said ‘I don’t have money.’ Then one started to beat me here and then back here [on the back and shoulders] two times and then kicked me once...They asked for 2,000 baht [around \$US 55] and we didn’t have that money. Then he looked in my bag and he saw my UNHCR ID card and he took it away”³¹

Since 1992, Thai policy towards Burmese refugees has been very strict. Thailand has only allowed Burmese to cross its borders when fleeing from active fighting, and will deny those who try to enter into the country due to human rights abuses, all while limiting the role of the UNHCR and encouraging ceasefire between ethnic groups and the Burmese government. In 1998 the Thai government granted the

²⁹ Human Right Watch. (1992). *Abuses against Burmese refugees in Thailand*. Human Rights Documents, (4), 7.

³⁰ *ibid*

³¹ Frelick, B., & Saltsman, A. (2012). *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers*. Human Rights Watch.

UNHCR permission to undertake registration in Kanchanaburi, Mae Sot, and Mae Hong Sorn along with MOI after an attempt by the Chuan Leekpai administration to make things better for refugees.³² This is also the time when there was recording of bio-data and demographic information. However, the UNHCR can only recognize a small number of asylum seekers as “*persons of concern to the UNHCR.*”³³ Later, in 1999, this system was put on hold because Thailand established a new mechanism for refugee status determination.³⁴

In 1995, the DKBA threatened to destroy refugee camps if refugees did not return to Myanmar.³⁵ Their purpose was to try to pull refugees back to Burma to be under their control. They promised to provide rice and land to those who returned.³⁶ In the meantime, DKBA affiliates began to sneak into various camps in Thailand and kidnap senior KNU officers.

The first formal registration scheme was undertaken by the Ministry of the Interior (MOI) and the UNHCR. In 1999, the PAB was set up as a mechanism to determine the status of newly arrived asylum seekers based on whether they left Myanmar “*fleeing fighting and the consequence of civil war*” only, which does not comply with the international refugee definition.³⁷ Its authorization, however, was very important to those arrivals who sought temporary asylum while applying for international protection in Thailand; it prevented Thai authorities from arresting and deporting them. Unfortunately, the PAB was never fully functional and had no formal procedures or eligible guidelines for admissions into the camps.

³² *ibid*

³³ *ibid*

³⁴ *ibid*

³⁵ Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications.

³⁶ *ibid*

³⁷ Vungsiriphisal, P. (2013). *Humanitarian Assistance for Displaced Persons from Myanmar: Royal Thai Government Policy and Donor, INGO, NGO and UN Agency Delivery* 17. 148

In 2000, a Karen military group took hundreds of hostages in a Thai provincial hospital.³⁸ In the following year, there was a serious border clash when Burmese political activists demonstrated in Bangkok and along the border towns. The Thai government decided to close the border for several months immediately after. These events served to raise concerns among the Thai public and government about domestic national security threats. Additionally, the Thai government has always associated Burmese refugees with drug smuggling along the border since Burma is the second largest producer of opium and heroin. Drugs are a vital source of income to the various ethnic factions. Thailand thus perceives Burmese refugees as a burden and a threat to social cohesion.

In 2004, the refugee status determination system conducted by the UNHCR was stopped by the Thai government, which demanded all refugees to reside only in camps. Harsh confinement policies were enforced, limiting refugees' freedom of movement; they could no longer work outside the camps and their children could only go to schools provided in the camps.³⁹ This eliminated the chance for Burmese children to obtain a higher quality education, and for their parents to earn any income. These refugees, therefore, became dependent on aid agencies. The negative impacts of such restrictions on the ability of Burmese refugees to earn a livelihood and seek opportunity over the course of two decades have been well documented. Human Rights Watch believes that it could cause domestic abuse, depression, and other mental health problems.⁴⁰ During this period the aid to refugees also shifted from

³⁸ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis.

³⁹ Frelick, B., & Saltsman, A. (2012). *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers*. Human Rights Watch.

⁴⁰ *ibid*

humanitarian assistance to development of livelihood. The only way for refugees to earn money is to work outside of the camp as an illegal migrant worker. Most refugees are willing to risk being caught and searched, arrested on the street, at their workplace, or in their homes, and being send to IDC or forced to return home than to stay in the camps and earn nothing.

There were many significant changes to many aspects of Thai refugee policy in 2005. The Thai government and the UNHCR established a formal process for refugee reception and status determination, and began permitting a large-scale third country resettlement program. That same year, the PAB adjusted its refugee definition from ‘fleeing fighting and the consequences of civil war’ to ‘fleeing Burma for political reasons,’ but also requested to stop registering anyone from Myanmar who sought asylum and protection in Thailand.⁴¹ That means those who arrived after November 2005 have not had the opportunity to register and receive any form of documentation or formalized protection. Between 2005 and the first quarter of 2009, the PAB regularized the status of about 40,000 Burmese refugees.⁴² After 2006, no new cases were registered through PAB even though about 11,000 went through the PAB, which conducted interviews.⁴³ Three years later, there was still no official announcement that those people were granted ‘registered’ status. The Thai government considers all immigrants who entered the camps after November 2005 to be unregistered and thus illegal camp residents. By mid-2012, 78,000 people had left to resettlement countries but new Burmese asylum seekers have continued to enter the camps, which increasing the proportion of unregistered people.⁴⁴

⁴¹ *ibid*

⁴² *ibid*

⁴³ *ibid*

⁴⁴ *ibid*

In September 2007, the UNHCR re-opened registration only for new arrivals who fled to Thailand due to the most recent September crackdown in Yangon, Myanmar, but this was only for temporary registrations and it still remains uncertain if or when they will be screened by the PAB. These asylum seekers have been waiting in camps for years.⁴⁵

The Thai government allows the day-to-day operations of the refugee camps to fall under the authority of designated camp commanders. Human Rights Watch reported widespread abuses of power by camp commanders.⁴⁶ In 2011, camp commanders required all international organizations to make a request up to 90 days in advance if they want to deliver food or supplies to refugees within the camps. Physical, sexual, and labor rights abuses, as well as gender-based violence, have also been reported, leaving a protection gap within these camps that the Thai government refuses to involve itself with.⁴⁷

In November and December 2010 there was yet another large movement of Burmese refugees fleeing to Thailand due to a violent clashes on the first day of national elections in Myanmar for two decades. The DKBA attacked and took the town of Myawaddy, situated across the border from a city in Thailand where a quarter of a million Burmese refugees were already living.⁴⁸ Fire, shootings, and small arms strikes spilled over into Thailand. Government spokesman Panitan Wattanayagorn stated that the Thai government would not send the Burmese home until it was safe.⁴⁹ He said Thai forces had strengthened security at the border.⁵⁰ However, hours later, Thai border officials announced that it was safe to return since the fighting had

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ *ibid*

⁴⁸ *ibid*

⁴⁹ *ibid*

⁵⁰ *ibid*

decreased. From an international perspective, this case alone illustrates human rights abuses perpetrated by Thailand.

Thailand wants to maintain a good relationship with Myanmar, which is a major reason why Thailand does not want to protect refugees. At the same time, Thailand also wants to avoid an internationalization of the Burmese refugee problem since it used to be the host country for over one million Indochinese refugees in the late 1970s. At that time Thailand did not have political recognition of or even legal regimes or screening procedures to manage refugee problems.

Even though Thailand has officially agreed to non-refoulement and signed the International Covenant on Civil and Political rights (ICCPR) in 1996, the convention of the Rights of the Child in 1992, and the Convention on the Elimination of Discrimination Against Women (CEDAW) in 1985, Thailand will have to incorporate those agreements into existing domestic laws in order to execute them in practice.⁵¹ The prevalence of protracted refugee situations highlights the problem of Thailand's policies toward refugees, the need for engagement, and the continuing need for international action to seek permanent solutions for the plight of refugees.

⁵¹ Human Rights Documents, (4), 7. Human Right Watch. (1998). *Unwanted and unprotected Burmese refugees in Thailand*. Human Rights Documents, (10), 6.

CHAPTER 5: DURABLE SOLUTIONS

There are traditionally three ‘durable solutions’ for dealing with refugee crises in the international community: Voluntary repatriation, local integration, and resettlement. No particular option is considered ideal in all situations; rather, the appropriateness of each varies over time. Durable solutions began in Europe after WWII due to increasing numbers of Indochinese refugees. The concept of a durable solution began by considering the character of each refugee situation, as well as the needs, concerns, and capacities of the first countries of asylum, the country of the origin, and international donor community.

In the 1950s, a group of scholars drew attention to the plight of more than 10,000 displaced people living in Europe after WWII who were in need of a durable solution to their plight.¹ In 1959, the United Nations answered the call and responded to those remaining within and outside of refugee camps by appealing to major Western governments to provide both funds and resettlement quotas. In the mid 1960s, young and healthy refugees of protracted crises were chosen for the resettlement option. In 1981, an International Conference on Assistance to Refugees in Africa (ICARA) focused mainly on trying to raise funds for relief assistance to refugees.² In 1984, ICARA II produced three durable solutions that scholars believe can bring exile to an end: Repatriation, local integration, and resettlement.³ Repatriation was identified as the most ideal solution. During this period, the spotlight was on Indo-Chinese refugees when Western states agreed to increase number of refugees allowed to resettle in their countries. However, in exchange to the country of

¹ Alexander Betts. (2004). International cooperation and the targeting of development assistance for refugee solutions: Lessons from the 1980s. 1

² Ibid, 3

³ Ibid

first asylum, they had to recognize boat people as refugees and allow repatriation processing centers to operate within resettlement missions.⁴

Repatriation

For every refugee resettled between 1998 and 2008, 14 returned to their home country.⁵ Earlier, repatriation was not considered an ideal option because most refugees at the time came from Eastern European communist regimes. Western countries believed that if they sent these refugees back to their countries of origin, they would face a much higher risk of prosecution. Scholars believe this was more of a political tactic against the rise of communism.⁶ The 1990s was a decade of repatriation, in which hundreds of thousands were returned to their country of origin: Afghanistan, Mozambique, Cambodia, Eritrea, and Ethiopia.⁷ At the time, there was no serious assessment of how just or voluntary such repatriations were.

Megan Bradley believes that repatriation in the 1990s is not a model of what the repatriation process *should* be in the future.⁸ Rather than simply sending people back after situation assessment, there should be someone held responsible for what originally caused refugee flight. Situations which cause internal and external displacement do not occur like an unexpected natural disaster; rather, they are often premeditated tactics carried out by the state against its own citizens.

⁴ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis.

⁵ Alexander Betts. (2004). International cooperation and the targeting of development assistance for refugee solutions: Lessons from the 1980s. 27

⁶ Megan Bradley. (2005). The Conditions of Just Return: State Responsibility and Restitution for Refugees. 4

⁷ Alexander Betts. (2004). International cooperation and the targeting of development assistance for refugee solutions: Lessons from the 1980s. 27

⁸ Megan Bradley. (2005). The Conditions of Just Return: State Responsibility and Restitution for Refugees. 6

In theory, before attempting to repatriate an exodus of people, the first basic thing to consider whether or not a refugee is willing and able to return. Refugees should not be forced to return without their consent, as it contradicts their fundamental human rights. Chimni argues that one of the most significant principles of repatriation is that refugees cannot be returned against their will to a home country that “*in their subjective assessment has not appreciably changed for the better.*”⁹ Policymakers should not only assess the external situation but also how the refugees think and feel about the prospect of return. Through their own informal communication networks, refugees often have more credible evidence regarding the situation in their homelands than do the authorities of their host country.

One should also consider the condition of the origin country before a decision is made to send refugees back. The original source of displacement must no longer be present. There are, however, many cases in which refugees were returned to their country of origin without consent and without a guarantee of security post-arrival. This does not mean it is unjust repatriation. Sometimes people choose to return because they have no other option; the refugee camps may be closing and there may be no option for refugees to legally integrate within their country of exile. Sometimes it is simply safer to return home than stay in a host country. This situation usually arises when the country of asylum views refugees as a burden for various reasons and no longer wishes to shoulder any more of it. Those reasons can include wanting to prevent conflict from spilling over into the host country, or refugees being viewed as fighting over resources with legal citizens. This is when the sovereignty of the state is given more priority than human rights.

⁹ Chimni, B. S. (1999). *From resettlement to involuntary repatriation: towards a critical history of durable solutions to refugee problems*. Centre for Documentation and Research, United Nations High Commissioner for Refugees.

Megan Bradley believes that, in theory, repatriation while the country of origin is returned to normal makes sense but, in practice, it is nearly impossible to create such a status-quo since there are many crimes associated with displacement such as rape, torture, and murder, things which cannot be undone and easily brought to justice at the right time.¹⁰ Beside crime, the inevitable redistribution of property is also difficult. But Bradley believes that, fundamentally, redress is less about how to restore the status quo and more about how to repair broken relationships between the people and the state, and especially about repositioning refugees as equal members in the political community of the state of origin.¹¹ Katy Long, however, believes that it should be ‘empatriation’ instead of *re*-patriation; it should focus on new beginnings, building a new relationship, and no attempt to return to the status quo.¹²

Laura Hammond believes that before refugees decide to go back to their country of origin, there should be an agreement between the origin country, the host country, and the refugees, a ‘tripartite agreement.’¹³ Refugees should be informed of conditions within the origin country, and a trip should be provided for community leaders to see what is actually going on there so that they can be informed of the challenges they should expect upon their return.

According to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the term

¹⁰ Bradley, M. (2005) *The Conditions of Just Return: State Responsibility and Restitution for Refugees*, 2005. 189

¹¹ Bradley, M. (2013). *Refugee repatriation: Justice, responsibility and redress*. Cambridge University Press.

¹² Katy Long, *State, Nation, Citizen: Rethinking Repatriation*, p.57, 2008

¹³ Laura Hammond, *voluntary repatriation and reintegration*, p.594, 2014

‘reparation’ should have five main legal types.¹⁴ The first one is “Resolution,” in which it aims to re-establish the conditions which existed before war or conflict occurred. This does not mean only in terms of political engagement but also return of homes and lands. However, it is no easy task to apply this first characteristic in practice since the government and people who remained within the origin country perhaps feel like returnees are more a burden than a benefit.¹⁵

According to the UN Reparations Principles (UNGA 2005a: Section IX, paragraph 20), “compensation” should be provided to returnees.¹⁶ Compensation, in this context, means monetary payment for materials and injuries which occurred in the past. Sometimes it is very difficult to restore the situation, especially to those who have been victims of torture or were physically and mentally abused. Another means of compensation is to address non-material injuries to things that cannot be healed by money: “satisfaction.”¹⁷ This can be done by offering an official apology, judicial processing, and a truth-telling process.

Fourth is “rehabilitation,” which is a way to demonstrate that the state is trying to fix and improve the situation by providing assistance in the form of medical, psychological, and various social services.¹⁸ This is done to help returnees gradually eliminate any discomfort they may encounter upon returning. The last characteristic is

¹⁴ Van Boven, T. (2010). The United Nations basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. *United Nations Audiovisual Library of International Law*. New York, United Nations.

¹⁵ Bradley, M. (2005). The Conditions of Just Return: State Responsibility and Restitution for Refugees. 13

¹⁶ Van Boven, T. (2010). The United Nations basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law. *United Nations Audiovisual Library of International Law*. New York, United Nations.

¹⁷ *ibid*

¹⁸ Bradley, M. (2005). The Conditions of Just Return: State Responsibility and Restitution for Refugees. 15

“guarantee,” a guarantee of no repetition of what originally occurred, which can be upheld through legal and institutional reforms.¹⁹

The repatriation process is actually one stage in a process of state-building, or a process of political rapprochement between citizen, community, and state, rather than one of only receiving benefits from the state. Origin countries are usually poor in infrastructure, insecure, and possess limited socioeconomic opportunities. Even when persecution has ended, poverty may prevent a sustainable return. If one region has suffered from deprivation as a result of war, food shortage, or other catastrophes, then the entire population will continue to be tremendously susceptible to further conflict. Repatriation is actually a challenge of peace building through development.

Even though repatriation remains the ideal solution for many policymakers, it is still not possible in every situation due to continuing conflict and instability in some areas. Sometimes the country of origin is simply not a desirable destination for the second or third generation refugees whom may not know the home to which they must return,²⁰ after usually becoming established in the society in which their parents settled. For example, Liberian refugees living in Guinea insisted on staying in the refugee camp after the UNHCR withdrew its assistance so that they could still advantage from living along the border, maintaining economic and social networks on both sides.

Repatriation is considered the ideal solution for refugee problems with a core belief that every human being has a right to live in their birth place, but that they are sometimes forced to leave under severe circumstances such as conflict and disaster.

¹⁹ *ibid*

²⁰ Long, K. (2013). *The point of no return: Refugees, rights, and repatriation*. Oxford University Press.476

Matthew Gibney also believes that refugees should return to their country when the time is right. Even if they have other choices besides repatriation, they should return to their country of origin in order to perform their duty as citizens; to rebuild their country and to show gratitude to the country of asylum.²¹ According to Article 12 of the Cartagena Declaration, repatriation must be “*carried out under conditions of absolute safety, preferably to the place of residence of the refugee in his country of origin.*”²² In other words, refugees should feel confident that their state of origin will protect them and be willing and able to respect their basic human rights. Repatriation is considered an ideal solution, but it is not always easy to perform in practice, and is perhaps the most difficult durable solution to enact of the three.

Local Integration

Local integration has not been identified as a possible option to resolve the plight of refugee populations who have been in protracted situations around the world. It has been considered a “non-solution”²³ due to its perceived consequences for host countries, so there has been limited research and attention paid to the process and prospect of local integration. Local integration has never really been considered a first priority and is often a forgotten solution²⁴ not only by the international community but also by the UNHCR until 2005, when it highlighted the importance of local

²¹ Gibney, M. J. (2014). *Political theory, ethnics, and forced migration*. *The Oxford Handbook of Refugee and Forced Migration Studies*, 57.

²² Lang, H. J. (2002). *Fear and sanctuary: Burmese refugees in Thailand* (No. 32). SEAP Publications.

²³ Fielden, A. (2014). *Local integration: an under-reported solution to protracted refugee situations*. UNHCR New Issues in Refugee Research Working Paper Series, (158).

²⁴ Jacobsen, K. (2001). *The forgotten solution: local integration for refugees in developing countries*. United Nations High Commissioner for Refugees (UNHCR).

integration and outlined how it could be performed effectively. However, local integration is now always forgotten, such as when repatriation is impossible to deploy and there are a restricted number of resettlement options. Though classified as a durable solution here, local integration is often relegated to a list of quasi-permanent solutions. It has been perceived as a way of managing refugees until they can be repatriating or resettled.²⁵ The UNHCR believes that the host country and the international community should help refugees develop a strategy of self-reliance.²⁶

Barbara Harrell-Bond defined local integration as “*a situation in which host and refugee communities are able to co-exist, sharing the same resources — both economic and social — with no greater mutual conflict than that which exists within the host community.*”²⁷ Tom Kuhlman believes a characteristic of successful local integration is that the host country provides refugees with freedom of movement and to make their own choices on where they want to live, how to support themselves, and to maintain their identities so they feel acceptance. Refugees should also not have to encounter discrimination in the host country.²⁸ Lucy Hovil defined local integration as when “refugees become full members of their host community in their first country of asylum and receive the citizenship of the country of exile.”²⁹

In practice, the host country, usually in the global south, ensures that refugees will not be able to obtain citizenship or meet the legal criteria for local integration. A common argument would be that host countries in the global south are already poor

²⁵ Dryden-Peterson, S., & Hovil, L. (2003). *Local integration as a durable solution: refugees, host populations and education in Uganda*. United nations High commissioner for refugees (UNHCR). 492

²⁶ Fielden, A. (2014). *Local integration: an under-reported solution to protracted refugee situations*. UNHCR New Issues in Refugee Research Working Paper Series, (158).

²⁷ Harrell-Bond, B. E. (1986). *Imposing aid: emergency assistance to refugees*. Oxford: Oxford University Press.7

²⁸ Kuhlman, T. (1991). The economic integration of refugees in developing countries: a research model. *Journal of refugee studies*, 4(1), 5

²⁹ Dryden-Peterson, S., & Hovil, L. (2003). *Local integration as a durable solution: refugees, host populations and education in Uganda*. United nations High commissioner for refugees (UNHCR). 488

and have many responsibilities to take care of toward their own citizens. Local populations often reject the idea of having refugees in their community due to lack of resources, infrastructure for social services, and competition in job markets. Those factors are considered an obstacle for successful local integration and affect host countries' policies toward refugees and asylum seekers. Kibreab, however, proposed a solution of segregation whereby host countries could create a separate site for refugees in an area that international donors will support.³⁰ In this way, the host country will not have to be responsible for much of the cost.

There are two types of local integration: De facto and de jure.³¹ De facto local integration is a formal process that takes place only in the local area where refugees are already residing.³² Refugees usually integrate within a given area due to economic, social, cultural, and political factors. De facto local integration is characterized by informality and is illegal and temporary.³³ The host country government usually turns a blind eye to economic concerns because integration benefits them both directly and indirectly. Lack of official recognition and formal mechanisms of protection for refugees could make them more vulnerable to exploitation. However, some might argue that national citizenship holds little promise if refugees fail to be accepted within a particular area.

³⁰ Kibreab, G. (1989). Local settlements in Africa: a misconceived option?. *Journal of Refugee Studies*, 2(4), 473

³¹ Dryden-Peterson, S., & Hovil, L. (2003). *Local integration as a durable solution: refugees, host populations and education in Uganda*. United nations High commissioner for refugees (UNHCR).

³² *ibid*

³³ *ibid*

Crisp Jeff outlined three components of local integration: Legal process, economic process, and social and cultural process.³⁴ The legal process has to occur in the host country wherein refugees have access to all basic human rights. The economic process must ensure refugees have feasible livelihoods and standards of living in the country of asylum. The host countries also have to accept the prospect of refugees contributing their values to the community through natural social and cultural processes, free from fear of discrimination. Crisp believes that to cultivate those three dimensions, refugees must become naturalized citizens in the country of asylum.³⁵

The 1951 UN Refugee Convention emphasized the importance of citizenship in achieving local integration as a durable solution. According to article 34 of the Convention, *“the contracting states shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings.”*³⁶ Local integration has been commonly employed in developing countries, despite a lack of reports. Across Africa and Asia, large populations of refugees have been effectively locally integrated, naturalized, or were provided a means of self-reliance so that they can prepare themselves for any situation thrown at them.

Although not often considered a permanent or durable solution, local integration has always been a key component of any solution to a refugee crisis. According to the 1951 UN Refugee Convention, another way to reinstate refugee's

³⁴ Crisp, J., (2004). ‘The local integration and local settlement of refugees: a conceptual and historical analysis’, New Issues in Refugee Research, Working Paper No.102, (UNHCR: Geneva), p. 1.

³⁵ *ibid*

³⁶ Article 34 of the 1951 Convention Relating to the Status of Refugees, Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950; entry into force 22 April 1954, in accordance with article 43.

dignity and pride is by ensuring their human rights in the country of asylum through assimilation, and by making them feel as if there is no difference between refugees and citizens.³⁷ The keys to successful local integration include maintaining individual identity and promoting self-reliance among refugees while waiting for whichever durable solutions may present themselves in the future so that they can contribute their values everywhere they go.³⁸ Local integration does not have to be a permanent solution, but it is mostly a decision left to the host country. Unfortunately, there is limited empirical research on the impact of refugees' presence in terms of costs and benefits, as well as means to measure levels of integration between refugees and host communities. There has only been research on the impact of refugees at a theoretical level.³⁹

Refugees are seen as the burden to asylum countries, especially when there are large influxes of them. But, in fact, refugees can contribute their value and contribute to states' economic development. Refugees can bring their assets to the area in which they are living; they can bring their skills and knowledge which can be utilized to benefit the host country in the long run, particularly educated refugees such as professors, health professionals, and agricultural experts; they can provide a source of labor for building new infrastructure such as roads, schools, and hospitals. In developing host countries, such projects are usually financed by international aid.

³⁷ Article 34 of the 1951 Convention Relating to the Status of Refugees, Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950; entry into force 22 April 1954, in accordance with article 43.

³⁸ Kuhlman, T. (1991). The economic integration of refugees in developing countries: a research model. *Journal of refugee studies*, 4(1), 1-20.

³⁹ Kuhlman, T. (1991). The economic integration of refugees in developing countries: a research model. *Journal of refugee studies*, 4(1), 1-20.

Refugees are also more likely to open small businesses since it is often difficult for them to obtain professional jobs in the formal economy, thus becoming potential job creators.

The act of hosting and integrating refugees can also help improve the image of the host country to the international community. It's a sign of good will on the part of the host country as they take responsibility for their share of the "burden." Not only has it improved the country's status as they demonstrate their responsibility as a member of the international community, it also shows that they are not willing to violate the notion of fundamental human rights by letting refugees live and work freely instead of encamping them. When one considers local integration and its possibility in asylum countries, one should not overlook the political motivations.

Obstacles to local integration as a durable solution are numerous. Refugee camps are, for the most part, considered a pull factor for conflict and militarization. This factor deems them a serious security threat to many host countries. This perceived threat can cause anger, bitterness, and conflict between local populations and refugees, which greatly diminish the chances for successful local integration. Over time, refugees' presence in the host country can lead to the increased use of natural resources; charcoal making, fishing, firewood, or the cultivation of hillsides can have a significant impact on the host country's environment. Refugee's arrivals can also increase competition for lands, water, housing, food, jobs, and services such as schools and hospitals. They can also bring inflationary pressure on prices and depress wages. Similarly, increased demand for food and other commodities can lead to price rises in those markets, which will stimulate local economic activity but not benefit the poorest.

Another obstacle would be social impact. If refugees share the same language and culture with the host country, there could be sympathy for their situation. But if the refugees and the host country share a controversial history, it could be difficult for local populations to accept refugees and hostilities might arise. Refugees are often blamed for crimes such as theft and murder, especially within border areas. Another challenge would be if the refugees came to the host country with extremely poor physical and mental health; the host society could perceive this as a burden to the country, especially for developing countries where they are already struggling to provide such support for their own populations.⁴⁰

Howard Adelman believes that local integration could also act as a magnet for more refugees. If host countries allowed refugees to live legally, it could disincline refugees to return home. The international community might also not want to look for other durable solutions if all refugees have a chance for local integration.⁴¹ One final problem that arises when planning for local integration is that the funding for the program usually falls between the blurred boundaries of humanitarian and development aid. Historically, it has proven difficult to keep funding for local integration programs since most of the donors do not really want to focus on long term development, but more on humanitarian emergencies.

Resettlement

Many refugees cannot return to their home country because of ongoing conflict, wars, and persecution. Many of them are living in unsafe situations or have

⁴⁰ Bakewell, O. (2014). Encampment and settlement. *The Oxford Handbook of Refugee and Forced Migration Studies*, 127. 128

⁴¹ Sampford, C. (2013). *Protracted Displacement in Asia: No Place to Call Home*. M. H. Adelman (Ed.). Ashgate Publishing, Ltd. 18

specific needs that cannot be provided for by the host country where they sought protection. In such circumstances, resettlement in a third country seems like a potential solution. The UNHCR defines resettlement as a process of refugees transferring from an asylum country to another state that has agreed to take them and grant them permanent settlement. Resettlement is considered one of the three durable solutions by the Statute and the UN General Assembly Resolutions. However, of more than 15 million refugees worldwide, fewer than one per cent have access to resettlement solutions.⁴²

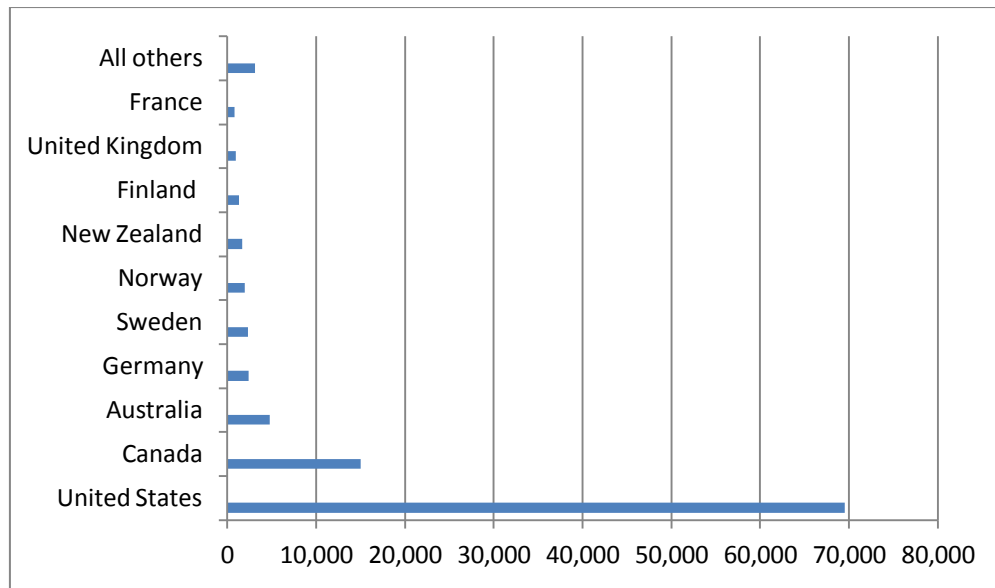
Only a small number of countries join the resettlement program. The United States is the largest resettlement country, followed with Canada and Australia, respectively. According to the UNHCR Global Resettlement Statistical Report in 2014, there are 69,505 refugees resettled in the United States while Canada has 15,032 and Australia has 4,773.⁴³

Figure2: Top ten countries by number of resettlement submissions⁴⁴

⁴² U.S Department of State. Refugee Admissions. Retrieved February 14, 2015, from <http://www.state.gov/j/prm/ra/>

⁴³ UNHCR. Global Resettlement Statistical Report 2014. Retrieved May 14, 2016, from <http://www.unhcr.org/52693bd09.html>

⁴⁴ *ibid*



The United States Refugee Admission Program (USRAP) has undergone major changes twice; before and after September 11th, 2001. Before 9-11, the USRAP accepted certain numbers of refugees from anywhere, but after 9-11 it has paid attention to refugee region of origin. Not surprisingly, the number of refugees arriving after 2001 has dropped dramatically.⁴⁵ Resettlement is considered the last durable solution for the international community; however, for many refugees it is their first choice. This durable solution is often blamed for making voluntary repatriation ineffective as most refugees see resettlement as a better option.

The vetting process for refugees entering the United States has become contested in the past few months. Many people believe that it is exceedingly simple for refugees to resettle their lives in the U.S. As mentioned above, few refugees can access this solution and the vetting process is actually very strict. Refugees must pass all steps of the vetting process to ensure that they will not pose any security threat to the nation.

⁴⁵ Patrick, E. (2004). The US refugee resettlement program. *Migration Information Source*.

The first step is that they have to gain official refugee status by registering with the UNHCR. The UNHCR will determine if an individual qualifies as a refugee under international law: *“A refugee is someone who has fled from his or her home country and cannot return because he or she has a well-founded fear of persecution based on religion, race, nationality, political opinion or membership in a particular social group.”*⁴⁶ The second step is choosing where refugees would like to resettle. Refugees will receive advice for choosing a country with a strong immigration tradition. Most refugees end up wishing to resettle in the United States.⁴⁷ Refugees must then submit their referral to the United States to see if they meet the criteria for resettlement. They can submit their referral to the UNHCR, a U.S embassy, or a non-governmental organization.⁴⁸

For every host country that allows a refugee resettlement solution, they will also have to allow the establishment of a resettlement support center (RSC), which has a contract with the U.S government.⁴⁹ The jobs of the RSC is to gather refugee's personal data and background information for security reasons and to set up individual, face-to-face interviews with a trained officer from the U.S Department of Homeland Security (DHS), who will travel to the host country and determine if the individual is qualified as a refugee and acceptable under U.S law. There is highly intensive security clearance process in which the state department runs the names of all refugees in the system called Consular Lookout and Support System (CLASS). They will also have to run through the process of Security Advisory Opinion (SAO)

⁴⁶ UNHCR. Global What is a refugee?. Retrieved April 14, 2015, from <http://www.unrefugees.org/what-is-a-refugee/>

⁴⁷ Patrick, E. (2004). The US refugee resettlement program. *Migration Information Source*.

⁴⁸ *ibid*

⁴⁹ *ibid*

regarding law enforcement and intelligence agencies. Refugees' fingerprints will be checked by various U.S government databases. Once refugees pass all security steps, they will then have to pass medical screening and receive cultural orientation before they leave to the U.S. There are around ten steps to complete before being able to resettle in the U.S, and the entire process can take up to 10 years to complete.

Resettlement solutions, however, face some obstacles and difficulties. The UNHCR perceives resettlement as a pull factor; it could produce a magnet effect attracting refugees to cross border in order to join the program. Second, resettlement solutions can face fraud within the camp. Some inhabitants who do not actually fit the definition of refugee buy the status from those who passed away or from those who are qualified to apply for resettlement but do not wish to go. Some special categories have been set up by the USRAP such as 'women at risk,' giving favor to certain women who are then eligible for a faster resettlement process. In this case, there could be some women who win referral for themselves so that they can later bring their husbands with them, having pretended to be exposed to greater danger in order to receive special treatment.

The USRAP manages its budget in three ways. First, priority would go to the immediate rescue of emergency cases from great dangers. However, Martin believes that priority should be given to protracted refugee situations where there are few productive activities around the camps, limited educational opportunities for refugees' children, and overall wasted human potential, rather than emergency cases.⁵⁰ Martin believes that this could be an effective way to solve such problems in the long term

⁵⁰ Martin, D. A., Hamilton, K. A., & Wilson, J. (2005). *The United States Refugee Admissions Program: Reforms for a new era of refugee resettlement*. Migration Policy Institute.

rather pouring money on emergency humanitarian crisis where it could eventually be considered a magnet for more refugees in the future.⁵¹

⁵¹ Ibid

CHAPTER 6: CASE STUDY

According to the UNHCR there are 33 protracted refugee situations around the globe.¹ Each situation is different, varying by conflict. Therefore, different solutions are required. Studying different protracted situations is crucial, as other situations can serve as models from which to learn. In every situation, there is an unintended mistake or successful solution which can act as a guideline to solve other protracted situations elsewhere. This chapter will focus only on case studies of repatriation and local integration, since protracted refugee situations usually occur when resettlement is not an option. The purpose of this case study is to find a possible guideline with which to address the problem of protracted refugees in Thailand.

Afghanistan

Afghanistan had four main periods of mass displacement. It began in 1978 and 1979 with the communist coup that caused war in Afghanistan. The situation was further escalated by the Soviet invasion in December 1979.² The Soviets supported an isolated and unpopular communist regime. The second period of displacement followed the conflict between the Najibullah government and the Mujahideen.³ The third period was in 1994 when the emergence of the Taliban displaced almost one million refugees. Even though the Taliban was overthrown in 2001, it led to additional forced migration and around two million refugees were unable to go home.⁴ The conflict spread swiftly from domestic problems to regional geo-politics,

¹ Loescher, G., & Milner, J. (2006). Protracted Refugee Situations: The Search for Practical Solutions. *The State of the World's Refugees 2006: Human Displacement in the New Millennium*.

² Schmeidl, S. (2011). Protracted Displacement in Afghanistan: Will History be Repeated. *Synthesis Paper*. http://www.refugeecooperation.org/publications/afghanistan/pdf/10_schmeidl.Pdf.

³ *ibid*

⁴ *ibid*

to international crisis. In 1990 there were already around 6.2 million Afghans living as refugees around the world.⁵ In 1992, many returned to their country due to the collapse of the communist regime. Afghanistan, however, was ranked as one of the poorest countries in the world.⁶ Continuous conflicts as well as unstable economic and social structures made Afghanistan's development stagnate. Such periods of vulnerability usually breed extremism. Afghanistan has been an experimental country for Islamist governments.

A few refugees were given the opportunity for local integration. Since Iran is a signatory to the 1951 Convention and 1967 Protocol, some Afghans staying in Iran were allowed to register in 2005 which gave them the privilege to have free access to Iran's social services, including health and education.⁷ They can also work in certain sectors, particularly in agriculture, construction, and services because wages are cheap and reliable. Some of them integrated with local populations through intermarriage and obtained local ID cards. 97 percent of them lived in urban areas and the other 3 percent lived in refugee camps. Afghans in Pakistan could start businesses such as retail outlets.⁸

However, Iran and Pakistan never fully supported local integration since it contradicts their mainstream political stances. The resettlement option was available for a limited number of Afghans, such as women at risk. The UNHCR claimed that repatriation for Afghans is *"a big mistake, the biggest mistake the UNHCR ever*

⁵ ibid

⁶ ibid

⁷ Suhrke, A., & Harpviken, B. (2004). Afghan Refugees in Iran.

⁸ ibid

made”⁹ since many of them found themselves becoming homeless and unemployed. The UNHCR’s representative in Afghanistan, Peter Nicolaus, admitted that the international community had fall short on its promise to help returnees find a means of earning a living and reintegrating into society: “*We thought if we gave humanitarian assistance, macro development would kick in.*” He added, “*We made a big mistake, the biggest mistake UNHCR ever made.*”¹⁰

Bosnia and Herzegovina

After Bosnia separated from Yugoslavia, there was an attempt at creating an ethnically pure territory via torture and systematic rape. It is regarded as the worst refugee crisis in Europe since World War II.¹¹ This led to 1 million internally displaced persons, half of the population of Bosnia. More than a hundred thousand people were killed, and 1.3 million became refugees looking for protection abroad.¹² In 1995, Dayton Agreement was signed by the presidents of Croatia, Yugoslavia, and Bosnia ending about 3 years of war in Bosnia. Repatriation, of course, occurred after the agreement.¹³

The Dayton agreement has caused a separation between the Bosnian Croat population, which is 51 percent of the total population of Bosnia, and the Bosnian

⁹ Megan Bradley. (2005). *The Conditions of Just Return: State Responsibility and Restitution for Refugees*.

¹⁰ The Express Tribune. (2011). *Humanitarian aid: 'The biggest mistake UNHCR ever made'* – The Express Tribune. Retrieved September 8, 2015, from <http://tribune.com.pk/story/312714/un-says-its-afghan-refugee-strategy-a-big-mistake/>

¹¹ Milner, J., Newman, E., & Troeller, G. (2008). *Protracted refugee situations: Political, human rights and security implications* (pp. 20-42). Tokyo: United Nations University Press. 249

¹² Ibid. 251

¹³ ibid

Serbs comprising 49 percent of the total population.¹⁴ The process of repatriation attempted to place people back where they once lived; however, those people ended up becoming minorities in their communities. Repatriation in Bosnia did not meet the conditions of just return. Focus was placed only on return redress instead on restitution. Many returnees suffered from shootings, beatings, police intimidation, rape, destruction of property. This case demonstrates that premature repatriation can cause further displacement which can be costly for the refugee protection regime. Delaying repatriation and waiting for improved and stable political, security, and economic conditions in the country of origin will be conducive to successful repatriation and reintegration.

Guatemala

Most Guatemalans are peasants who rely on farming to survive. President Jacobo Arbenz tried to alleviate the inequality in Guatemala's society by confiscating and redistributing certain categories of uncultivated private lands. His decision threatened U.S fruit companies and Guatemalan elites.¹⁵ The CIA overthrew President Arbenz and replaced him with Carlos Castillo Armas, who repealed President Arbenz's law and gave 99.6% of redistributed land to private interests or the state, which resulted in one of the most unequal land distribution patterns in the world.¹⁶ In the 1980s, four groups united to overthrow Castillo, naming themselves Unidad Revolucionaria Nacional Guatemalteca (URNG). There were 6,000-8,000

¹⁴ Ibid. 253

¹⁵ Megan Bradley. (2005). *The Conditions of Just Return: State Responsibility and Restitution for Refugees*. 96

¹⁶ Ibid

fighters and 500,000 supporters.¹⁷ In response, the military employed ‘a scorched-earth policy’ whereby anyone showing sympathy or support toward the URNG became a target group. There was also involuntary military recruiting which included boys and men. 20 percent of the population was forced to leave their homes, 1.5 million were internally displaced, and 800,000 fled to north and south Mexico to seek asylum in the U.S.¹⁸ The UNHCR recognized more than 45,000 of Guatemalans as refugees and established refugee camps for them in the border state of Chiapas.¹⁹

The condition of the camps, however, was insecure. Refugees were murdered by the Guatemalan army. This presented a security threat to Mexico. In 1984, Mexico forcibly relocated 18,500 refugees to camps further away from the border.²⁰ However, due to the insecure situation in refugee camps and hostility in Mexico against refugees, repatriation turned out to be the best option. It appears the military tried to cover up the massacres but Guatemala was willing to reform its rule and fully committed to the process of repatriation, which meets the requirement of state responsibility and just return in the origin country. Guatemala showed signs of responsibility for its refugee crisis, acknowledging their culpability, negotiating with refugees, facilitating their return, officially apologizing, returning property, providing compensation, and, most importantly, refugees were voluntarily repatriated. In 1986, the military restored civilian rule.

Mozambique

¹⁷ *ibid*

¹⁸ *Ibid.* 100

¹⁹ *ibid*

²⁰ *Ibid.* 101

Mozambique was colonized by Portugal. In 1962, the political party Frente De Libertacao Mocambique (Frelimo) declared a war for independence in 1964 and achieved it in 1975. Frelimo, therefore, became the first post-colonial government. Frelimo believed in Marxist-Lennism and tried to rid the country of backward and superstitious rule by traditional leaders in rural areas of Mozambique.²¹ In 1977, there was a successful uprising against Frente, led by the group Resistencia Nacional Mocambicana, or Renamo. The Renamo regime was cruel and violent, which caused a massive refugees exodus from Mozambique. In 1992, whether at the hands of Frente or Renamo, there were 3.5-4.5 million internally displaced persons, 1.7-2 million had sought refuge in six neighboring states, and 1 million were killed during a war which led to the country being called “*the killing field of Africa*.”²² This horrific civil war left Mozambique the world’s hungriest, most indebted, most aid-dependent country in the world. Today, their GDP per capita is only \$80.²³ Beside civil war, Mozambique also encountered the worst drought in southern Africa in 70 years, which left 3 million Mozambicans at risk of starvation.²⁴

However, repatriation occurred in the Mozambique refugee crisis because Mozambicans desired to return to their country even before the completion of the General Peace Agreement. The international community has called this movement the “*the miracle of Mozambique*,”²⁵ which is the largest movement of returning refugees

²¹ Azevedo, M. J. (2002). *Tragedy and triumph: Mozambique refugees in Southern Africa, 1977-2001*. Heinemann Educational Books.

²² Megan Bradley. (2005). *The Conditions of Just Return: State Responsibility and Restitution for Refugees*. 113

²³ *ibid*

²⁴ 116

²⁵ 118

in African history. However, the conditions of just return were not met. Returning refugees faced landmines, destroyed infrastructure, and high rates of starvation. The Frelimo government also had no ability to enforce law and order. Neither the Frelimo nor the Renamo regimes accepted responsibility for the crimes either committed. There was no assurance or promise that returnees could regain access to their formal homes and lands. Despite all of those insecurities, Mozambicans still decided to voluntarily repatriate. People are willing to pursue justice and resolution of displacement for themselves. There was, however, informal redress and reconciliation. Therefore, repatriation in this case has been considered a successful and durable solution.

Somalia

Somalia first gained independence back in 1960.²⁶ The Somali nationalist elite tried to modernize the country but failed to do so democratically, which caused a protest between clans and elite. Later, in 1969, Mohammed Siyaad took control and there followed a period of stagnant development, economic decay, overreliance on military aid, high external debt, and state estrangement from its citizens. A political conflict arose in the 1980s and what followed is considered one of Africa's most profound and protracted refugee situations to ever arise.²⁷ The fight between the Somali National Movement (SNM) and the Siyaad regime caused 400,000 refugees to spill over into Ethiopia and Djibouti.²⁸ In 1991, the regime fell, which led to civil war in 1992; half a million people fled to Ethiopia, and 200,000 to Kenya.²⁹ Although

²⁶ Milner, J., Newman, E., & Troeller, G. (2008). *Protracted refugee situations: Political, human rights and security implications* (pp. 20-42). Tokyo: United Nations University Press. 214

²⁷ *ibid*

²⁸ *ibid*

²⁹ *ibid*

from 1992 to 2004 about 485,000 Somalis were voluntarily repatriated, there are still some of 400,000 still stuck in Ethiopia, Djibouti, Kenya, Uganda, South Africa, and the Middle East.³⁰ Causes of protracted refugees in these countries and regions include inheritance of authoritarian manipulation, failed peace processes, insecurity, instability, conflict, collapse of the state, spread of disease, and the rise of Islamism leading to xenophobia. Natives of the host countries hold negative perceptions and stereotypes toward the refugee Somali population.³¹

The rise of Islamism became a spotlight of Washington's anti-terrorist strategy which led to a narrowed option for Somali resettlement in the U.S. Refugee camps in Kenya and Ethiopia also blocked some refugees from getting in. Asylum countries began to fear that Somali Islamic fighters and international terrorists would arrive in the wave of refugees. Numerous refugees were thus denied access to the camps during this time.

This perception made local integration impossible in this region. No asylum countries were willing to give legal status to refugees. Refugees who fled to the area in Kenya where the local leader had a good relationship with President Siyaad suffered hostility. President Daniel Arap Moi sent some refugees back home without their consent in order to maintain a good relationship with President Siyaad, but after civil war broke out, many refugees fled back to Kenya. President Moi also regulated the influx of refugees by setting up refugee camps further away from the border in areas suffering widespread poverty and lack of services and security, in order to make refugees residing there desire to return home. However, repatriation became the durable solution for Somali refugees from 2006 and onward.

³⁰ *ibid.* 215

³¹ *ibid.* 218

In 2012, president Mwai Kibaki raised concerns over the overcrowded camps at Dadaab, claiming they could present a “*serious security threat to Kenya and the regions,*” and that his country does not want to carry this burden anymore.³² Research from Human Rights Watch found that there was still ongoing conflict and abuse against civilians committed by Al-Shabab militants in Somalia, and thus there were still refugees seeking protection and few willing to return. However, Dadaab camp, itself, was indeed unsafe. Refugees encountered an attack by the Al-Shabab. In 2015, there was a tripartite agreement of repatriation. Somali officers announced that they would be ready to take about 300,000 refugees back in the next four years. So far only 5,500 people have returned to the country.³³

Sudan

Sudan is well-known for its prolonged and brutal civil war; the conflict in the South, alone, led to over 4 million casualties. After Sudan celebrated independence from British rule in 1956, conflict erupted between the government of Sudan and various Southern Sudanese rebels, the main one being the Sudan People’s Liberation Movement/Army (SPLM/A), but also Northerners and Southerners, Arabs and Africans, Muslims and Christians.³⁴ Such clashes caused internal displacement and influxes of refugees to neighboring countries until the 1980s. In Uganda, Sudanese refugees were allowed to work in agriculture and business. They contributed greatly to economic activity. In Kenya, the perception of local integration is negative, as the

³² IRIN. (2012). Repatriating Dadaab refugees "unrealistic" Retrieved December 5, 2015, from <http://www.irinnews.org/report/96116/kenya-somalia-repatriating-dadaab-refugees-unrealistic>

³³ Voice Of America. (2015). Somalia Plans Organized Repatriation of Refugees "Retrieved December 5, 2015, from <http://www.voanews.com/content/somalia-plans-organized-repatriation-of-refugees/3047986.html>

³⁴ Loescher, G., & Milner, J. H. (2005). *Protracted Refugee Situations: Domestic and international security implications* (Vol. 375). Taylor & Francis. 248

public's attitude toward refugees declined after 9-11. There was a subsequent bombing in Nairobi linked to Somali extremists and Al-Qaeda.

In 2005, there was a Comprehensive Peace Agreement (CPA) between the government and SPLM/A which made the Ugandan and Kenyan governments want to repatriate their Sudanese refugees. By December 2006, 20,000 refugees returned to Sudan. Sudan also received aid from the international community for reconstruction and rehabilitation of the South.³⁵

Bhutan

The exodus of Bhutanese refugees happened because of nationalism; in particular, it arose from the 1985 Citizenship Act and the Census Exercise of 1988. The 1985 Citizenship Act required that one can be a citizen only if both of their parents are citizens of Bhutan.³⁶ Most Indians and Lhotsampas could register to be citizens, but they had to be permanently residing in Bhutan on or before December 31, 1958, and their names had to be present on the census register retained by the Ministry of Home Affairs.³⁷ However, the ministry did not exist until 1968, and before then such information was usually held by the village headman, and was typically not very precise or accurate. Those who wanted to become a citizen through naturalization must have had one parent who was a citizen of Bhutan. That individual also had to reside in Bhutan for 15-20 years on record, as well as be able to make an oath of loyalty to the King and people of Bhutan. They also had to demonstrate knowledge of the culture, customs, traditions, and history of Bhutan. The Census

³⁵ Ibid. 268

³⁶ Ibid. 277

³⁷ Ibid

Exercise of 1988 declared almost one-sixth of the population of Bhutan to be “illegal immigrants,” who consisted of mostly Nepali-speaking people.³⁸

Repatriation is not considered a durable solution in Bhutan. It is difficult due to domestic law enacted in order to discriminate against minorities by setting up very strict rules. The government also believed that most of the refugees were actually Nepalese who moved into camps for economic reasons. In the case of Bhutan, resettlement was another option for refugees who were not qualified for Bhutanese citizenship. The ratio of refugee resettlement to repatriation is about 60:40.³⁹

Burundi

Tanzania was very generous to Burundian refugees who had been residing in their country for decades. Tanzania provided land to Burundians who arrived in Tanzania in 1970s and began offering citizenship to approximately 200,000 Burundian refugees who had fled their country in 1972, as well.⁴⁰ Only 162,000 took up the offer and the rest chose to repatriate. At that time, local integration was seen as a temporary solution which later turned to be a quasi-permanent solution until Burundians could repatriate. Burundians integrated into Tanzania benefited economically by exporting food across the country. However, even though they were offered naturalization, they would not receive their citizenship certificates until they relocated to somewhere in Tanzania outside of the official refugee area. However, if they moved elsewhere in Tanzania from where they already live for years, it could

³⁸ Ibid. 284

³⁹ Ibid 290

⁴⁰ Dryden-Peterson, S., & Hovil, L. (2003). *Local integration as a durable solution: refugees, host populations and education in Uganda*. United nations High commissioner for refugees (UNHCR). 494

jeopardize their living. There was a high chance that they would not be able to integrate with people in those new areas, which would affect their ability to sustain themselves.⁴¹

Studying protracted refugee situations around the globe shape our understanding of protracted situations in the future. The cause of refugee-generating conflict in each country usually involves clashes of government and civilians, or discrimination against ethnic minorities. Yet durable solutions for refugees differ in each case. Solutions vary by the actions of the origin country, the host country, and the international community. While there is no specific guideline for how to solve such problems, these case studies help one to understand retain lessons after the mistakes were made and successes were realized.

⁴¹ *ibid*

CHAPTER 7: Analysis of Durable Solutions for Refugees in Thailand

There are three traditional ‘durable solutions’ when dealing with refugee problems in the international community: Voluntary repatriation, local integration, and resettlement. This chapter aims to analyze those three options in order to find out the most possible solution and its challenges for protracted refugee situations in Thailand. Since registering for resettlement to the U.S has been closed since January 2014, refugees’ choices have been narrowed down to either local integration or volunteer repatriation. Special consideration will also be given to combinations of local resettlement and volunteer repatriation, considered the fourth solution to the plight of refugees.

Resettlement

Resettlement programs have been started in Thailand since 1975 after the Vietnam War. Most of the refugees that departed to third countries were Indo-Chinese refugees from Vietnam, Laos, and Cambodia. According to Barry Wain, the importance of resettlement operations during the first years of the Indochinese crisis represented “*one of the great population shifts in history.*”¹ However, outside of exceptional humanitarian cases, Burmese refugees who arrived in Thailand during the same period were not given the same opportunities. Not only did the RTG not want to create a pull factor, but also in the past Thailand has played a big part in helping Hmong refugees. That past role has made Thailand fatigued, thus enacting more restrictive policies toward refugees.

Resettlement had long been seen, in practice, as “the preferred durable solution” to the refugee problem. But that perspective has change since the early

¹ Wain, B. (1979). The Indochina refugee crisis. *Foreign Affairs*, 58(1), 160-180.

1980s.² P.M. Moussali, the then-Director of Protection for the UNHCR, believes that the Indochinese crisis marked a “turning point” in that respect, as it was one of the most prolonged large-scale movements of people in recent times.³ At that time resettlement was perceived as the only available solution due to the fact that many countries were unwilling to accept refugees, while conditions of original country made it seem impossible for refugees to ever return. During the Indochinese crisis, although countries responded by offering resettlement initially, the crisis proved costly. Fearing effects of large alien populations on the security of the host country, states often reacted either by regulating their resettlement criteria, closing borders, or not providing temporary asylum which forced refugees to return to their origin of country.⁴

The majority of refugees leaving Thailand for resettlement came from Myanmar under an agreement initiated in 2005 between the Thai and U.S. government for the purpose of offering a durable solution to the tens of thousands of refugees from Myanmar who found themselves in a protracted refugee situation and depended on international assistance in the nine camps along the Thai-Myanma border. The United States has taken most of these refugees and is also the primary country that Burmese refugees wish to resettle to due to familial and other social ties. This resettlement program was, undeniably, considered a durable solution for Burmese refugees in Thailand for decades. Nevertheless, its challenge is PAB registration; not every refugee can register with PAB. This has left more than half of the refugee population in Thailand with no access to this durable solution.

² Stein, B. N. (1986). Durable solutions for developing country refugees. *International Migration Review*, 266

³ *ibid*

⁴ *Ibid.* 268

Unfortunately, the resettlement program in Thailand had come to an end in 2014.⁵ The program's pending closure was first announced and implemented in January last year in the Mae La camp. It was subsequently rolled out to the other camps in different stages. Eligible refugees in each camp were given three months to decide whether or not to apply for resettlement to the U.S. under the simplified procedures. Refugees were welcomed to state their final expression to resettle in the U.S. Some refugees were not hesitating to register, while some, mostly elderly people, did not want to leave the camps. Others wanted to register but did not have PAB cards, which would allow them to register as refugees with the UNHCR and thus be able to resettle to a third country. Anne C. Richard, assistant secretary at the U.S. State Department's Bureau of Population, Refugees, and Migration, said that her country had welcomed and settled more than 73,000 refugees from Myanmar since 2005: *"The United States is proud to have given a new start to these refugees. Resettled Burmese refugees have thrived in their new homes, and enriched their new communities. Many have become homeowners, small business owners and American citizens,"* she said.⁶ Keeping families together and having access to higher education are the main reasons that refugees want to apply to resettle in the U.S.

Closing registration to resettle in the U.S has caused many refugees to become panicked and confused. Other countries beside the U.S have accepted refugees in a very limited number. Even so, the U.S is the country that has taken by far the most refugees from Thailand, making it the carrier of the most family-tie to Burmese refugees remaining in Thailand. While options and chances to apply to other countries

⁵ UNHCR. US wraps up group resettlement for Myanmar refugees in Thailand. (2014). Retrieved December 5, 2015, from <http://www.unhcr.org/52e90f8f6.html>

⁶ Ibid

may still be available, they are not considered part of a durable solution at the moment since official registration is closed and not every refugee can register for resettlement programs.

Local Integration

Local integration is another option for refugees out of the three traditional durable solutions. Burmese refugees in Thailand find themselves today in a very difficult position in Thailand as they are rejected access to the local integration option by the Royal Thai government. This position is based on a long tradition in the country and has been perceived through a lens of national security, rather than one that only considers economic and human security. Burmese refugees, like other refugees in host countries, are usually seen by the government and the local population as a threat to their security, social order, economic livelihood, and public health.

The Thai people perceive Burmese negatively, in general. While some Burmese do commit crimes in Thailand, such as drug trafficking, part of the problem lies in Burmese stereotypes. Media reports play a big role in how Thai perceptions are shaped. The Burmese are portrayed as troublemakers, thus heightening xenophobic attitudes. When a Burmese person commits a crime, it is highlighted in the newspapers, which reflects negatively on the entire Burmese refugee population.

A study conducted by the U.S. Committee for Refugees and Immigrants (USCRI) and ABAC University in Thailand discovered that people who earn more income and obtain higher education have a more negative attitude towards refugees.⁷

⁷ Brees, I. (2010). Burden or boon: The impact of Burmese refugees on Thailand. *Whitehead J. Dipl. & Int'l Rel.*, 11, 35.

On the other hand, working class people and people with only high school educations were found to be hold more positive views of refugees, a counterintuitive result since this class of Thais are supposed to be the ones directly competing with Burmese for scarce resources, thus making them more likely to be opposed to local integration.⁸

Another perceived negative implication of Burmese flight is that the Burmese are overburdening the local health system and spreading diseases, which can be considered a security issue. To some extent, the Burmese population is more prone to illness due to their flight and bad working and living conditions. Another concern is security along Thai-Burma border. National security threats have originated from armed-conflict within Burma rather than refugees inside Thailand in the past, as the refugee camps in Thailand have been attacked from across the border, resulting in the death of several Thai nationals. While such large-scale attacks have not occurred since 1998, the war still occasionally spills over the border.

Refugees also have a significant impact on the economy of the settlement region due to their use of natural resources, but the largest impact of the Burmese on the Thai economy has depended on their potential as laborers. In the aftermath of the 1997 Asian economic crisis, the Burmese and other migrants were blamed for taking Thai jobs, resulting in large-scale deportations. This exacerbated the situation since employers were subsequently unable to find Thai laborers to replace the Burmese, especially in the textile, fishing, agricultural, and tourism sectors. According to recent studies, there is no substantial evidence for the idea that the Burmese people have had a net negative impact on the economy of the country when considering the value they bring to the country. Rather, Burmese refugees are actually making a significant contribution to the Thai economy. They contribute directly in the form of low-cost

⁸ *ibid*

labor and indirectly by enlarging the market for local suppliers and attracting international aid. Many of these contributions have never been recognized, but they are essential to understanding in a balanced way how refugees affect Thailand.

One could argue that Burmese acceptance of lower wages than the average Thai worker has forced unskilled Thai workers out of the market, but in reality areas with fewer refugees have higher unemployment rates than areas with more refugees.⁹

*“Unemployment in Thailand is concentrated in young people with low levels of education; people with very similar characteristics to migrant workers. However, the provinces with the highest unemployment rates have the lowest numbers of migrant workers.”*¹⁰

Refugees also provide an extension of the market. A lot of self-settled refugees expanded the market by consuming local goods and generating a demand for Burmese products, as well as communication and transport facilities to keep in touch with their family in Thailand, and Burma. If a total of 1.8 million foreign workers remit as much as half of their money, their expenditure in Thailand would still increase the Thai GDP by \$2 billion.¹¹ Furthermore, while refugee workers earn too little to pay taxes on labor and income (which would require a minimum wage of THB 8,300 per month), they do pay VAT (value-added) taxes on the goods and services they buy in Thailand, as well as registration costs if they¹² their wages, and result in the refugees paying 8.3 percent of their wages to the Thai state in taxes.¹³

The value of the Burmese refugees is very clear in the border town of Mae Sot, which has become a booming area. Burmese refugees are needed for garment

⁹ ibid

¹⁰ Ibid. 38

¹¹ Ibid. 42

¹² ibid

¹³ ibid

factories and agriculture which are both growing sectors in Mae Sot. The case of Mae Sot supports Wilson's point that an influx of refugees into under populated areas benefits the host country on the condition that the area is under the control of the host government and that the infrastructure allows the local market gains to positively affect the national economy. Large factories are not the only recipients of the refugee presence, but also local people in the border regions who have been hiring Burmese people for centuries, for seasonal agriculture work or for the domestic service industry. They even contact the refugee camp committee in order to secure the number of refugee workers they need for farming or infrastructure projects.

Refugees also strengthen the local economy since they attract international attention and aid. Those international organizations not only provide assistance to refugees, but also hire local residents. Some organizations have also provided direct benefits to local Thai people. For example, Doctors Without Borders not only helps Burmese immigrants, but also low-income Thai citizens in the area. Another example is the Thai-Burma Border Consortium (TBBC), who donated mosquito nets, blankets, and rice worth 16 million THB in total to local Thai communities in 2006, and who improved the condition of local roads for transportation.¹⁴

In sum, the local population clearly benefits to the country due to the extension of the consumer market by the camps, self-settled refugees and humanitarian agencies. As Crisp argues, *"Refugees can certainly have a disruptive effect on host communities, especially in the early days of an influx. In the longer term, however, the presence of refugees and humanitarian agencies would appear to have a catalytic impact on local trade, business, transport and agricultural*

¹⁴ Moretti, S. (2015). The Challenge of Durable Solutions for Refugees at the Thai–Myanmar Border. *Refugee Survey Quarterly*, 34(3), 70-94.

production.”¹⁵ However, it would not be in the best interest of the local government to apply the national government laws to refugees and foreign labor too strictly for both economic and political reasons. Unfortunately, the Thai authorities are convinced that publicizing local integration would constitute a pull factor for economic migrants. As local integration is officially excluded in the present case, the only durable solution available for the Burmese refugee situation is repatriation.

Voluntary repatriation

Resettlement options are in decline nowadays since many countries are more unwilling to allow and accept refugees to stay on their soil permanently. Voluntary repatriation has become the ideal durable solution to the problem of refugees.

As mentioned in Chapter 5, voluntary repatriation is dependent upon a set of principles. It should occur in a respectful manner. People should be able to clearly express their will while free of coercion. More importantly, it should be carried out under conditions of safety and dignity. The original cause of flight should no longer remain and those who fled should not be unfairly punished. There should be a tripartite agreement between the governments of host and origin countries, and UNHCR regarding the repatriation framework. As for the Burmese refugee case in Thailand, repatriation seems to be the most possible solution. The process of repatriation should be considered thoroughly before a repatriation program is initiated, which would include reception, registration, immediate humanitarian

¹⁵ Brees, I. (2010). Burden or boon: The impact of Burmese refugees on Thailand. *Whitehead J. Dipl. & Int'l Rel.*, 11, 35.

assistance upon return, travel to places of destination, monitoring of the situation in Myanmar, and support to the reintegration process.¹⁶

Another factor that should be considered is the situation in Myanmar, which has a significant effect on the decision of the RTG to either move forward with repatriation or slow down. There are two significant events took place in Myanmar in late 2015; first the signing of an NCA between the Government of the Union of Myanmar (GOUM) and eight ethnic armed groups in October, and, second, general elections on 8 November. Both represented a huge major step forward in the overall context of Myanmar's reform process. However, while the conditions of this operation have clearly not yet been met, the recent political situation in Myanmar seems to provide justification for the RTG, and so repatriation plan has been started already. The representative of Thailand reassured the Executive Committee in October 2012 that Thailand will prepare the policy groundwork on repatriation thoroughly and with no rush, also adding that Thailand and Myanmar have started discussing this matter.

Even if the situation was suited perfectly for repatriation, the main principle of repatriation concerns the willingness of refugees to return. A survey conducted by the Mae Fa Luang Foundation in the Mae La camp in 2013 demonstrates that fewer than 10 percent of refugees want to go back to Myanmar.¹⁷ A Refugee Committee survey reported that only 27 percent of refugees in the Tham Hin camp would go back to Myanmar if harmony and political solidity were accomplished.¹⁸ Discussions

¹⁶ Moretti, S. (2015). The Challenge of Durable Solutions for Refugees at the Thai–Myanmar Border. *Refugee Survey Quarterly*, 34(3), 70-94.

¹⁷ Khar Hsu Nyar. (2014). *Mae Fah Luang Launches New Round of Refugee Camp Surveys*. Karen News.

¹⁸ *ibid*

amongst refugees about the possibility of voluntary repatriation have also increased in recent years, which caused frustration and anxiety since most refugees do not want to go back due to lack of trust for their government and concerns for lack of economic opportunity.

According to a survey conducted by TBBC, the durable solutions which Burmese refugees most prefer include resettling their lives in third countries, particularly in the United States, followed by local integration along the borders between Thailand and Burma, followed by repatriation. Although it is good news for the international community that Myanmar is willing to reform its political system, the causes of refugee flight from the country remain. This could put refugees' human rights at risk. There will also be no trust between the government and returnees.

It might be too early to promote voluntary repatriation, even though it seems like the situation will continue to improve in the year ahead, and both the Royal Thai Government and GOUM have repeated their dedication to supporting the voluntary repatriation plan. There are still some points that should be raised for consideration before implementing a repatriation process.

For UNHCR, there are three stages in the organization of a repatriation programme: preparation, actual return operations, and the monitoring of the situation of returnees in their country of origin.¹⁹ The phase of preparation is challenging regarding the situation in Myanmar. As mentioned above, repatriation must be carried out under conditions of “security” and “dignity.” UNHCR defines the “security” condition as follows: *Return which takes place under conditions of legal safety (such*

¹⁹ Moretti, S. (2015). The Challenge of Durable Solutions for Refugees at the Thai–Myanmar Border. *Refugee Survey Quarterly*, 34(3), 70-94.

*as amnesties or public assurances of personal safety, integrity, non-discrimination and freedom from fear of persecution or punishment upon return), physical security (including protection from armed attacks, and mine-free routes and if not mine-free then at least demarcated settlement sites), and material security (access to land or means of livelihood).*²⁰

There should be authorized armed groups of people in the area where returnees will be settling to ensure their human rights will be respected. Ceasefire agreements have been signed recently with most of the armed groups operating along the Thai border, including the KNU. However, tensions remain over the peace process and the ceasefire has yet to be transformed into a lasting peace, a necessary element determining the timing of the repatriation operation. At the national level, there should be no punishment to those who decide to go back, although according to Myanmar's law illegal departures could result in criminal prosecution. Beside physical protection, refugees should also be guaranteed their economic, social, cultural, civil, and political rights, just as any other citizen of Myanmar.

UNHCR also needs to evaluate to what extent the Burmese refugees could return to their villages of origin since a large number of villages have been destroyed by the events that forced these people to flee. There also should be significant investments to recover the socio-economic conditions of these places, in terms of infrastructure rehabilitation, livelihood, access to food, water, or services, access to education for children, and access to healthcare.

Among the three durable solutions, resettlement was ruled out as the U.S. decided to close registration to all camps in Thailand in 2013. Meanwhile, most of the remaining refugees have retained a desire to resettle their lives in the U.S due to

²⁰ *ibid*

family ties, in addition to the fact that most of the remaining refugees are unable to register with the MOI. They, therefore, do not have access to the resettlement option.

As for local integration, it would be difficult for Burmese refugees to integrate with local Thai people due to Thais' perceptions towards them and their history. Burmese refugees and migrants are perceived as a burden in terms of competition for scarce resources, as well as a threat to national security. The RTG and other Thai administrative bodies have also demonstrated their desire to return Burmese refugees to Myanmar.

Voluntary resettlement seems like the most possible durable solution at the moment. However, the main question is, is it really voluntary? Sometimes refugees were forced to repatriate simply because their camps were insecure, similar to what happened in Guatemala. Repatriation in this context was considered the most suitable solution for refugees. However, in the case of Burmese refugees in Thailand, most refugees are not living in insecure situations; therefore, enough time should be given to consider the process of repatriation.

To make sure that repatriation is enacted upon a set principle of respect, it must be carried out under conditions of safety and dignity. Myanmar must take appropriate measures to assuage the causes of forced migration and to ensure the safety of returnees. Returnees should not be penalized for having sought asylum in another country. This entire process should take time. As in the case of Bosnia and Herzegovina, delaying repatriation and waiting for improved and stable political, security, and economic conditions in the country of origin is more conducive to successful and sustainable repatriation. To avoid the biggest mistakes in Afghanistan and early on in Bosnia, repatriation should not just occur simply because it is perceived that refugees must be returned to their home country immediately.

As in a case of Afghani refugees in Iran and Pakistan, local integration did occur during the long time it took for refugees to be returned to their home country. Both governments acknowledged that refugees contributed to economy by supplementing the labor supply. They tended to be employed by specific sectors such as agriculture, construction, and services because they were seen as reliable and demanded lower wages. It is hard to deny the fact that economic activity around the Mae Sot area is prosperous due to the presence of Burmese refugees and migrants. Local integration can be seen as a temporary solution until the Burmese can be repatriated.

At the same time, international organizations could provide more funding toward the aid of protracted refugees for the purpose of life improvement. Besides allowing refugees to integrate economically, refugees should also learn more about life skills. They should be taught mainly about jobs and skills necessary for survival in any society. In this case, refugees' human capital will not depreciate and they can prepare themselves for any option available to them in the future.

As a person who has experienced working with refugees resettling their lives in Jersey City, New Jersey, I can see that basic job readiness preparation is very important and that most refugees are lacking those skills which affect their assimilation into American society. Those refugees who have more job skills or have been prepared for job readiness are more likely to adapt and become more successful more quickly.

Conclusion

Refugee crises do not stem solely from a mass of people who flee from an on-going crisis, and certainly do not only concern Syrian refugees. A refugee crisis occurs when any group of people flees from its home country and crosses international borders because its members have a well-founded fear of being persecuted in their country of origin. A refugee crisis concerns not only people living in dire situations such as those described earlier, upon which the international community has focused since the early 1990s.

Although the international community has delivered humanitarian assistance and provided durable solutions to those affected by war in high-profile areas such as the Balkans, Darfur, and the Great Lake Regions of Africa, 60 percent of refugees today continue to live in exile, trapped in camps for at least five years (and actual decades for some groups) with little sign of relief. These people are called '*protracted refugees*,' and comprise a group that was eventually forgotten and continues to be neglected by scholars, regional and international actors, and national policymakers because the majority of protracted refugees are settled in poor countries with unstable regions. Refugees trapped in such circumstances usually face severe restrictions on their freedom of movement. The consequence of keeping so many human beings in such a static state includes wasted lives, squandered resources, and an increased threat to security.

This thesis will focus on Burmese protracted refugees in Thailand who, for more than thirty years, have been residing in Thai-Myanmar border camps. As of January 2016, there are 106,213 refugees, of which 52,971 are unregistered, living in nine camps. The Thai government stopped registering refugees in 2005, as Thai

authorities then feared that doing so would attract more arrivals from Myanmar. Thus, asylum seekers arriving from Myanmar after January 2005 could not register with the UNHCR and thus could not obtain an admission slip from the PAB. Since 2005, the UNHCR has been unable to conduct Refugee Status Determination (RSD) for Burmese asylum seekers in Thailand. Only those who attained refugee status from the UNHCR and admission from the PAB before 2005 were eligible to apply to resettlement programs.

Unregistered refugees, therefore, must remain within the border camps where their freedom of movement is restricted by the Royal Thai government. Unregistered refugees are not eligible to apply for resettlement programs. Local integration is not an option either, as the Royal Thai government has demonstrated its desire to push Burmese refugees back to Myanmar, complementing negative stereotypes of Burmese immigrants held by the Thai general public. One final option is repatriation, but even so the option remains a challenging prospect.

The central problem of this study is to determine the most desirable solutions for the protracted refugee crisis in Thailand. The present analysis will consider case studies of protracted refugee situations in other parts of the world, an evaluation of the ongoing situation in Myanmar, and the Thai general public's attitude toward Burmese refugees integrating in Thai society.

Among the three durable solutions, resettlement was ruled out as the U.S. decided to close registration to all camps in Thailand in 2013. Meanwhile, most of the remaining refugees have retained a desire to resettle their lives in the U.S due to family ties, in addition to the fact that most of the remaining refugees are unable to register with the MOI. They, therefore, do not have access to the resettlement option.

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