

Unrecognized Burma Women as Refugee in India- They Need Protection against Gender-Based Violence

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-ABSTRACT

In the present study, the researcher is going to consider the present status of women Burmese- Chin refugees, recognized as well as unrecognized one. It is worth mentioning that, between 75 to 80 percent of the world's refugees is women and children and many of them have been living in camps and emergency situations for generations and India also is no exception. The women Chin refugees in India almost have not enjoyed the rights of education, occupation, freedom of movement and accessing to health care services and so forth.

Therefore, it is not enough to leave policies and practices in refugees to ad hoc administrative decision, especially when women refugees as vulnerable communities are under discriminatory conditions. Unfortunately the policies and strategies to incorporate women have not yet been implemented sufficiently to bring about the real improvement in the lives of Burmese refugee women in India and it is clear that refugees, men as well as women particularly those refugees who are living in camps in Mizoram are not getting all necessary assistance from Indian government. The present research work will prove that in India, the appropriate national law towards making law conforming to constitutional and international obligations and more state and international development level programs through international non-governmental and governmental agencies for protecting and empowerment of Burmese refugee women and reviewing UNHCR's livelihoods programmes to be needed.

Keywords: India, Burmese-Chin women Refugees, Gender –Based Violence, NGOs, UNHCR

1- INTRODUCTION

Burma the land of Pagodas is an important country in south East Asia. It has Bangladesh and India to the West, China to the North East, Laos in the East, and the Thailand to the South East as neighbors. Burma was in '1886-1937' a province of British India. It became politically and administratively a part of British India after the third and final Anglo- Burmese war of '1885-86'. In 1947, once again become a separate political entity and finally, in 1948 Burma

ultimately became an independent country. The Burma Independent Act of the British Parliament was given the royal assent on 1947 and subsequently it became a sovereign independent state outside the commonwealth. In the intervening years between 1948 and 1962, Burma was constantly faced with the problem of insurrection involving communists, dissident political activists, army and ethnic minority groups. The political dissent, the economic hardship of people and the curtailment of social and political rights driving several students activists, youths and



members of political parties including the elect member of parliament, decided to leave the country and continue their struggle for democracy from outside. The economic condition deteriorated further in 1990 which led to renewed economic migration from the country in search of livelihood and economic survival. Therefore, it is necessary to separate these two categories of migrants' means political and economically migrants from each other. Unfortunately the 73 per cent of the people in the Chin state exist below the poverty level which giving Chin state the highest poverty rate out of Myanmar states. Most of the Christian in Chin state facing systematic religious discrimination at the hands of Burmese government and are often forced to convert to Buddhism.[1]

According to Human Rights Watch, recruiting and kidnapping of children to the military is common place. An estimated 70,000 of the countries, '350,000 – 400,000' soldiers are children, there are also multiple responds of wide spread child labor. A 2002 report by the Shan Human Rights Foundation states that 25 per cent of the rapes resulted in death, in some incidences with bodies being deliberately displaced to local communities and 61 per cent were gang – raped, women were raped within military bases and in some cases women were detained and raped repeatedly for period of up to four months. A 2003 reports states that, no safe place, Burma's army and the rape of ethnic women by "refugees international" further documents the widespread use of rape by Burma's soldiers to brutalize women from fire different ethnic nationalities.[2] In recent events in '2011- 2012' Burma democratic reforms are an ongoing series of political, economic and administrative reforms undertaken by the military Back government. One of important reforms was the establishment of general amnesties of more than 200 political prisoners, and institutions of new labor laws which allows labor unions and strikes, relaxation of press censorship and regulations of currently practices. The government has embarked reforms towards liberal democracy, mixed economy and reconciliation.

The report has provided in 2012 in Freedom in the World, noted that: "Despite these initial signs of progress, it remained unclear how far the reforms would go, and numerous conflicts between the government and the country's ethnic minority militias remained unresolved". On November 2012, Samantha Power, US resident Barracks Obama special assistance to the president on human rights wrote: "Serious human rights abuses against civilians in several regions continue, including against women and children." Forced labor, human trafficking and child labor are also common, the military is also notorious for rampant use of sexual violence as an instrument of control, including allegations of systematic rates and taking of sex slaves by the military a practice which continued in 2012.

One of the most important reforms in Burma is, the government has convened an independent National Human Rights Commission (NHCR) consisting of the 15 retired bureaucrats and academics and releasing political prisoners. As of April 2013, according to assistance association for political prisoners, there are currently 176 political prisoners. And 23 July 2013, 73 political prisoners were released but about 100 political prisoners were still remained. The government has however, denied the presence of other human right issues such as alleged army abuses against ethnic minorities, claiming that in ethnic areas; only local insurgent groups violate human rights. It is noteworthy to say that there are still various human rights abuses in Burma which are including, land confiscation, arbitrary arrest and detain local activists and ethnic peoples, forced labors in most percent child labor and child soldiers, torture against rural protestors ethnic, civilians and prisoners, human trafficking such as labor and sex trafficking, using rape and sexual violence as a weapon of war in Burma and taking women as a sexual slaves, Extrajudicial killing and Ethnic cleansing.[3] Further the country still lacks an independent judiciary system, which remains politicized and closely tied to the government, for instance, lawyers who defend "prisoners of conscience" are routinely stripped of their license to practice law. Burma today is a paradox signs of changes abound, yet many of old problems remain.



Human Rights Spokesperson who was co-sponsored with Human Rights Watch asserted that: “while legal reform is underway, old laws used to stifle dissent have not been repealed. No improvement seen in the human rights situation. The military also takes women as forced labor, and in some case subjects them to sexual violence. Press freedom has not improved in the part of conducting hostilities and specially the military abuses.[4]

Towards the Burmese- chin refugee’s condition in India; it is noteworthy to say that the situations of the Burma refugees have got the attention of many international organizations but the Burmese refugees in India are not much known. From the study of Victor Biak Lian on October 2002, refugee coordinator, Chin Human Rights Organization CHRO, “it was felt that, there was a need for humanitarian assistance, capacity building, such as educational program, health care, organizational management training, gender training, refugee rights training and so forth for the Burmese refugees”. Therefore, since the women Burmese- Chin refugees in India have not enjoyed the rights of education, occupation, accessing to sufficient health care services and freedom to movement and other kinds of humanitarian aids, there is need to consider various aspects in finding the best solution for the effective protection of Burmese women refugees in India.

2-BURMA WOMEN REFUGEE’S STATUS IN INDIA

A wave of Burma refugees started pouring into India in 1988. Burma has a 1,463 kilometers long border with India touching to North Eastern states of Arunachal Pradesh, Nagaland, Manipur and Mizoram. Almost the 85 per cent of the people came here after the 1988 pro-democracy movement and especially during the post 1992 elections. These people include those who opposed the military government, people in search of economic survival due to the conditions of forced labor and people who fear of violence and political repression by the military government. There are approximately 2000

refugees from Burma registered with UNHCR and residing in the Delhi region and estimated 70,000 more unrecognized refugees from Burma in India. The majority of Burmese in India are living in the North Eastern region, mainly in the states of Manipur and Mizoram. The Christian ethnic Chinese people from Burma have been subjected to human rights abuse by Burma state actors for more than 25 years. Human rights violence has forced more than 100,000 Chins to flee across the border to Mizoram in Northeast India. India accepts an ad hoc approach in the absence of specific refugee legislation towards refugees, means governing refugee status by political and administrative decision under Foreigners Act 1946 and Citizenship Act 1955 and the ad hoc nature has led to:

- 1- Varying treatment of different refugee groups.
- 2- Under the Foreigner Act 1946, it is criminal offence to be without valid travel or residence documents, in this act, there is no distinguish between refugees and other foreigners, therefore refugees is faced by deportation and detention through this act.
- 3- Despite the support by UNHCR and other NGOs the majority of refugees in India experience great hardship, both economically and socially.

India does not officially recognize refugees within its borders and is not the party of 1951 convention and 1967 protocols and nor does have a domestic legal framework for the protection of refugees. Furthermore the UNHCR has not permitted by India to access to Mizoram. Also, there is no humanitarian assistance as well as the absence of legal protection in Mizoram. The lack of legal mechanism and policies on refugees is one of the fundamental flaws of refugee protection in India. India has undertaken an obligation by ratifying the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights to accord an equal treatment to all non citizens wherever possible.



Article 22[5] of the Universal Declaration of Human Rights which was adopted by the General Assembly of the United Nation is very important article in the lives of refugees particularly women refugees because the overall development of refugees is not possible without the enjoyment of economic, social and culture rights. But what about the wage earning employment in Article 17, rationing in Article 20, housing in Article 21, public education in Article 22 and labor legislation and social security in Article 24 of the 1951 convention of status of refugees, all these right same as those rights have mentioned in Universal Declaration of Human Rights, but today's the Burma refugees and other groups are not enjoyed with whole rights mentioned in these two legislations because India is not the signatory of this convention.[6]

In developing country like India, the refugee women naturally experience the same problems as do other women in the country which are poverty, lack of adequate food and safe drinking water, large families, high rate of child mortality and relatively poor health. No doubt, Chin women refugees face some more problems due to their unstable situation means unrecognized as a refugee and also most of them can't be under the UNHCR's assistance organization, namely the after effects of violence, Prosecution and other traumatic events.

Article 21 of the Indian constitution gives right to life and personal liberty to every person including the foreigners. The scope of this Article widened by the supreme court of India to include some of the economic, social and cultural rights such as right to livelihood, right to education. These rights are necessary for the development of an individual, but we should mention here, half of the women refugees don't know about the basic human rights. A person who knows about these rights can demand rights and can raise voice against their violation. Most of the refugee women in India were the victims of human rights violations in their country of origin and therefore they were comparatively comfortable in India but on the other hand many of them have not enjoyed the right to movement and for going abroad they needed permission of the government of India.

Therefore because of these restrictions as in their opinion they could not enjoy other important rights such as rights to education and right to occupation in the absence of freedom of movement. Single women and widows face additional problems as they have to wait for hours together standing in a queue, have to bribe guards or offer sexual favors in exchange for food. Right to health is another important aspect of protection of refugee women as their access to health care services is really important both for their own health and for the welfare of the broader community, because the health of a family depends upon the health of women who is the prime provider of health care to family. Therefore women's knowledge of healthy environment and taking actions against diseases as well as that of family planning is important for the health of the refugee community. The women refugee may suffer physical disabilities, loss of limb or they may be victims of mine explosion. They face various gynecological problems related to early marriages, frequent pregnancies, septic abortions, and unsanitary conditions during birth and so forth. Further they are also susceptible to water born diseases like typhoid, cholera, dysentery and infectious hepatitis. In addition physical health problem, some women refugees also suffer mental health problem, they face emotional problems and difficulties in adjustment resulting from loss of family and community support. More serious mental health problems arising from torture and sexual abuse prior to or after the flight are not uncommon.

As it mentioned earlier there are Main problems of women refugees in India; first, they are subjected to the constant threat of forced repatriation or deportation and raising concerns of refolement because any refugee who enters India without authorization is considered an illegal immigrant. Secondly, they have an ambiguous legal status and are treated differently depending on which country they are from. Thirdly among women refugee's communities, prostitution is common, with many women forced into the sex industry. Fourthly there is lack of education and employment opportunities specifically for women as the India authorities have assumed them with residence permits, but denial them from work permits. And finally UNHCR

mandate to protect and assist refugees extends only to those recognized refugees who are living in Delhi but not unrecognized refugees who are living in Mizoram. Therefore the situation of the unregistered refugees who are not recognized either by UNHCR or the government of India is worst of all. There are numerous cases related to Chin women refugees who are sexually assaulted by the local Indian men. Many of them face perverse sexual and gender based harassment and violence in New Delhi by local peoples and many other gender based violence by refugee people communities. The Burmese-Chine refugees are facing some difficulties in India which are detailed in;

2.1. Livelihood issue

Most of the Chin refugees are malnourished and they work very hard in the jungle, construction site and other places but they could not effort to eat nutritious food. Their life in camps is miserable and there is lack of all the basic amenities like food, health care and so forth. They are not only worried about the availability of food for the next meal but also the fear of being evicted again from the camps and also from harassment by the local Mizoram.[7] Main livelihood problems of women Chin refugees in India are, first, is poverty and their social status that is very low so, their children forced into child labors and secondly is lack of employment opportunities which force them to work long and in dangerous place and hours. And those women who forced to scavenge for food from night markets are more at risk of sexual harassment and many of them face with wage discrimination and harassment by employers and work colleagues and in most of the time they face domestic violence and family breakdown.

2.2. Health issues

The Chin refugees staying in Mizoram face many health problems, such as Malaria, Diarrhea and cold. But the main problem which they can't afford is to buy medicines because they don't have money, therefore they remain sick for long time and the hospital does not provide free medicine. Main health

problems of Chin women refugees in India are unsanitary living conditions, malnutrition, expensive medicine and mental health issues including depression and suicide resulting from domestic violence, increased cases of HIV/ AID and alcohol abuse by men, unfortunately there are high rate of marital rape and domestic abuse resulting in injury and Complication in pregnancies among Chin refugee community.[8]

2.3. Education issues

There is no provision for educational facilities for the Chin students in Mizoram. In government schools, parent still find difficulty since they could not afford to buy the uniforms and books though they do not pay the monthly fees. Another problem is lack of birth certificate for registration in schools, language problem and lack of sufficient money which they can afford to send their children to the private school by teaching in English. On the other hand education allowances which are provided by UNHCR are insufficient. Main education problem of Chin women refugees in India is preference given to male children to attend school but girls, which lead to limited participation of uneducated women in community and family decision and forced uneducated girls into early marriage and early pregnancy. The next reason is discrimination and harassment of children by teachers and students in school, therefore children do not want to attend schools due to harassment and they are not given a choice to learn English or Burmese and forced them to learn Hindi. Therefore increased rate of uneducated women and girls is led to increased discrimination and harassment in community. [9]

2.4. Accommodation issues

Chin refugees also face with so much difficulty in gaining accommodation without reference and because of overcrowded and inadequate living conditions with poor sanitation many of Chin women are victims of discrimination

and harassment, rape and sexual violence from landlords and local community and there are many cases that girls are forced to married soon. There is Lack of privacy for married couples and families, therefore single men and women forced to share cramped accommodation which cause mental health issues among women, lack of personal dignity, especially for women and girls and finally domestic violence, marital rape and unwanted pregnancy.

Therefore unrecognized Burmese refugees are facing with more problems in India in compare with recognized one, like there is no access to UNHCR services or implementing partners, there is no allowed to participate in UNHCR meeting, there is no access to refugee health care services and UNHCR financial supports. Therefore, because of lack of identity and work permits, women are at increased risk of sexual harassment and rape and unfortunately they are vulnerable to police harassment and arrest and most of the time they have to do unsafe and illegal abortion[10] towards recognized Chin refugees, UNHCR subsistence allowances is received only for the first six months and then reduced or cut entirely. Therefore inadequate subsistence allowances is one of the major problem was cited by women refugees in India. Specifically Chin women refugees are under particular Problems like;

- 1- Exploitation, discrimination and abuse in the work place or at home.
- 2- High rates of gender based violence.
- 3- Rape and sexual assault, women face the usual cultures and social stigmatization barriers to reporter's incidences of sexual abuse, in result mental health issues.
- 4- Women are beaten and abused within the house by the refugee men and victims of domestic violence rarely have any option to better their circumstances because they often dependent to their husbands capital and therefore leaving a violent relationship or reporting incident of domestic violence and risking isolation is a dangerous issue.
- 5- Lack of the state protection and the opportunities for free movements.

- 6- Surplus income to escape situations of violence and discriminations.

3- POTENTIAL LOCAL ORGANIZATION IN PROTECTION OF CHIN REFUGEES IN INDIA

There are various local organizations towards Burmese or Chin refugee in India like,

3.1.Chin women organization CWO, this organization has been conducting women exchange programme and different Chin groups share information and have discussion on other issues. They conduct English classes and Chin language and they have training programs on human rights and women rights.

3.2. Chin Women Union (CWU), which was formed in 1997. It has established a clinic called "Mother and Child Clinic" in 2001, without consultation fee and free basic medicine. It provides money to the students for buying uniforms and books and the scholarship for high school level partners for children who are residing at Mizoram.

3.3. Chin Refugee Committee (CRU), it looks in the society of the Chin refugees residing in Lunglei District and makes refugee identity card.

3.4. DON BOSCO, this organization is one of UNHCR related partners which assists refugees in finding employment in the informal sector and is responsible for the top up scheme in which those refugees who find employment through the agency are given an allowance each month to bring their income up to a basic monthly salary. Furthermore it Provides computer and language courses in increasing refugee's skills and enhance their chances of finding employment and to negotiate with employment and allocate top "entitlement begins their wages to the Indian minimum". Under this organization, women were discriminated against, receiving lower wages than the Indian workers and losing money for tax.



3.5.The Social Legal Information Centre (SLIC), it provides legal assistance to refugees, for file renewals, Naturalization, legal, protection and intervention to all UNHCR recognized refugees in Delhi.

3.6.The Young Men's Christian Association (YMCA), it provides only partial or imbursement of costs for treatment received at government hospitals. Therefore the only way to access treatment at the hospitals was through YMCA. The cost of their treatment is much higher and not covered by UNHCR. Further it has been responsible for all refugee education and training courses since early 1996. They are also in charge of distributing and implementing the educational assistance programs, to refugees recognized under the mandate of UNHCR. But unfortunately unregistered refugees don't have access to these assistances. They lack assistance from any formal services providers and are at a greater risk of exploitation by landlords and employers. They have no access to local trusting authorities and therefore have no means for redress over dispute.

3.7.Voluntary Health Association Delhi (VHAD), this is one of the four implementing partners of UNHCR who implement programmes and work only with the UNHCR recognized refugees. Sometimes there is no doctors in these clinics and are manned only by nurses that this is a big problem for refugees when they are facing with serious health problems

3.8.The Women's League of Burma (WLB), it believes women participation in the national reconciliation and peace building process is essential and that to contribution of women in the struggle to bring about human rights, democracy and equal rights for all nationalities in Burma will have a great impact. A major goal of the refuge system is to find durable solutions for those who have been forced to flee their countries. About the Chin refugees, resettlement to a third country may be necessary both for the refugee protection and as the only possible durable solution to their situations. Sadly, in most repatriation, the peace that brought return was short lived and further displacement occurred in subsequent years. Refugee women also express their

anxieties about return. As one report notes, they are ongoing for their home country but they first conditions for going back is that there must be each[11] Peace and democratization have become realities in number of places. With this promising international development, therefore repatriation is not an easily achieved solution for Chin refugees.

3.9. Mizoram Women Association (MITIP), it was established 6th July of 1974 and it's headquarter is located at Aizowl, the capital of Mizoram. It is solely for the welfare and improve of the society particularly women and children. It take up the issues on discrimination and unjust for the destitute women in general. [12]

3.10.OFERR, its special attention has given to meeting the needs of refugee women, children and vulnerable groups.

3.11.TOM, it is an NGO based in Delhi which was established in 1992. The basic and larger objectives and methodology of TOM which have been evolved in the process of interaction and involvement in creating a broad based platform on support of struggle-based people's movements in the sub-continent and issue based campaigns at national and regional levels and organizing workshops and training programmes, consultations, conferences and conventions on substantive or political issues around which struggles and campaigns are taking place in the sub-continent. Further it provides a Forum for debate by formulating, when necessary, a political/ideological framework and opening it up for debate and discussion among movements, who may face ideological or organizational crisis, and to engage in research and study on issues that concerns TOM directly in the process of its work while responding to the demands of movements. It also engages in production and dissemination of print and electronic materials with a view to generate popular awareness on issues of public concerns, impact of globalization on economy, displacement due to anti people development programmes, environmental and industrial hazards, anti-labor measures like restriction of trade union rights, exploitation through economic oppression of women, issues concerning backward



caste and other minorities, human rights, justice, democratic rights and promotion of a peace constituency, in other words the fundamental objective is to promote a system of core values and principles that are vital for building a new society with peace, democracy, secularism, human rights, socio-economic and gender justice, good governance and so forth.

TOM has also constantly been involved in collaboration with other human rights, democratic rights and civil rights groups both within India and outside. It is a partner member of the South Asia Forum of Human Rights (SAFHR-based in Kathmandu) and has jointly organized programmes. A key programme is the South Asian Consultation on Refugees, Displaced Persons and the Stateless – Need for National Laws and Regional Cooperation. TOM is engaged with SAFHR in advocacy and campaign towards influencing the Indian Parliament to come out with an open policy on refugees and enact legislation for protection of refugees.

3.12. The Refugee Desk, since 2003, the desk has been involved in many activities. The Desk played a crucial role in providing legal representation and assistance Burmese refugees, asylum seekers or newcomers who has been arrested and jailed for demonstration against UNHCR's policies and practices in November 2003. The desk is involved in documenting the living conditions of the refugees, cases of harassment and molestation by the local people and police, case histories of Human Rights violation in Burma from the refugees. Furthermore there are other various association towards Burmese or Chin refugees in India like; Mizo Student Association, MZP, Mizoram Senior Association, MUP and ZORO, Zo Reunification Organization and so forth.

4- BARRIERS IN EFFECTIVE PROTECTION OF BURMA REFUGEES

There are particular barriers in effective protection of Burma refugees in India like, Chin women and children are often assaulted in their own homes by

local Indian men and they always have financial hardship barriers to pursuing a formal police complaints and legal case. Further there is an inefficient Indian legal system toward refugees, therefore preventing them in accessing to justice and effective forms of redress specifically for Chin refugee survivors. Furthermore, the UNHCR and its assistance agency face limitation with regards to available fund to survive who are victims of gender-based violence and only are applied on recognized Burmese refugees.

Between the numerous genders based violence happening; only one case of a Chin refugee woman has resulted in a successful conviction. And the accused was sentenced to 10 years in prison and fines Rs: 60,000. The court also directed the New Delhi government to pay reparations to the women under the New Delhi Victim's Compensation, which entitles a rape survivor to a minimum compensation of Rs: 300,000. The UNHCR also perused local integration as the primary durable solution for Chin refugees, but the Chin refugee community in New Delhi views third country resettlement as the only viable solution for them.[13]

5- CONCLUSION

Burmese refugees are harassed because they lack of formal legal status, as most of them do not have residential permit in India. Therefore without formal legal standing in India, they cannot assimilate. Furthermore the subsistence allowances which the refugees get initially at the beginning from UNHCR sometimes are reduced or completely terminated and this policy was introduced in India to promote self reliance permits, but when the refugees are denied of work permits, how they can make any attempt of self reliance and it almost impossible and illegal. Therefore when the refugee are denied subsistence allowance they are left without food and some of the landlords threaten them of throwing out of their houses, as they could not pay the house rent. The situation of unrecognized and asylum seekers who cannot take any kind of monetary assistance from

UNHCR in compare is really worst at all.[14] Therefore some recommendation can be suggested in improving of Chin refugees situation like, India should review Indian national policy towards refugees and try to commit as a signatory to the 1951 Refugee Convention and its 1967 Protocol. Particular focus should be placed on investigation police and in the judicial system towards these vulnerable communities in India. Furthermore, there is need to provide more awareness training to local communities on women and child refugee rights by supporting international and local NGOs and to priorities resettlement options for women refugees at risk. Moreover, the UNHCR must hold implementing partner organizations like YMCA, DON BOSCO, and SLIC responsible to provide adequate assistance with health, accommodation, education, job placement, legal representation and advice and consider third country resettlement applications as a recommended durable solution. Towards women refugees under gender based violence, the UNHCR Funded Women's Centre should take a more active mediation role in cases of violence against women and also in decision making process and the community organization must raise awareness of domestic violence issues and react against it. The government of India must permit UNHCR to send its representatives to Mizoram and Manipur with the responsibility of assessing the needs of refugees not currently receiving assistance and to provide UNHCR support services and allow UNHCR permanent access to Mizoram. Therefore as we know to leaving policies and practices in refugees to an ad hoc administrative decision is not sufficient in effective protection of refugees in India and it is clear that refugees who are living in camps in Mizoram are not getting all necessary assistance from Indian government and the situation of unrecognized Chin refugees in India is miserable. Therefore, state and international development level programs through NGOs and governmental agencies for protecting and effective protection of Burmese- Chin refugee women and reviewing UNHCR's livelihoods programmes towards them to be needed.

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