Editorial

Every year, hundreds of millions of persons are persuaded to leave or are forcibly evicted from spaces they have regarded as their home. But despite their swelling numbers and the magnitude of their trauma, they have generally remained in the periphery, not just in terms of spatial location but in terms of public consciousness. The displaced population comes centre stage only when political parties need to distract people’s attention away from other issues that might threaten their hegemony. This volume of Peace Prints presents a collection of articles that deal with the phenomena of Forced Migration and Displacement. The volume looks at forced migration from different vantage points, bringing out the trauma of the people caught up in it. It also critiques the humanitarian structures within which forced migrants are placed that make permanent victims of them. It steers clear of any characterization of forced migrants as silent victims; subjects of care and protection. Instead, it privileges narratives of the displaced, as this is one way of combating their state of voicelessness and bringing back agency.

In regions such as South Asia, where displacement/forced migration have been a reality for years, the popular perception that displacement is an aberration seems ironic. A case in point is India. India has been both the generator and recipient of mixed and massive flows of displaced people over the last six decades, if not far longer, and yet this phenomenon is seen as unusual or out of the ordinary. Born out of a partition where 15 million people were displaced, India has witnessed multiple displacements of huge proportions ever since. Interestingly, forced migration in the context of India did not end with the Partition but rather began with it.

After the Partition, among the first group of forced migrants to come to India were the Tibetans. About 80,000 Tibetans arrived in India in 1959 followed by over 100,000 East Pakistanis between 1969 and 1971. Many of these East Pakistanis returned to Bangladesh after 1972. The Sri Lankans started coming in from 1983 and their numbers swelled to 134,000 by 1987. Although, some Sri Lankan refugees were repatriated, once the conflict restarted in Sri Lanka they again came back. This flow ended only in 2009, when the Sri Lankan army defeated the LTTE in a War. Another area which has been a source of regular flow of forced migrants has been Myanmar from where refugees have been coming since 1988. They are about 40,000 in number and spread over Northeast India and New Delhi. Apart from these, there are 9000 Afghans, 200 Somali families, and an indeterminate number of Lhotshampas and Bangladeshi forced migrants in India.1

Forced migrants from across the borders, who are largely and sometimes incorrectly termed as refugees, are not the only footloose people in India. In fact, India’s record with refugees is quite exemplary when compared to the internally displaced persons (hereafter IDPs). India is neither a signatory to the 1951 UN Convention on Refugees nor to the 1967 Protocol, and yet India is an ex-com member of UNHCR and as such has adhered to the principle of non-refoulement and has generally acted humanely towards the refugees. The IDPs are a different case altogether.
Manifold more in number than the refugees, the IDPs are forced migrants who do not cross an international border. There are multiple reasons for their displacement but at the root lies their vulnerability. An overwhelming number of the IDPs belong to indigenous communities or religious and ethnic minorities. Among the different vulnerable sections of the population, the indigenous people form the largest group who are displaced. One reason is that they inhabit areas that are rich in resources. Further, law privileges individual ownership systems, while they largely practice community ownership, which places them in a disadvantaged position when claiming rights guaranteed under the Constitution. Their vulnerability often leads to their displacement but the immediate trigger could be conflict, development projects, environmental disaster or a change in law. Invariably, behind the immediate cause lies the issue of redistribution of resources. Though the burden of displacement and costs of development are borne by the resource-less, the benefits are often accrued by the resourceful. The result is that many of the displaced get consigned to poor urban enclaves and work in the informal and unorganized sectors of the economy, marginalizing them even further.

This volume of *Peace Prints* touches upon many of these issues. The volume begins with a reflective piece by Ranabir Samaddar on *Forced Migration: State of the Field* in which he frontally places the question of resource politics and displacement. Tracing the trajectory of research on forced migration he notes that it is marked currently by post-coloniality and has to a large extent come out of the binaries that were characteristic of research in the 1980s and early 1990s. Researchers and those involved with displaced population are looking inwards and searching for ways to empower the ‘displaced’ and moving out of the protectionist/caregiver mode. He urges researchers and practitioners to continue to delve deeper into the interstices and overlaps of nation, sovereignty, economy, globalisation, social violence, and development.

Discussion on any issue related to forced migration would be incomplete unless it addressed the gender dimensions, Asha Hans in her paper *Of Displacement and Gendered Spaces: A Note* foregrounds this vital aspect. She looks at how camps are both ‘home’ and places that alienate, at the same time. She says that typically the displaced mind tries to recreate its home in places of asylum. Yet these cannot be homes as Hans argues that they are places of extreme insecurity. Hans also discusses how both displacement and asylum are gendered experiences and affect men and women differently. Even in transition, female insecurity is far greater than that of males. The camps are often built in a way that women feel more insecure living in them. The lack of privacy increases the risk of sexual violence largely against the female body.

The paper by Bina Srinivasan on *The Taming of a River: Gender, Displacement and Resistance in Anti-Dam Movements* uses a critical lens to draw attention to the condition of IDPs generated by large dams. She presents a scathing critique of the paradigm of development privileged by the Indian state. The author clearly portrays that the issue of displacement is intrinsically attached to the question of resources but cautions against looking at displacement as the beginning of the struggle for access to resources and the power to control them. She argues that with or without displacement, gender inequalities are entrenched in the family and the community. The disempowerment that a community faces with displacement usually only exacerbates the discrimination suffered by the least powerful constituents within it.

Available from [http://www.wiscomp.org/peaceprints.htm](http://www.wiscomp.org/peaceprints.htm)
In this paper, she places the status of women under the scanner to bring out the multiple layers of reality.

The fact that displaced peoples’ lives change drastically and displacement often leads to tremendous trauma has been documented extensively. Also, there is no guarantee that the cycle of displacements will end with one such event. Once displaced, people often face and become victims of multiple displacements. With displacement as Micheal Cernea observes, comes joblessness, homelessness, landlessness, marginalization, food insecurity, morbidity, mortality, loss of common property and social disarticulation. Many of the articles presented in this collection deal with the trauma of displacement. Nasreen Chowdhory in Assessing “Belonging” and Claims of “Home” among Refugees: A Note on Repatriation in South Asia speaks of belonging and the trope of home in the displaced minds. She captures the yearning of the refugees and their intense hope of belonging and yet finds that displacement within the context of the modern nation form leads to a sense of ‘not belonging’.

In another paper on a similar theme titled Burmese Refugee Women in India: Victims and Agents of Empowerment, Sheena Kumari documents the experiences of the Burmese refugee women in Delhi and argues that displacement is not a condition of complete lack of agency. While displacement causes tremendous pressures on women, on many occasions, as in the case of Burmese refugees, it offers an opportunity for empowerment and autonomy that not only reduces the trauma but catalyzes moments of transformation.

Continuing with the theme of gender and displacement, Anusua Basu Raychowdhury in her paper on Trafficking of Women and the Crisis of Identity provides insights on trafficking in the Indian subcontinent and how it can lead to statelessness for many of the trafficked women and their offspring. She makes a plea for South Asian states to work together to address the problems of these trafficked women and children. She argues that the problem cannot be tackled by one country alone. Though the SAARC Convention is a milestone on the path to coordinated interventions against trafficking at the regional level, it has some limitations. It fails to recognize various dimensions of trafficking by limiting the scope of the Convention to trafficking for prostitution. Critics have argued that this definition has created hurdles for concerted action. Instead of addressing the problem from the regional platform, countries are indulging in a blame game. Each one is making an effort to absolve itself of the crime of allowing trafficking networks to operate from its soil.

The next section of the volume brings together a range of experiences from the field. Moving out of the South Asian context, Kamini Karlekar in Christmas in Polokwane talks about how as a humanitarian aid worker for the Zimbabwean refugees in South Africa she dealt with the difficulties of camp life. She describes how “working in the field,” was different in imagination than in reality, which somehow seemed far worse. She draws the same conclusion as Hans that women are much more in danger in the camps than men.

While many of the papers foreground the problems of displacement, Jeevan Thiagrajahl in Internal Displacement and The National Approaches of Countries of South Asia: Sri Lanka explores some solutions that have been tried in South Asia. Drawing largely from the work that has taken shape at the grassroots level in Sri Lanka,
Thiagrajah concludes that the government has succeeded in improving the situation of some forced migrants, if not all. In July 1999, the Government initiated the Relief, Rehabilitation and Reconciliation (RRR) Framework process to ensure that the basic needs of people affected by conflict are met; productive livelihoods are rebuilt and reconciliation across ethnic lines is facilitated. The Government set up a Steering Committee for RRR to provide leadership to the development of the Framework and to facilitate the necessary linkages with key decision-makers within the Government, civil society and the donor community. He maintains that Sri Lanka has succeeded in developing a knowledge base that could be used in the future when dealing with displacement. These include the RRR Framework, Resettlement Authority Act, the work of the DRMU of the NHRC and its functions which could provide effective institutional mechanism to end displacement. The role of advocacy particularly by national civic actors is another important aspect of the Sri Lankan story.

This issue also carries a fact sheet by Anwesha Sengupta which provides a glimpse into the gendered effects of the Partition. This short note titled Looking Back at Partition and Women: A Factsheet underscores the intrinsic connections between nation formation and displacement and captures in one place the relevant facts on the impact of Partition on Indian women.

Exploring the contribution of the UNHCR in providing protection to the displaced persons, the book review by Ipshita Ghosh provides an appropriate conclusion to the volume. It looks at the strengths and weaknesses of the existing institutional arrangements and assesses the solutions offered by the authors of the work UNHCR: The Politics and Practice of Refugee Protection.

This collection of essays is unique in many ways. Never before has a journal in the South Asian context dealt with so many aspects of forced migration in a single volume. Yet all the articles uphold the importance of gender in analyzing displacement and here again this volume is exceptional as it foregrounds gender in all matters of displacement. A few other questions that arise from this collection are the vexed relationship between citizenship and forced migration; the question of resource politics and displacement. In trying to address the issue of forced migration and the migrants themselves from many different angles the volume has probably problematized it further instead of giving easy answers. But since the real life phenomenon has no easy answers, we are perhaps not remiss in this regard. Our hope is that if nothing else, this volume will present new ways of looking at forced migration and displacement and inspire future generations of scholars into seeking answers to some of the difficult questions it has raised.

Paula Banerjee
Guest Editor

Forced Migration: State of the Field

Ranabir Samaddar

Abstract

This reflective piece focuses on the field of forced migration studies as it has come out of the restrictive framework of refugee studies, and has evolved to embrace many other aspects of migration. The author believes that it has now entered a critical post-colonial phase. While celebrating this transition, he cautions against development of new orthodoxy. He urges young entrants to keep their minds open and to continue to engage critically with the subject.

Author Profile

Ranabir Samaddar is a founder of the Mahanirban Calcutta Research Group and its journal, Refugee Watch. He was earlier Professor of South Asia Studies at University of Calcutta. He is also the Founder-Director of the Peace Studies Programme at the South Asia Forum for Human Rights, Kathmandu. Known for his critical studies on contemporary issues of justice, human rights, and democracy in the context of post-colonial nationalism, trans-border migration, community history, and technological restructuring in South Asia, he has published extensively and served on commissions on issues such as partitions, forced displacement, refugee care and protection, minority rights and forms of autonomy in India.
When around the mid-nineties, I began in my small way forced migration studies, I was, of course, aware of bonded labour, indentured labour, village to city migration of labour in forms of servitude, etc., in short, different forms in which the “forced” comes into play. I did not take up refugee studies as a separate field of research. Forced migration was, it appeared from the beginning, a much more holistic concept. At the International Association for the Study of Forced Migration (IASFM) Conference in Cairo in 2008, B.S. Chimni made this important point. In the course of appreciating his insights I commented there that refugee studies scholars were a bit late in recognising this. In some senses, scholars in South Asia had through their work demonstrated the inter connections between various forms of “force”.

More deeply, the reason for this change was a realisation that only with a post-colonial sense of history we can move on from the old, restricted, “northern” way of looking at things to the broader, more historical, political way of looking at the phenomenon of forced migration. A critical post-colonial approach was important. It encouraged a critical post-colonial way of chronicling and analysing various forms of forced migration, which now marks the writings of a number of scholars. These writings are informed by a strong sense of history, awareness of the distinct nature of post-colonial politics and society, and an appreciation of the migrant and the refugee appearing as the subject of history of our time that is marked by the return of the empire. The writings on India’s refugee protection policy for instance are marked by collaborative research, critical post-coloniality and a strong sense of the significance of the local in this globalizing time.

In the course of all these developments in the field, I followed up my earlier work, The Marginal Nation: The Cross-Border Migration from Bangladesh to West Bengal, with a long view of citizenship and alien-hood in the Northeast of India; looking at histories of hatred, reconciliation, friendships and enmities. Some of this research brought out the significance of the camp as a liminal space of subjectivity and submission, of control and escape, despair and inefficacy of international norms, laws, and arrangements, and brought out the IDPs’ own voices about what could be done and how.

One can see through all of this that forced migration studies has come out of the restrictive framework of refugee studies, and has evolved to embrace many other aspects of migration, and has now entered a critical post-colonial phase. This should not be turned into a new dogma, its role is to impart criticality of approach, and it should be able to place migration in the gray zone of force/volition, subjectivity/conditions, human rights/humanitarianism, and all other binaries that at times lead us to a blind alley.

---

1 The specific reference here is to the work undertaken by scholars at Calcutta Research Group, which includes Refugees and the State: History of Asylum and Care, 1947-2000 (Sage, 2003), Internal Displacement in South Asia: Relevance of UN Guiding Principles (Sage, 2005), and the report, Voices of the IDPs in South Asia (CRG, 2008).

2 See Ranabir Samaddar and Paula Banarjee, Migration and Circles of Insecurity (New Delhi: Rupa, 2010).
Partition and Population Flows

I often suggest that Twentieth Century will be remembered as a century of partitions. Partition leads to forced migration – refugee flows and flows of other types. The stakes in studying partition as a major marker in forced migration studies is still not appreciated. Partition of the Ottoman Empire, of Germany, Palestine, and Korea in the last century, or the Indian Partition – these are only some of the major events to shape the story of forced migration. May be we have to master the art of writing event-centric history to bring out the depths of the phenomenon of forced migration. There are so many unnoticed events, which are neither as major nor as infamous as the Partition of 1947, but which create their histories of migration. These small histories can enrich our forced migration studies.

Partition also makes the question of return crucial. Do partition refugees have right to return? If they have the right to return, then what is the period they will enjoy the right? Also, will there be certain conditions, in as much as we know that there may be forced return. Partition is the prism in which the stakes in the study of forced migration become sharper. But there is a danger also. Partition scholars take post-partition migration to be a unique process, and ignore the possibility that post-partition migration can be built on lines of historical continuity, and it is important to find out the continuities and discontinuities in the process. In The Marginal Nation I wanted to caution against such uniqueness. Do we study for instance the nature of forced migration in Europe in their century of religious wars, and compare that with what happened in India when the great religious war broke out in the second half of the forties of the last century? Can we compare the subjectivity evoked in Brecht’s Mother Courage and Manto’s Toba Tek Singh?

Of course there is the fact that, at least in India, migration studies picked up after the mid-nineties of the last century when more and more scholars started studying forced migration, when the historical fact of partition repeatedly came up along with the fact of fifty years of our independence. So independence was Janus faced. We can thus say: the citizen is the defence of the visibility of constitution; the alien is the shadow, its prey. The citizen exists in the alien as the savage form. Citizen is articulate; the alien is inaudible, silent. Yet what are the ways in which the alien overcomes the two obstacles of inaudibility and invisibility? To understand this life world of visibility and shadow, forced migration studies will have to adopt the strategy of interrogating alterity.

IDPs and Forced Migration Studies

The IDP issue has done enormous service to forced migration studies. It is not unexpected however that some of those engaged in refugee studies for years may see this in a different light and think that this is stealing the show, or taking us away from concern for refugees. Also scholars may think that IDPs are “another” governmental category, a creation of the policy world. While there may be some truth in this observation, I still think that by including the IDPs, forced migration studies has widened in scope and has become more truthful to the world. We are now able to link issues of nation, sovereignty, economy, globalisation, social violence, developmental issues, etc. in a more meaningful way. We have become aware of displacement as the most critical issue of our time – and all these after we could connect and integrate the IDP issue and the phenomenon of forced migration.
Recognition of the rights of the IDPs is the collective product of decades of struggles of population groups trying to survive. It is strange that very few big names in refugee studies care to see displacement in a broad light or do any worthwhile research on IDP issues.

The point that the proportion of refugees has gone down for the last twenty years and the proportion of different categories of IDPs have gone up is significant, because we witness today massive and mixed flows of people across and within countries, and these flows in the wake of globalisation should make us sit up and wonder how worth are the various categories of displaced population groups that we use in terms of analysis and policy response? The UNHCR in one of its recent notes has taken cognizance of this. Old protection strategies are failing. New strategies are needed to ensure the rights of victims of protracted state of displacement. Old forms of refugee status determination do not make much sense in this new situation. Old guarantees of asylum likewise do not make sense in the light of preventing strategies like fortress Europe. Also, how does one distinguish between a classic refugee, a person escaping hunger and in search of work by any means and anyhow, and say, trafficked labour in servitude?

Rethinking Law

The UN Convention of Refugees has completed 60 years and UN Guiding Principles on Internal Displacement have also been in existence for more than 15 years. In some senses the 1951 Convention is dated. The cold war perspective is long over. The nature of forced migration has changed. New forms of servitude have appeared along with new vulnerabilities. The 1951 Convention also does not address the issue of burden sharing. But no one wants to open the can, lest the worms should come out. Likewise the Guiding Principles emphasise only a particular context. It is too much rooted in a particular reading of the contexts of Africa, some parts of Latin America, and the Caucasus. It ignores developmental displacement, and places the issue in the framework of what is known as sovereignty as responsibility. While the Guiding Principles have done service to the cause of the displaced population groups, yet it left open many occasions for abuse. Great Powers can intervene on the pretext of saving endangered population groups (recall Libya) while they may be the ones responsible to a large extent for the unsettling scenario. Again while they may be responsible for economic catastrophes in many countries and regions, they can appear as saviours. On top of that, while the origin of the Guiding Principles in the human rights principles is clear, its structure carries the state of international law in the last three decades of the last century. Without taking away anything from the merits of these principles, one would not be incorrect to emphasize that there has to be a different way from the one adopted in these principles that seem to focus on responsibility without recognising the discriminatory history of responsibility. In a sense, the Guiding Principles has removed the focus from the issue of developmental displacement in today’s world.

Yet the modality of guiding principles is significant and has dialogic potentiality. It offers new insights into the process of law making. If one took 1951 Convention one could see the reason for its wide acceptance. It creates a legal person of the refugee, a whole penumbra of institutions and an office, without making any one nation,
government or individual, responsible for creating refugee-hood. It was able to merge in a milieu of a fantasy, the ethics of humanitarian protection and guarantee of rights of a refugee, who, in the words of Hannah Arendt, does not have a right to claim rights. The law thus succeeded.

Likewise, the Guiding Principles are not law, yet they have the appearance of some kind of moral injunction with at least the partial effectiveness of law. So countries may not have signed the Principles, they are only a resolution. Yet they appear as giving birth to some kind of law. How do we retain this fantasy and proceed?

My view is that not only we need to move on to the regional level as the most crucial level in framing the international, but there too we shall have to innovate the art of successful law making by combining the fantasy with injunction. The art of governmentality will never cease to be relevant. I think that the important point here is how to produce the consent that is necessary for enacting what is termed as soft law. On one hand, we have sovereignty as an important factor in treaty making process, which is a crucial part of international law making also we have great power concord and combined pressure to produce the law, On the other hand there is the effort to produce consent of the probable treaty parties. This is a process, which is getting more and more intriguing. How to produce consent for a treaty is a serious problem for ‘the international’ that we speak of today. It may be that the more we decentralise the process the more we shall produce the consent necessary for law. After all we may not need grand and universal laws any more, or at least not to the extent to which we are led to believe. As if the world will break down if we do not have a single treaty, a single convention, a single office. And therefore, what we need is possibly not books and books on soft law (because the soft may be more insidious, as we have seen this in the iniquitous application of the principle of intervention on humanitarian grounds), but more work on the process of producing the consensus at different levels and making that work. In a sense legal pluralism is the need of the hour in things like this.

Legal Mechanisms and the Ethics of Care

The ethical practices of care and protection, to the extent they are there in the legal mechanisms for protection of the displaced persons, are like a double edged sword. They strengthen the principles of humanitarianism which we need in our individual and collectives lives. Yet, when applied, they tend to reduce the persons they seek to protect and care for to being objects of care and charity. Therefore, in the refugee protection literature there is this debate on “charity or rights”, which Joya Chatterjee highlighted in her work of Bengal partition refugees. Also some people say that whatever protection people have got are not due to the principles of care and hospitality, but through struggle for rights. This is how basic rightlessness is removed, as Hannah Arendt pointed out. Similarly Derrida argued in a profound way that while the principle of care and hospitality is unavoidable, yet we care only to the extent self-care allows. Thus there is always a limit to the care that these international legal mechanisms offer. At times the United States will bomb a country such as Iraq or Afghanistan, create refugees, displace millions, and then the so-called international community will invoke the principles of care to rush into those bombed out countries, and within the limits set by the big power help the displaced. That is why people in war ravaged countries sometimes despise the humanitarian workers,
many of whom are inspired with the noblest values, yet get represented as the ones who have come to supply artificial legs in the evening after they cut off their legs in the morning on the order of a tyrant. Therefore, the process of infusing the legal and administrative mechanisms of protection of the displaced with the principles of care and protection is a contradictory one. And one has to examine this process through an examination of the self-care involved in the big humanitarian enterprises we witness today.

Humanitarianism is an ideology that works like a machine. We begin with sentiments, we create institutions to give effect to those sentiments, and then we legitimise those institutions with an overarching ideology of care, which often glosses over the injustices of the entire process through which persons have been reduced to being objects of care and protection. Hence the significance of the question of agency. And in any case a large number of the displaced millions on earth, possibly the majority of the displaced persons, do not depend on these legal arrangements. Care operates in the lives of the millions in a different way.

One can see this paradox even in the legal and administrative mechanisms for the protection of the displaced in India. There is no one single arrangement. Care of the displaced due to violence is organised along one line, or set of lines, while care of the displaced due to developmental activities runs along another set, while again the care of the displaced due to natural disasters is organised in a different set of ways. There are similarities in these three cases, yet the principle of care operates in a differential way. Humanitarianism in the nineteenth century was for the destitute, the abnormal, the poor in the colonies, etc. Now it is for the migrant, the abnormal subject of our time.

Yet, we cannot do way with the principle of care. The task possibly will be to organise the principle in a different way, to see how this operates in popular life, to entrust the people with the task of protector than making the mighty the protector of imperilled lives. Federalisation of care is important.

Likewise, the task of making dialogic, the principles of care and protection is important. This requires the insertion of the principle of justice, which will bring back the issues of claims and rights. We thus cannot avoid the contradiction between care and rights; therefore a dialectical view is necessary. Can justice be compatible with the principle of care? At the risk of sounding fearful and banal, I shall say yes it is possible, and that is the main task in public morality today. Only a sense of justice can make us more caring. If one notices the evolution of the jurisprudence on disability rights, as Kalpana Kannabiran has shown, you can see how a sense of justice can lead to a more caring deliberation and approach.

The Way Forward

Rights are indivisible. However, if the way forward is to do away with all the institutions and set up new ones, which will inevitably result in more centralization for controlling population movements is an open ended question A more dialogic relationship is necessary, also we have to struggle for minimizing - if we cannot do away altogether - the hold of security related thinking, provisions, and practices in
matters of recognizing and protecting the rights of the victims of forced migration. Institutions have their vested interests, their domains.

To try to reduce them is the need of the hour. To do so we have to begin with working out and formulating the consequences of the theoretical recognition that population flows are massive and mixed. The reality of these mixed and massive flows questions old polarities. They need to be recognized in their variety, plurality, and amorphous nature – and this is possible only when we have a more federal way of looking at things, not from an institutional-pyramid point of view from the top, but from the point of understanding how it works on the ground. We shall then be able to challenge the customary distinction between refugee studies and forced migration studies, and episodic violence and structural violence in terms of protection policies and institutions. We shall be able to ask, if constructing hierarchy of the victim is the appropriate way to frame protection policy. This way of analyzing through interrogation of received binaries is already evident in the ongoing studies on statelessness. These binaries in form of refugee/IDP, episodic violence/structural violence, citizen/stateless, movement due to fear/movement due to economic imperative, international norms/national responsibility, human rights/humanitarianism, et cetera – have been subjected to critical inquiry today. Such critical inquiry features in the more recent work in the area of forced migration studies. This is possible only when we consider forced migration studies not as an isolated discipline or a subject, defined by some strange esoteric rules, but as a field marked by lines of power and flight paths of various subjectivities.

To work with that awareness we require not only a sense of rights and responsibilities, but some sort of political awareness of the way in which the migrant appears in our civilized societies as abnormal. Interrogating the production of abnormality in the figure of the migrant has to be the main research concern. All these are additionally relevant when we recognize the current time as one of the return of primitive accumulation when footloose labour becomes the ubiquitous figure of abnormality in the society of the settled and the propertied.
Of Displacement and Gendered Spaces: A Note

Asha Hans

Abstract

Conflict is played out on a masculine terrain and so women are disadvantaged during the entire process. It has to be recognized that this is not only a number game, but that more women actually translate into more female headed households and hence different and complex gendered issues emerge out of all conflicts. At the epicenter of the trauma of displacement is the space where the displaced are incarcerated – ‘the Camp’. One needs to deconstruct the geography and the sociology of the camps to fully understand the gendered nature of displacement and the resultant trauma. The paper touches upon a whole gamut of issues women face as displacees and as residents of so called transitory camps.

Author Profile

Asha Hans is former Director of the School of Women's Studies, Utkal University, Odisha, India and a Professor of Political Science. Author of several books and articles she has addressed widely issues of refugees, Kashmir and peace & security. She currently heads as Director of a gender research centre based in Bhubaneswar - Sansristi. Sansristi is a think tank founded in 2005 by academicians and activists who synergized efforts to support women and collaborate with each other, and produce quality research based on critical analyses and ensure that women’s voices are not marginalized in public policy discourse.
Often it is said that women constitute at least half in terms of size and sheer composition of all refugee movements. This statement is true only partially, as in some movements there are many more women than men. The ratio for example shifts during times when women and children are sent first as a protection measure, when men join forces fighting the State, when men go underground for reasons of protection and when many of the men are killed or imprisoned. Conflict is played out on a masculine terrain and so women are disadvantaged during the entire process. It has to be recognized that this is not only a number game, but that more women actually translate into more female headed households and hence different and complex gendered issues emerge out of all conflicts. There is one aspect where gender becomes a decisive factor and that is the process of forced migration generated due to conflict.

Displacement as a result of conflict is a gendered phenomenon and therefore it results in large scale insecurities, particularly feminine insecurities. According to Paula Banerjee, “displaced women are often doubly marginalized since state policies are weighted against them both because they are women and also because often they are members of minority ethnic, religious and linguistic groups. In situations where the state is not an actor, the majority group imitates state behavior thereby victimizing women.” At the epicenter of the trauma of displacement is the space where the displaced are incarcerated – ‘the Camp’. One needs to deconstruct the geography and the sociology of the camps to fully understand the gendered nature of displacement and the resultant trauma.

Refugee Camp: A Gendered Space

In the eyes of refugees, camps are a transitory safe space, where they seek protection till they can return home. Unfortunately, refugee concerns for security in camps are rarely met as history has revealed. This is because camps are political islands which have the potential of generating conflict and straining local economic and other resources. Although, they are part of the international refugee regime, they may or may not be recognized by the State. Also the camps are spaces of ‘not belonging’. Even when people live there, they hardly do so with the notion of fixity. They can be taken out of the camps at any time and they do not have the agency to stop the process.

In the case where the camps are established for the internally displaced, the situation is further complicated as they are citizens with the same rights as the local population and cannot be de-recognized. Their status therefore depends on how the local population perceives them and ultimately the acceptance or closure of the camp depends to a large extent on these communities’ acceptance by the local population. Such acceptance is difficult to achieve as large populations descending on small local communities with limited resources can be perceived as a threat. When faced with such situations, the camp might be closed and opened as per the demands of the

---

local community, with the people who are displaced having no right to decide on the fate of the camp. In fact, this process has been understood as one of the ways of gendering and effeminizing the displaced people in the camps; rendering them voiceless.

The camps may sometimes be allowed to exist for a longer term if the security of the local population is not compromised. Nevertheless, longevity notwithstanding they turn out ultimately to be dangerous and unhealthy places that affect men and women in unique ways. The oldest camps for refugees, as is well known, are in Palestine. They have existed for more than fifty years. Although, refugees do not live in one camp continuously, but seldom do they manage to move out of the camp. Palestinian refugees, for instance, in Lebanon in camp Shateela have faced several displacements. A woman reported that she had moved nine times since childhood. Camps in Assam portray another dimension of insecurity. Since the displaced are concentrated in a fairly small space, attacks against them by rival ethnicities can become an effective way of ethnic cleansing and therefore bloody. In both conditions, where the camps have existed for a long time or when they have come up more recently, women occupants have differential needs and are confronted with a diversity of protection issues.

The question of analyzing camp situations arose with the subaltern female being located at the heart of these risk zones, where her experience was gendered; one that involved her sexuality and her female body processes. These situations revealed that even though as social actors women are vulnerable, during displacement they are forced to shoulder the burdens of refuge. In the process they reveal remarkable resilience and use the camps as spaces for challenging gender hierarchies. In this politics of camps, three major constructions related to home, location and violence have emerged as central.

Camps and the Home

In the context of refuge, the term ‘space’ is being increasingly used from a non-territorial perspective since camps are floating spaces. They exist and are replaced by another or the space becomes a void from a refugee perspective with no-one who sought refuge initially, living there any longer. Even when they exist long term as refugees they may not always be inhabited by the same people. Lefebvre's view that when we evoke ‘space’ we must immediately indicate what occupies that space and how it does so, does not apply to places of refuge. For refuges as spaces are like shifting sands where people move in and out with the increase or decline of violence or peace. At the same time, there is no doubt that these spaces are social, and that each space defines the people who live in it, indicating that there is a gendered trajectory within it.

---

Despite the fact that camps are shifting spaces, they still retain their technicalities and social criteria. When refugees or Internally Displaced Persons (IDPs) move to them, they carry memories of their home which has to fit into this new rendering of space. The camp becomes a ‘home’ and a signifier of a homeland. For a Sri Lankan refugee, the camp is the ‘Tamil Homeland’ as it is ‘Palestine’ for the Palestinian refugee in Lebanon. For the IDPs, camps are political spaces from which they can unite and carry the struggle forward.

From a woman’s perspective, the home and homeland converge as both are political spaces. The home has always been linked to women’s bodies where the boundaries are set by the patriarch. The homeland then is the expanded ‘home’ where boundaries again are set by the patriarch – the state. They are dominated and controlled by the patriarch at home and the dominant majority within the State. For women, life is a political battle within the home and society and in the camps to this binary is added the State. In these political spaces therefore location and layout can play an important role.

Gendering takes place as per local socio-cultural environment and women’s positioning within it. If women are better located in the host community, benefits are accrued by the refugee women and IDPs. Conversely, in communities where women have not been able to achieve significant rights, they experience a disadvantageous position. Women in a camp located within the conflict zone, experience much more brutality as violence surfaces from within as well as beyond its boundaries.

Camps are sources of insecurity for women and poorly designed camps increase the risk for them manifold. Plastic sheeting or tin roofs provide no ventilation and become extremely hot especially when women cook. In some cases, latrines and showers are built along the edge of the camps. Women when they have to walk long distances to fetch water and firewood, become targets of sexual abuse. Also, in times of financial hardships the electric lights in the camps are often reduced leading to increased risk for women. This is particularly true in areas where the bathrooms are located and when young adult women try to access them in darkness they are often physically harassed.

Besides the acknowledged problems mentioned above, are those that are invisible. For instance, in unpredicted situations camps are hastily put up with no planning. The Sri Lankan Tamil refugees who started arriving in India in the 1980s for instance were provided various kinds of accommodation. Some lived in camps set up especially for them, others in school buildings, government offices, warehouses and any other building available. In the initial phase of displacement, they were usually set up as family units. The assassination of Rajiv Gandhi in 1991 by a Sri Lankan woman changed this and they came to be perceived as a threat and even families were separated. Similarly, the Bengali refugees in India faced the problem of joint

---


Available from [http://www.wiscomp.org/peaceprints.htm](http://www.wiscomp.org/peaceprints.htm)
families being divided into nuclear ones. They were further split up into male headed groupings where work was provided for the male bread winner.\(^8\)

Today, planning of camps is technical in nature but challenges still remain. The geometrics of geographies are linked to space, place, and architecture. The camps run by different agencies and organizations produce diversity in layout. Camp planners prescribe a planning approach that takes the individual shelter unit as the starting point, resulting in highly inappropriate collectives. Giving one such example of the Ngara camp in Tanzania, Skotte says that everything from plot size to the dimension of walkways was standardized and the social strengths of the people were disregarded and the camp became more like a prisoner of war camp.\(^9\)

Although, UNHCR guidelines stipulate an area for camps in which each person must have 45sq\(^2\)m,\(^10\) this may not always be possible, especially in highly populated regions of Asia. In most camps, non-residential buildings are grouped together at one end. This causes exclusion of many persons who live on the margins of the camp.

In contrast, many camps are linked to cultural lifestyles. For instance, in camps like Bourj al Barjaneh and Nahr al Bared the layout sought to preserve inter-village layouts.\(^11\) Camps which are structured so that cultural continuity is maintained can have both positive and negative fallouts. While women from the same community, if they live together, find support of earlier neighbors, extended families and some ethnic back up, if former community structures prevail as per class, race, or caste, there are few chances for the women to emerge from stereotyped roles and patriarchal control.

Besides the layout, it is important to conceptualize space from a broader socio-cultural gendered analysis. In the following section, a discussion is initiated on women’s role and the assumption that initially when camps are set up there may be no scope for participation in decision making, as they occur without warning. No one is asked if they want to be part of a camp? That is the reason Chan Kwok Bun has argued that the refugee camp is "a unique socio-political artifact of this century".\(^12\) The population that is forced to inhabit the camps has no voice in the matter, just as is the case of jails. The entire process de-recognizes the agency of the displaced.

Another important factor in the context of camp location is the role of the ‘outsider’ within the camp. The legal provisions and the implementing authority of the host State control the camps and yet remain outside it. Under these circumstances to whom does the space belong?

---

Women: Doubly Jeopardized?

According to Mehta\(^\text{13}\) male and gender biases negatively impact on displaced women in two ways – on the one hand, male biases in society help perpetuate gender inequality in terms of unequal resource allocation and distribution and also legitimize silencing of women’s needs. On the other hand, biases within state institutions, structures and policies dealing with displacement exacerbate these inequalities. Women therefore face hardships both as citizens and as refugees. In fact, the inequality they face as citizens is often translated into insecurity while seeking refuge.

The whole process of dislocation is a gendered process. The fact that women are placed in subsidiary spaces and their marginalization continues, even though they are part of the refugee/displaced movement confirms their place on the margins. They are subsumed within the new authorities and identities of the camp. In most developing countries their independence is reduced as their existing skills are rarely of any use, especially if they are rural women. This severely restricts their economic independence. As women are largely engaged in the informal sector - gathering forest produce, working in the fields, or selling produce, dislocation can result in loss of livelihood, adding to women’s economic hardship. Their mobility in camps is cut down as they are relocated forcibly to an unknown place contributing to their sense of powerlessness.

Poverty increases as women’s responsibilities increase and opportunities shrink. This undermines reproductive health too, given the fact that an estimated twenty five percent of refugee women of reproductive age are pregnant at any one time.\(^\text{14}\) Since the health indicator is linked to poverty, which is another form of violence, one could argue that, despite multiple existing standards available, within the camps women continue to face violence in multiple forms.

Protection in Refuge/Displacement: Women and International and National Standards

Women’s status in camps is linked to the standards that nations apply. The Refugee Convention, like most other Conventions and laws, is androcentric in nature and the words gender and women are not included in it. The Convention does not operate in South Asia nor are there any refugee specific national laws, so dependence has been on non-refugee International and national standards.

These include certain initiatives such as recognition by the Executive Committee of the UNHCR in 1985 which, for the first time, recognized the importance of inclusion of women. Three years later the first Consultation on Refugee Women was convened. Consequently, in 1991 the UNHCR issued Guidelines on the Protection of Refugee


\(^{14}\) UNFPA op. cit., 63.
Women to address their needs and enhance their decision making power.\textsuperscript{15} This was followed by the 2003 Guidelines on Sexual and Gender-based Violence to ensure protection – a primary mandate of the UNHCR.\textsuperscript{16}

The Guiding Principles on Internal Displacement under Principle 11 stipulate the prevention of “Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault”.\textsuperscript{17}

In 1995, the Beijing Declaration and Platform for Action was the major initiative to recognize discrimination against women and the specific problems faced by them and added protection strategies. The role of the international community increased as violence against women became increasingly visible due to writings on gender issues and media portrayals. An important landmark in this respect is the Rome Statute of the International Criminal Court (ICC) which followed the atrocities in Rwanda and former Yugoslavia. It defined violence against women as a war crime.\textsuperscript{18}

In 2000 the UN Security Council Resolution 1325 came into being. This comprehensive document calls for protection of women living in conflict zones and mandates their involvement in peace processes. In 2005, Governments meeting at the United Nations (World Summit) reiterated the importance of the document.

There are no specific national laws but legal and implementation processes provide an insight into women’s status as refugees or conflict related IDPs. Besides, initially after independence, India laid down executive policies for resettlement of people moving in after Partition. In this Indian regime, spaces for women were created. A large population, about 9 million who crossed borders first sought refuge in camps.\textsuperscript{19}

The Indian example of camps is placed alongside the European experience even though Malkki places the refugee camp as a “standardized, generalized technology of power...in the management of mass displacement” in post-World War II Europe.\textsuperscript{20}

The camps in India existed from 1947 but at the time were run by private organizations. These were ultimately institutionalized in 1948 when the government took control. Camps in the Western part e.g. in Punjab, existed for a short time while in the Eastern part of India they remained for a longer time. In the East, waves of refugees kept arriving and the camps kept springing up. Most, however, were for aged, disabled and widowed mothers. The widows were sent to Titagarh and Kartickpur camps in 24 Parganas and Ranaghat of Nadia in West Bengal and later more women in need were taken care of, for instance, by Ananda Ashram and Uday Villa.\textsuperscript{21} The latter became the largest rehabilitation centre for ‘distressed’ women. In

\begin{flushright}
\end{flushright}
Due course, these women were provided huts as a resettlement measure and there was an attempt to provide comprehensive needs. Grants were given for marriage of girls, remarriage of widows, and even for cremations. Milk for children and pregnant women and treatment for health problems such as tuberculosis was also arranged for the refugees. However, these spaces, though materially better than most camps of today, did not always provide protection from violence. From 1946 when the exodus started to 1948, four million people were killed, others faced forced conversion and abduction. About 50,000 women were abducted as per official sources in Pakistan and another 21,000 in India.

**Capacity and Resilience**

Despite the excessive abuse and violence that women are exposed to, they are resilient and resourceful in camps. Sometimes they themselves manage adversities, while at other times the community rallies around them. Programs by INGOs and UN agencies such as the Inter Agency Symposium on Reproductive Health in 1995 set an objective to integrate refugee RH services. The Women's Health Center at the Al-Bureij Refugee Camp in the West Bank and Gaza Strip can serve as a good example of a service run for women by women, with an aim to reduce maternal and infant mortality and to promote responsible sexual behavior and family planning.

Another example of resilience is that of the Tibetan refugee women who have formed the Tibetan Women’s Association in India which is part of the Tibetan Government in Exile. The Association has sought to address comprehensively the rights of Tibetan women.

Sometimes the local women’s organizations support women in camps in fighting gender-based violence. There have been unique initiatives as in Ghana’s Budubaram camp, where Unite for Sight established a unique program providing economic alternatives to women refugees who were trading sex for food. In Bangladesh, UNHCR renewed the camp layouts to improve their overview from different directions to diminish security risks. It also made several other changes in the camp like providing water during the day and moving the latrines from the outskirts. In Tamil Nadu, India, at the camps for Sri Lankan refugees, women have established committees to exercise pressure on authorities and consolidate their position within the community. These prove that camps can be islands of protection if different agencies and women’s groups assist women to take up the challenges. Women in camps are known to carry out daily work and economic activities. They are better equipped to manage local officials and governance issues in the camp situations.

---

22 Rao, *op. cit.*, 150-151.
28 Information provided to author by UNHCR in 2002.
29 Visit to camps in Chennai by author in 2004.

Available from [http://www.wiscomp.org/peaceprints.htm](http://www.wiscomp.org/peaceprints.htm)
Camps provide a glimpse into the status of women seeking refuge across borders or within their own country, in the case of the internally displaced. They are representative of women’s political ideologies and the historical spaces provided to them. The discrimination women face is the result of thousands of years of patriarchal domination, and therefore there is a need to challenge it. Camps provide an opportunity to change the structures of domination and break stereotypes. They make this possible because camps keep patriarchy in abeyance. Whether the situation changes when the woman goes back is another story and perhaps, another opportunity.
Select Bibliography


Available from http://www.wiscomp.org/peaceprints.htm


The Taming of a River: Gender, Displacement and Resistance in Anti-Dam Movements¹

Bina Srinivasan

Abstract

The discourse on displacement caused by large dams had never acknowledged the gendered nature of the issue, except perhaps as a footnote until the late 1990s. This paper makes an effort to plug that gap in the context of the gendered nature of displacement, resistance and analyses India's development policy within a feminist framework. The paper focuses on the experience of displacement and its impacts on women of Gujarat and Madhya Pradesh, especially the adivasis. It also addresses issues of women’s participation in anti-dam movements from the perspective that such resistance represents a moment of transformation for them and their communities.

Author Profile

Bina Srinivasan was the founder member and Coordinator of Swashraya, a women’s group in Baroda which organized slum women for basic rights. From 1991 onwards she was also a freelance journalist and researcher and wrote on women, displacement and minority women. She was a Visiting Fellow at the Institute of Development Studies, University of Sussex in 1999-2000 and a WISCOMP Scholar of Peace in 2000-2001. Her book Negotiating Complexities – A Collection of Feminist Essays was published in 2007, the same year she passed away.

¹ This excerpt from the monograph of the same title is included here to honor the memory of Bina Srinivasan, who dedicated her life to the struggles of development induced displacees. August 13, 2012 marks her fifth death Anniversary.
I will speak about the problems of the Bargi dam. 162 villages lie in the submergence zone of the dam. People have been uprooted from these villages (which cover 3 districts). Till today they have no means of survival, they don’t know where the next meal will come from. Those who can, have taken to fishing. Many have gone to cities for mazdoori (casual labour). Many of these are adivasis (indigenous peoples) who will go hungry, but won’t beg for food from anybody else.

When they go for mazdoori, many die. They earn some money. What can they bring back home and run their families. Adivasi men spend half the money on daru (liqour). Food for children comes from money earned like this.

Of the 162 villages submerged some villages have been displaced 2-3 times and were finally resettled at the edge of the forests. Even here the area is water logged. The water causes their huts to fall, they put their homes up again, to face the same fate.

Women also face problems. They also go for work. There is nothing to eat here. If there is a meal in the morning there is none in the evening.

This is the condition in all 162 villages. Children cannot be educated. People have sold their cattle, they have no food to eat, no clothes to wear. It is very difficult. There are no school teachers, no doctors. Where do they go, if they go, if they fall ill? Bijadari in Marla district, Ghausu in Sivni district. In Jabalpur they go to the colony. Some even die on the way to the hospital or while returning back.

They have a minimum of possessions: a thali (plate), a lota (small jug). Before submergence many had 60-100 acres of land. They used to have plenty of ghee (clarified butter), milk. Today they don’t even have ashes. Sarkar (the government) does not think of vikas (development), it thinks only of vinash (destruction). People in submergence areas have to give up their lives for sarkar to reap the benefits. Dalits, adivasis and many others share the same fate.

Some can do fishing. Some cannot. They do mazdoori. Buses are full of people going for mazdoori. They go to nearby places. How do we describe their condition? It is so bad....we do not see any hope...the sarkar will not understand our language. They think people who have been submerged are not suffering. They fool us. They talk only to the sarpanch, leaders, dalals (pimps)—all of them want to loot us.

.....Bargi dam oustees have not been rehabilitated, whatever the sarkar says. Will the sarkar show us the policies?...after the construction of the dam the sarkar told us not to go away. You will be resettled they said. We did not go and when the waters began filling in the dam, the sarkar said, let the waters come the people will flee like rats.
- Virabai, displaced by the Bargi dam in Madhya Pradesh who is an active member of the Bargi Dam Visthapit Sangharsh Samiti. This excerpt was taken from a presentation she had made in Saatalai, at a meeting of women and displacement in 1995.

Virabai is 50 years old. Like thousands of other women she has harrowing stories of the trials she has undergone since she lost her home when the Bargi Dam was constructed in Madhya Pradesh nearly ten years [ago]. If each of their experiences were to be recorded it would lay bare the dark side of the development that has purportedly been brought about by dams in India.

The efforts of national and international resistance movements have brought into sharp focus the detrimental effects of dams worldwide. The World Commission on Dams (WCD), which was set up to review the performance of dams all over the world, has acknowledged that large dams cause serious social and environmental problems.

The initial impetus for the 1998 formation of the WCD, which includes both proponents as well as opponents of large dams, came from the struggles of the people adversely affected by large dams. Anti-dam movements the world over came together to exert pressure on financial institutions like the World Bank (one of the major financiers of large dams) to set up an independent body to examine the social, environmental and financial impact large dams have on local communities.

The WCD consisted of dam-building agencies like ICOLD, financial agencies like the World Bank and representatives of anti-dam struggles. Based in South Africa and chaired by Kader Asmal, the WCD had a two year mandate to review the performance of large dams. The WCD commissioned various studies and papers from different parts of the world. These reports represented a variety of viewpoints on both sides of the issue. The final report of the WCD was released in November 2000 in London when the WCD was also formally de-commissioned. The final report was also released in Africa, Asia, Latin America and North America. In India, the report was made public in Delhi.

Despite these studies, the discourse has never acknowledged the gendered nature of the issue, except perhaps as a footnote. This paper is a small effort to plug that gap in the context of the gendered nature of displacement, resistance and policy analysed within a feminist framework.

I will refer to three dams: the Bargi dam which has already been constructed, the Maheshwar dam, which is the first hydro-electric project in India to be built by a private company and the Sardar Sarovar Project (SSP). All three dams are part of the Narmada Valley Development Project (NVDP), which will harness the river Narmada for irrigation and generation of electricity. Those disposed by the Bargi dam have formed an organisation called the Bargi Dam Visthapit Sangharsh

2 All names have been changed. Bargi Dam Visthapit Samiti is an organisation formed by the oustees of the Bargi dam and has been struggling for proper compensation since 1991.

3 See Dams and Development: A New Framework for Decision-making, the report of the WCD, released in November 2000 for its comments on gender impacts of dams (114-116).
Samiti (the Samiti), while a group called the Narmada Bachao Andolan (Save the Narmada Movement, or the NBA) spearheads the movement against the SSP and Maheshwar dams.

For the purpose of this study I will focus on the NBA, one of India’s leading anti-dam movements, as well as draw upon the experiences of women who have been part of other anti-dam movements. While the struggles against the SSP and the Maheshwar dams fit well within the context of other anti-dam agitations, the NBA has employed different gender strategies in the struggle against the SSP and the Maheshwar dams. It is also distinct in relation to gender organisation in both the areas. I have therefore qualified these differences within the NBA in the case of gender strategies employed in the course of resistance against both these dams.

I will focus on the experience of displacement and its impacts on women. I will also address issues of women’s participation in anti-dam movements from the perspective that this resistance represents a moment of transformation for them and their communities. Although largely undocumented, women’s experiences of both displacement and resistance are important facets of the history of India’s large dams.

It would be false to say that the experiences of women have been completely excluded from the literature on large dams, but it is also crucial to see how women have been written about in these texts. Much of the recent literature does address the impacts of dams on women, but their experiences are rarely integrated into the overall assessment of the dams’ impacts. Often women are given the role of ‘contributors’ rather than considered as actors in their own struggles, especially in context of the history of movements.

In the context of forced migration Indra says:

.....the historical ‘problem’ with research did not simply derive from the invisibility of women in it. In fact, women have been extensively written into kinship, marriage, socialization, and enculturation studies since the rise of fieldwork-based ethnography in the early 1920s. The issue was how were women and men represented and analytically characterised. The ‘problem’, then, was how social theory informed empirical work by organising how and what we see.

To create a literature that introduces a further subversion of hegemonic structures like patriarchal systems, a layered interpretation is required. This would necessarily be one that enters the domestic space and interpersonal relations as it examines the dynamics of power equations within the private and public realms....

---


5 Stree Shakti Sangthana, We were making History...Life Stories of Women in the Telangana People’s Struggle (New Delhi: Zed Books, 1990), 10-20.

Enforced displacement: violent transformations

Enforced displacement often pushes a community towards transition. This moment of passage is fraught with perils; it is a time when a community is called upon to draw on its cultural, social and economic reserves in order to maintain its earlier coherence. It is also a moment when each of these resources is bound to change and reconstitute itself in a process of adjustment to the experience of displacement.

Displacement presupposes a belonging, a unity with earlier locations. It also presupposes a degree of cultural, social and economic autonomy. This sense of rootedness and the notion of the home exist alongside intricate power equations that are constantly being negotiated and contested in everyday lives. Inequalities exist prior to displacement: gender, caste, class, culture and economic distinctions affect the struggles of women and men both within and outside their communities.

As feminist scholarship has established, unequal power relationships are acted out in the household and the community, so despite its traumas, displacement is not the beginning of the struggle for access to resources and the power to control them. The home, therefore, is not seen here as an idyllic space of equality. With or without displacement, gender inequalities are entrenched in the family and the community and violence against the vulnerable has the sanction of society. Nevertheless, the displacement caused by the development projects has traumatic effects that seem almost permanent. The costs are most obvious for people uprooted from their traditional livelihood systems. For example, when adivasis are removed from the Narmada Valley into the plains of ‘mainstream’ society, the loss of forests, land and other natural resources are most visible. The qualitative impact of displacement – the way communities adjust to alien social and cultural contexts – are more difficult to understand. It takes time to gauge the effects.

Communities react differently to ‘geographical’ displacement depending on its cause. However, geography is much more than mere physical space. Human beings are constantly acting upon geography and changing it to suit their purposes. In that way social customs, laws, culture, religion are all part of the geography.

It is clear that the most vulnerable sections of the communities bear the brunt of the trauma of displacement. Women and children, as has been documented, suffer the most when a community flounders and seeks to win back some, if not all, its autonomy and agency. The disempowerment of a community usually exacerbates the discrimination suffered by the least powerful constituents within it.

---

7 This is not to say that policy makers or proponents of the SSP have taken even the total economic loss suffered by the displaced population into consideration. They have been guided very much by a development paradigm that celebrates modernisation in the form of technology. To give one example, the economic valuation of forests or natural resources poses a serious problem because in the context of adivasi life, natural resources are inextricably interlinked with the social. Even so, it cannot be said that even a crude economic valuation of the losses incurred by the adivasis in the Narmada Valley due to the SSP has really been attempted by the State.
Communities are heterogeneous and assume multiple forms and are constantly adapting to their environment. With enforced dislocation, agencies outside the community dictate the pace and direction of those changes; radically altering the economic, social and cultural makeup of the community.

Displacement alters the caste and gender structures of a community. It also affects different sections of society in very specific ways and often constitutes a drastic realignment of social as well as gender organisation. Human and social development if not seen as intrinsic to development can trigger off of a whole range of negatives in contrast to the bounties that development is supposed to bring in.

Yet displacement also has to be seen as a moment that can usher in radical changes. It is an ambivalent moment. There can be circumstances in which it could offer limited choices that did not exist before. For example, in the SSP resettlement sites the number of girl children in schools has gone up as compared to the original villages. Similarly women’s access to the market has increased. This does not mean that the quality of life has changed for the better, it only means that it has placed before women certain choices that were not available to them in the Narmada Valley. Adivasi women from Gujarat who have been in resettlement sites for more than ten years now also understand that they can stand for Panchayat elections if they wish to.

On the whole, displacement from the Valley has thrust the adivasis of the Valley into a process of modernisation. Even if it is an unbalanced process, with the dice loaded against the adivasis, it has created some choices. Enforced displacement also raises issues of direct and indirect violence. State violence in implementing development is presumed here. The history of all dams in the Narmada Valley is replete with evidence of this. Economic and social violence are part of enforced displacement. In Gujarat, economic violence has resulted in male migration to inhospitable regions like Saurashtra, from where thousands of locals migrate each year towards South and Central Gujarat.

The women who are left behind have to cope with the threat of social violence by their own community as well as the ’host’ community. In the plains of Gujarat cropping patterns are dependent on pesticides and fertilisers and to buy these, adivasi families are forced to borrow money. Women managing the farm and the home on their own face threat of sexual violence as well as social violence as they go about trying to raise money for their crops. Many of the Bargi dispossessed have been forced to shift to slums in cities like Jabalpur. Here they face multiple threats to their lives.

At a point when development plummets into destruction, the survival of the communities is at stake. Women facing socio-economic pressures are seldom allowed to articulate their own needs as individuals. Therefore, it is important to bring to attention their struggles that are often radically different from those of men who are seen to represent the community and are the only ones who are deemed capable of negotiating with the state.

Available from http://www.wiscomp.org/peaceprints.htm
Women are central to livelihoods as well as to the social cohesion of the community and so it is essential to understand how patriarchal norms reconstitute themselves in the context of displacement. Displacement brings about changes in the sexual division of labour within a household. I will return to the issue of reconstitution of patriarchies as it is crucial to the way in which displaced communities try to assimilate after resettlement.

It is important to understand the coping mechanisms employed by women suffering the impacts of truncated rehabilitation. I make a distinction here between coping mechanisms and the exercise of agency. Coping mechanisms are basically used to make the best of a given situation of scarce resources within accepted social or patriarchal frameworks. Agency requires and implies re-definition of these roles: the action that follows therefore will necessarily be outside of established social, cultural and patriarchal norms. Agency translates into self-determination. This also requires more discussion and will be looked at when I narrate the experiences that women at resettlement sites have recounted to others and me.

Patriarchies, Identities and Displacement of Women

Patriarchal ideologies are central to the feminist deconstruction of gender inequality and social and cultural standards. I prefer to use patriarchy in the plural as I believe there are a plethora of male-centred systems in societies. The term ‘patriarchy’ has been criticized because it is often used without reference to a context. I agree with the view that patriarchy, when defined without contextual qualification is pointless. It has to be seen in a historical, social and economic context if it is to have analytical utility.

Avatar Brah says:

Patriarchal relations are a specific form of gender relation in which women inhabit a subordinated position. In theory, at least, it should be possible to envisage a social context in which gender relations are not associated with inequality. In addition, I hold serious reservation about the analytic or political utility of maintaining system boundaries between ‘patriarchy’ and the particular socio-economic and political formation (for example, capitalism or state socialism) in which it is embedded. It would be far more useful to understand how patriarchal relations articulate with other forms of social relation in a determinate historical context. Structures of class, racism, gender and sexuality cannot be treated as ‘independent variables’ because the oppression of each is inscribed within the other-is constituted by and is constitutive of the other.8

In the context of involuntary displacement then, the displaced and the displacing agencies both confer upon displaced women a disproportionate trauma in comparison to displaced men. A community that experiences disempowerment is bound to make women to shoulder the crisis. It is not to say that men are not affected when they face a crisis. It is only that men have social sanction to exert power vis-à-vis women in the family and in the community. Patriarchal

---

relations, internal as well as external to a community, grant men more agency than they do women.

The effects of displacement therefore are dispersed along diverse lines. In fact, in interacting with other societal contexts vis-à-vis displacement, patriarchal relations often intensify the oppression of women. Indeed we find that patriarchal power structures are often recreated in more rigid forms because of the insecurity that the community experiences. The notion of women as property often deepens as a displaced community grapples with the disruption of its historical and cultural continuities. The community tends to close ranks on women ostensibly to secure their protection.

Paradoxically, displacement reconstitutes patriarchies and women are allowed to perform certain tasks they weren’t allowed to before. For instance, they are allowed to partake in public spaces and in the labour market as it is seen to be in the interests of the community.

As Nirmala Banerjee notes:

‘...in the Indian patriarchal ideology women are regarded more as a highly flexible resource of the household rather than as its full-fledged members. Patriarchal authorities do not necessarily seek to confine women to the limited private space of the household. But they strive to ensure that women’s actions in the private or the public domain are tailored to fit in with the designed needs of the former’. 9

This reconstitution of patriarchies is intermeshed with factors that exert control on the community from outside. Entry into the market economy, displacement, increased penury due to globalisation, resistance movements, changes in national labour configurations, forced migrations, economic recession are a few such factors that push patriarchies to accommodate new roles for women. Nevertheless a close watch is kept on the activities of women lest they step out of the boundaries that patriarchies still maintain.

Needless to say some women do transgress because these are transformational moments even if they are involuntary to begin with. For example, women at resettlement sites are forced to take up casual labour to sustain the household economy and in doing so they are stepping out of the ‘suitable’ boundaries the community has traditionally formulated for them. This changes women’s relationships with the household, the community, the state and other institutions. Similarly, when women participate in resistance movements they are allowed to do so because the interests of the community are seen to be tied to this resistance.

This does not mean that patriarchal, social and cultural orders melt away because the women are struggling for the interests of the community. This only means that patriarchies broaden and justify this participation in the market


Available from http://www.wiscomp.org/peaceprints.htm
economy or resistance movements as these actions are seen as a contribution to the cohesion and survival of the community or household. In other areas, like control of women’s sexuality in particular, patriarchies continue to uphold values that do not necessarily see women as autonomous entities.

In a crisis, the notion of women as the repositories of the honour of the community comes into sharp focus. Patriarchal values embedded within the larger ‘host’ society that the community has been displaced into, interact with prohibitive norms for women. The rules are thus made more stringent, more inflexible as the displaced community perceives its identity to be in danger. Thus, ‘…belonging for women is [also] and uniquely linked to sexuality, honour and chastity’.10

Dress codes are important markers of this honour. Gujarat’s mainstream communities see the adivasi dress as ‘bold and open’. Thus displaced adivasi women in many sites have had to adopt the sari. Dress codes are based on controlling as well as hiding women’s sexuality. They are linked to community honour, which ultimately is male honour. As women belong to their men, the female body becomes the repository of male honour and thus community honour. Therefore if women by their dress show that they are not under male control, it is a slight to male and community honour.

The implication of change in dress codes in resettlement sites is multiple. It also implies that the onus of assimilation (of the displaced community) into the larger mainstream ‘host’ community is on adivasi women. So it is adivasi women who in a curious twist are now responsible for the honour of the displaced community as well as that of the host community. Displaced adivasi women now become the de facto property of both the communities. Patriarchies of all the communities, regardless of economic, social and cultural variations, are extraordinarily flexible and cleverly justify reframing women’s roles.

When adivasi women from displaced communities are forced to encounter ‘mainstream’ monetized societies, their mobility is restricted as the community fears for its safety and for the safety of its ‘property’. This, despite the fact that adivasi social norms do grant women a greater degree of social mobility than upper caste Hindu societies or Muslim societies would prefer to.11 Broadly speaking, some of the restrictions that upper caste Hindu and Muslim societies place on women’s mobility compare unfavourably with adivasi social norms. Social and individual space is defined very differently by both, which is not to say that patriarchal controls are not in place in adivasi communities. They simply take different forms and the scope of patriarchal controls is different.

As evidence reveals, adivasi women’s support structures are the first to crumble in the resettlement sites of the SSP. By this I do not mean that adivasi women are not resisting these negative changes or that all these processes occur in a

11 Both Hindu and Muslim societies are not assumed to be monolithic in their social and cultural interpretations of the morality that is expected to guide human actions. They occupy diverse locations.
homogenous manner across the community. It is a nuanced process, which includes resistance from women, varied responses from the community and also includes intra-community struggles.

Double Displacement: Women ‘outside’ Society

Women who are displaced by development projects and from social institutions confront different sets of experiences. The experiences of married women are quite different from those of single, divorced, deserted or widowed women. I refer to marriage and family as social institutions. Both these institutions codify and operate patriarchal relations in its purest forms. Within the family, in all its diverse forms women are given apprenticeships in patriarchal roles. And it is within marriage that women live out the realities they have been trained for.

Women’s movements the world over have criticised the family as being the central site of women’s oppression. It is here, it has been argued, that with the sexual division of labour, demarcation into masculine and feminine roles begins. The family moulds women firmly into patriarchal do’s and don’ts and trains them into unquestioningly accepting and internalizing the morality upon which the subordination of women is based.

Ratna Kapur and Brenda Cossman say:

Familial ideology was both shaped by and served to naturalize [family wage], and its allocation of gender roles. Women’s roles within the domestic realm as wives and mothers was thus rendered a natural and self-evident product of their biological role in reproduction; simply a part of our collective common sense.12

And:

....This dominant familial ideology has both shaped and reinforced the public/private distinction, and the construction of the family as private. This understanding of the family as private, and beyond state intervention has operated to both immunize the oppression of women within this domestic sphere, as well as to obscure the extent to which this private sphere is itself created and protected by state regulation.13

This analysis remains restricted to certain kinds of families: it assumes that the nuclear family within an industrialized, capitalist society is the standard. It overlooks the fact that the family, in all its forms, does afford women protection and security when women are in confrontation with the ‘larger domains’ of the community, the society and the state.

In many of the interviews I conducted it was clear that the women do fall back on the family as a source of support. The family has strong roots in all societies and till such time as an alternative to the family emerges, striking just as strong roots, it is difficult to oversimplify the role of the family.

13 Ibid.
As Ratna Kapur and Brenda Cossman assert:

In India, the nuclear family is not the dominant ideological form......The idea of the sexual division of labour does not accurately describe the empirical realities of Indian women’s lives. For instance, poor, rural women have long been involved in subsistence farming within the family. Their unpaid work on the family farm has been and continues to be essential for the subsistence food production.14

So the experience of being outside these institutions can accentuate the experience of uprootment and displacement; these women suffer double displacement. How do we define ‘socially displaced’ women. ‘Social’ or ‘society’ signifies a certain set of demarcations that exclude or include categories of people; they place some kind of people outside its ambit and some firmly inside. The marital status of the women becomes the central locus of the entire experience of social uprootment and social dislocation. Although I initially resisted the idea of defining women’s social identities by their marital status, a significant aspect of the social dislocation that women experience, stems from their position in the family vis-à-vis marriage. (There are of course, other categories of women, like widows, nuns and prostitutes).

In relation to social displacement of women we see that women’s sexuality is at the core of this defining principle of social inclusion or exclusion. It is quite decidedly seen as an element that needs to be controlled: the more firmly a woman’s sexuality is controlled, the higher is her status. Here again, the operative notion is that women cannot be trusted with autonomy over their own sexuality, that it is too dangerous to be allowed to exist unfettered.

An array of controls has to be in place to ensure that women’s sexuality is firmly monitored. So a married woman is given pride of place in a society that first seeks male control over her and then seeks to have the family control her. It is true that different communities react differently to women’s marital status. For example, Muslim communities do not usually look down upon widowed women in the same way as caste Hindu society does. Nor does adivasi society confer upon widowhood or desertion/divorce the same kind of contempt that Hindu society does. But even if we are to believe that adivasi societies do grant women’s sexuality more agency and are also more inclusive of women’s choices, why is it that these societies revert to patriarchal gender relations when in a crisis? Why is it that societies that are far more accommodating, even those that valorise women’s autonomy, when in transition, fall back on the same set of values that abuse women’s moral, sexual and social dignity?

I argue that this occurs because when it comes to women, there is some kind of continuity between adivasis and their value systems and those of mainstream Hindu caste society. There is a definite transaction occurring between various manifestations of patriarchal norms as codified in various societies. Patriarchal biases in families and the gender discrimination within the institution of marriage militate against women’s autonomy. The autonomy granted to women (or wrested by women despite stringent norms) could be illusory, weak or

14 Ibid.
invisible. I refer to autonomy here as the choices that women make even while remaining within societal frameworks and while accepting these as unquestionable. I also refer to it as the choices that women make in their own interests, as opposed to those that prioritize the family, the husband or community.

Widowed, unmarried or divorced women are seen as aberrations as they subvert patriarchal norms which centralises power and control in male authority. These women, who aren’t the ‘property’ of men, by their very existence deny these power structures. In the case of additional displacement due to dams, these women fight a multi-layered battle….

So if the act of, or the circumstances of being outside domestic and social institutions is to be defined as social displacement, we are presuming that there is indeed a oneness, a sense of belonging within the family. There are also various kinds of families. The nuclear family, the joint family, the extended family or the single parent family, function very differently from each other. In addition, these varied families are then placed within broader social institutions that define the roles of each of its constituents depending on cultural and social norms. Oppression to some degree or the other is a collective phenomenon for women and subject to class, caste, race or religion individual women’s responses may differ drastically.

My attempt in recounting women’s experiences is to understand women’s varied locations and how they influence women’s options and responses.
Select Bibliography


Stree Shakti Sanghtana. We were making History…Life Stories of Women in the Telangana People’s Struggle. New Delhi: Zed Books, 1990.

Assessing “Belonging” and Claims of “Home” among Refugees: A Note on Repatriation in South Asia

Nasreen Chowdhory

Abstract

Refugees, like other transnational actors, such as aliens or migrants, challenge the prevalent norms of belonging based on citizenship established by the state. The membership rights of citizens are based on attributes such as birth, residence, and marriage that deliberately exclude non-citizens. In India, Sri Lanka and Bangladesh, the state-formation processes after decolonisation shaped the nature of citizenship rights. The state allocated and legalised “belonging” by providing social, economic and political rights to the members and excluded certain categories of people. This paper examines the theoretical construction of state-formation and state-building in Sri Lanka, Bangladesh, and India in relation to citizenship rights to understand how the non-inclusion of refugees as “citizens” of either their country of refuge or country of origin affects the decision to repatriate “home”.

Author Profile

Nasreen Chowdhory is an Assistant Professor in the Department of Political Science, Delhi University. Dr. Chowdhory received her Ph.D. from McGill University in the Department of Political Science with a focus on Comparative Politics and South Asia. Her dissertation “Belonging in Exile and ‘Home’: the Politics of Repatriation in South Asia” examines the question of belonging among refugee communities in South Asia. She completed her M. Phil and M.A. from Jawarharlal Nehru University, New Delhi. Before joining Delhi University, Dr. Chowdhory has taught at Asian University for Women, Chittagong and Concordia University, Montreal, Canada. Her research interest includes forced migration and refugee studies, ethno-politics, state formation, and citizenship. Dr. Chowdhory has been associated with Action Refugee in Montreal; South Asian Center for Immigrants (CERAS), Canadian Council for Refugees, Calcutta Research Group and IASFM.
Refugees, like other transnational actors, such as aliens or migrants, challenge the prevalent norms of belonging based on citizenship established by the state. The membership rights of citizens are based on attributes such as birth, residence, and marriage that deliberately exclude non-citizens. In India, Sri Lanka and Bangladesh, the state-formation processes after decolonisation shaped the nature of citizenship rights. The state allocated and legalised “belonging” by providing social, economic and political rights to the members and excluded certain categories of people. I examine the theoretical construction of state-formation and state-building in Sri Lanka, Bangladesh, and India in relation to citizenship rights to understand how the non-inclusion of refugees as “citizens” of either their country of refuge or country of origin affects the decision to repatriate “home”.

This paper draws from a diverse literature – refugees, migration, state-formation, and citizenship – to analyze refugee behaviour and to understand how they lack recognition in the country of origin and of asylum during refugeehood and sometimes even upon repatriation. In a period of globalization, movement of population across international borders due to political and economic conditions presupposes the rights of mobile groups. With respect to refugees, such a presupposition has little meaning.

In this context, I analyze the literature on citizenship rights to discuss what constitutes the basis of recognition and non-inclusion of Chakma and Tamils ‘in exile’ in India and ‘at home’ in Bangladesh and Sri Lanka respectively. I explore links between the rights of certain groups of people in postcolonial societies, the state-formation and refugee-generation process, the lack of formal recognition in the country of asylum and in the motivation to repatriate home.

Three sets of interrelated questions are explored. First, why do refugee studies emphasize repatriation and overlook problems of integration in post-repatriation context? Second, what is the rationale of asylum states in denying status to refugees in exile? In the following section, I address these questions by engaging with the literature on citizenship to outline first, the determinants of belonging in exile and home and how there are challenges from within. This discussion leads to the section on creating a theoretical framework to understand the problems of belonging and repatriation in the context of refugees in these South Asian nations.

Since the state provides legitimacy to members based on legal standing, it denies the same to non-members. Moreover, territoriality forms the basis for rights and entitlements of members of a state. The notion of such membership or citizenship is based on the assumption of political belonging and positions derived from the placement within the state. In this manner, citizenship is a political tool to carve out principles of inclusion and exclusion based on formally established normative ties between the state and its subjects that may be characterized as contractual or legal. Herbst discusses the relationship between citizenship laws and their “explicit tie to…unique territoriality defined politics.” I argue that if refugees were to be accepted within a framework of ‘partial recognition’, the need to repatriate may itself be

---

1 I make a distinction between formal recognition as discussed in the literature on citizenship and claims of status made by non-citizens, i.e., refugee groups. Drawing largely from the literature on citizenship, I assert that the refugee claim to status is legitimate despite the predominance of a rights-based approach in the citizenship literature.

subverted, as exemplified by the Tibetans in India and some Afghan refugees in India. The political status of refugee communities in their countries of asylum has great significance for the determination of the future of such refugee communities. A very important connection should be drawn between “belonging” based on membership or citizenship and the role of the asylum state with respect to creating this sense of belonging for refugees.

**Determinants of “Belonging” in Exile and “Home” in Refugee Narratives**

The notion of “belonging” within a state is determined by membership. Citizens belonging to a territory are politically accepted and are considered legal members of the state. These rights of citizenship are granted either on the basis of birth or domicile or marriage. The countries of asylum and origin determine the nature of rights of refugees and other individuals who live within a particular demarcated territory. The spheres of inclusion/exclusion of rights are thus determined by the state. In search of recognition, refugees are faced with a dilemma regarding their decision to continue to reside in exile or to repatriate “home”.

However, non-citizens can also make claims to belonging. There exists a correlation between the identities of people residing within a territory and the sense of belonging they derive from it. The sense of belonging depends on a perceived sense of attachment to a certain land and the resulting identity. Soguk asserts, refugees or “moving people” tend to “transgress political or cultural borders” and seek to “reaffirm” the proposed boundaries of belonging. In contrast to statist rules of belonging, migration empowers those who move as they challenge the government’s ability to impose “difference” by patrolling the “dynamics of bodies” at the borders.3

However, as pointed out earlier, states determine the characteristics of belonging within a geographically demarcated territory and provide rights to those who are legally entitled to belong. The state provides different rights to members as opposed to granting a “free-for-all” framework of rights to both inhabitants and outsiders. It engages in strategies of accommodation to “incorporate” outsiders. Two such strategies are the assimilationist and the pluralist models. The assimilationist model includes one-sided policies adopted by the state to reduce the social, linguistic, and cultural distinctiveness of immigrant communities, which allows members to assimilate or merge with the dominant community with the promise of citizenship. Membership in these situations enhances the dominant culture while eradicating the specificities of immigrant communities. The culture and the values of the immigrant community are sought to be submerged within the dominant culture. The pluralist model, in contrast, accepts immigrant communities as “ethnic communities” with distinguishable characteristics, such as language or culture, and embraces them as citizens. Pluralism would imply that immigrants are given complete access to all spheres of society. Though the pluralist model has a higher level of inclusion than the assimilationist model, both have faced many problems in practice and have limited application in relation to determining refugee rights.

The membership issue within citizenship literature is predominantly based on the legal and formal acceptance of members within the state. States tend to determine membership based on nationality. The globalization literature asserts that despite the

---

3 Nevzat Soguk, *States and Strangers: Refugees Displacement of Statecraft* (Minnesota: University of Minnesota Press, 1999), 293.
weakness in the literature to prefer nationality-based membership, it has made some strides in accommodating a few changes. This literature insists that the role of the state is decreasing and therefore new approaches to determine citizenship are becoming more common. The traditional approaches that are typified by rights-based understandings such as Marshall,4 Black,5 and Shklar6 have expanded to accommodate other notions such as “citizen-as-desirable-activity” and “citizen-as-identity,” or group identity and group participation in a multicultural society.7 However, the traditional approach to citizenship is limited to a “formal-national-membership,” which tends to prioritize the rights of members over those of non-members. While the concept of citizenship rights has expanded from an approach that is based on the individual to one that may include group-based demands, the trajectory of the change nonetheless overlooks the need to include the category of non-citizens. It has failed to address or acknowledge the rights of the stateless and non-nationals, aliens, and refugees.8 Bosniak and Sassen both discuss citizenship rights through the lens of a globalized world and assert that the present literature does not address citizenship rights beyond nationality, i.e., the concept of denationalized9 or post national10 citizens.

Multiculturalists in the citizenship literature argue that “citizen as identity” should take precedence over citizenship as a legal status of membership. In this context Soysal argues that “decoupling in citizenship between rights and identity” is necessary to understand claims beyond nationality. Identity-based claims tend to be more particularistic in nature. For Brubaker, rights and identity are interconnected within citizenship while the politics of citizenship is about nationhood that fashions and shapes the distinctive kinds of political social membership.11 Soysal12 and Sassen13 posit

---

8 I am grateful to Linda Bosniak for proposing the problem of alienage. In this paper I argue that state-centric views on citizenship rights determined issues of belonging.
9 Zolberg (2000); Klug (2000); Rubenstein and Alder (2000) in response to Bosniak’s *Citizenship Denationalized*, assert that there is a need to go beyond the notion of the state-dominated discourse on citizenship rights. The predominant position of state is challenged as a result of the movement of people across borders. Rubenstein and Alder (2000, 529) challenge the “singular notion of citizenship or a single legal status linking directly to the state” and are a little cautious towards complete denationalized citizenship; instead they discuss trends away from a state-centred notion, in order to consider the impact of citizenship on the legal status of nationality.
10 Bosniak (2000) asserts that the globalized literature tends to view claims of “moving people” as postnational, or “transnational” rather than denationalized. She tends to view these claims as the denationalized rights of people. But Sassen differentiates between denationalized and post-national. According to Sassen, the foci of denationalized is “national-state,” whereas post-national is beyond “national-state.” Sassen (1996, 1999, 2000) tends also to differentiate between denationalized as conceptualized by Bosniak and as one put forward by her.
that the significance of the state is decreasing in the globalized world as rights acquire universal meaning; as a result, rights that were previously enjoyed by citizens are now also enjoyed by non-citizens, which demonstrates a shift in focus from a state-based conception of rights to one that is universal. But as rights assume universal meaning, identities of individuals can express specific traits as determined by the state. Hammer asserts that foreigners who reside in countries for long periods of time should be entitled to substantial rights. Both Hammer and Brubaker contend that the rights of immigrants should be based on residence rather than nationality. The territorial location of citizens remain the main focus of citizenship rights, which are sometimes accommodated based on the duration of residence as opposed to other ways of gaining membership to a state such as “nationality” or marriage.

Thus, the multiculturalist citizenship literature permits two conclusions about how globalization has affected citizenship. First, the decreasing importance of the state, especially as a result of globalization, has created a “post national” citizenship that leads to the “de-coupling of political identities from national membership”. Second, with the emergence of de-territorialized citizenship, identity need not be tied to specific national residency, ethnicity, language, or other allegiance. The new disaggregated concept of citizenship allows “individuals to develop and sustain multiple allegiances and networks across state boundaries, in inter- as well as transnational context” and leads to a cosmopolitanism that can sustain different communities of language, culture, etc.

Other scholars like Bosniak assert that the importance of the state is far from waning. In this paper, I assert that state-centric views in South Asian states were responsible for creating boundaries of belonging. While accepting Bosniak’s argument, I contend that despite globalization, a rights-based understanding of citizenship in these states is well in place. Non-citizens are significantly disadvantaged by the current rights-based citizenship discourse as the citizenship literature has failed to accommodate the issue of alienage for immigrants and refugees. While the multiculturalists acknowledge the globalized views on universal citizenship, in reality, the conferral of such citizenship is limited to formal members of the state, which is implicit in the quest for membership among non-citizens. When viewed from the perspective of refugees or other non-citizens, or aliens, the theoretical notion of a universal concept of citizenship seems questionable. Asylum states generally hold a state-centric approach to rights, which discriminates against non-citizens and exacerbates the unequal relationship between citizens and non-citizens. The lack of status in the asylum state is linked to the politics of belonging for refugees. Issues of identities of refugees are understated in the asylum state, but rights are defined based on belonging. As such, refugees eventually undertake acts of repatriation due to their prolonged stay in an asylum state that denies them rights equal to those of citizens coupled with their need to belong and to re-acquire lost identity.

Following Arendt’s notion of “the right to have rights,” it is clear that among the refugee community or otherwise “stateless” people, the need to belong is more

---

significant since they lack status and rights in the asylum state. The state is not losing its significance; rather, the state has shifted its approach, advancing a rights-based membership rather than a status determined by one’s location of stay. Drawing from the globalization literature on citizenship, I make a case for granting rights to non-citizens, especially refugees. I argue that refugees’ need for recognition or status (which need not be formal status) is quite acute. However, I do not claim that refugees seek “national-formal” citizenship; rather they seek a status-based position in the hierarchy of belonging that would protect their interests from arbitrariness of state officials in interpreting status in exile. The states in developing countries have failed to attribute any status to non-citizens, as they are not nationals. If the state-centric rights discourse were to accept different principles of inclusion, then providing rights of non-citizens would be marginally addressed. Thus, I concur with the globalization perspective that state-dominated citizenship rights need to accommodate other claims to rights and accommodate varied interests and differences.

Construction and Reconstruction of “Home” in Refugee Narratives

The concept of “home” assumes a particular significance in refugee narratives. I distinguish between the concepts of “home” and a “homeland” to which refugees may return. Displaced people or refugees during a period in exile (especially in camps) often stay together based on ties to the homeland. Refugees associate memories and a bond with “home” and continue to strengthen such ties while living in exile. Such a spatial attachment occupies an important place in refugee narratives vis-à-vis home. For the displaced communities, place or land remains a crucial component of their identity; therefore, any “loss of spatial attachment makes their identity incomplete.”

The links between “home” and a sense of “belonging” by refugee communities in an asylum state can be studied from two different perspectives. First, belonging is based on ties to home, which makes it possible for refugee communities to form distinct identities that aid in rallying refugee groups during their stay in exile: it has identity-forming capability. Second, belonging based on “homeland” allows refugee communities to form a collective in an asylum state, which works well from the perspective of the asylum state, as refugee communities are encouraged to remain tied to the politics of their homeland.

In the repatriation literature, scholars variously define “home” as an analytical concept. Olwig and Kibreab have provided different perspectives on home. First, home is a personal space of identification; second, it is the “nodal point of social relations”; and third, “home” can be the physical place existing within specific material and economic conditions. The idea of “home” is a social-cultural construct that cannot be separated from its exact physical place. The possibility of constructing “home” is affected by physical conditions of existence, material possibilities, and economic situations in one’s country of origin. Refugees tend to come to terms with what, to them, constitutes

---

18 By homeland, I mean an extension of refugees’ idea of “home.” Returnee-refugees do not hold similar views of homeland as that of rebel groups; rather, they view homeland as a safe place to be, within the country of origin.
“home” while in exile or within the framework of repatriation; however, as they do so, the idea of “home” influences refugees’ decisions to repatriate.

There is a debate in the literature over how a perceived sense of ties to “home” among displaced communities influences repatriation. The persistence among refugee communities to maintain feelings of attachment to their “homeland” prevent them from forming “new ties” while in exile. Coles, Karadawi, and Warner, Malkki, Hammond argue that the basic need of human beings is to belong to a particular “home” and community. These scholars agree that “home” remains a factor in refugees’ decision to repatriate. However, Warner, Malkki, Hammond disagree with this premise; and claim that “the place attachment model” perceived “home” as a fixed place capable of exerting considerable influence on refugees’ decisions to repatriate. I tend to agree with scholars who argue against the validity of the notion of “home” and its precise impact on refugee decision-making. Allen and Turton contend that the “idea that return represents the most desirable solution to refugee movement contains an implicit assumption that a given population has its own proper place, territory or homeland.” Malkki asserts that the fixing of people in native places of origin is a reflection of the sedentary bias in dominant modes of imagining homes and homelands, identities, and nationalities. Hammond and Allen and Turton agree that home is a strong and valid concept, but they question its influence on refugees’ decisions to return. To them, returnee-refugees can be involved in a process of emplacement: through stories and practices, they actively try to create relations to a place to belong, and they negotiate different concepts and notions of “home.” Kibreab appears critical of the nexus between the imaginary concept of “home” as existing in the mind of refugees and the actual place of “home” and argues that it may not be the sole factor in refugees’ decisions to return. Furthermore, the home that refugees have left behind may no longer exist, in physical form at least, because places, social relations, and culture can change in time, especially during conflict. As such, there is an over-emphasis on “home” as a factor that motivates repatriation.

While scholars have different perspectives on what constitutes “home” for refugees, they agree that the notion of “home” affects refugees’ decision-making about repatriation. I argue later in the paper that despite varied notions of “home,” these notions have an impact upon the refugees’ decisions of repatriation to “home” and

27 Warner, op.cit.
Nasreen Chowdhory: Assessing “Belonging” and Claims of “Home” among Refugees: A Note on Repatriation in South Asia

homeland.28 The asylum state perceives refugee status as a temporary status and encourages repatriation to countries of origin.29 Often, refugees repatriate with little or no information on the changes in the “home” country.30 Refugees tend to come to terms with what, to them, constitutes home while in exile or within the framework of repatriation; however, when they do so, the idea of “home” influences refugees’ decisions to repatriate. The concept of “home” as envisioned by refugee communities is based on their ideas of belonging. The ideal image of “home” evokes a strong bond to reclaim status lost in exile, which is accentuated by the absence of proper status in exile.

“Repatriation” in the International Refugee Regime: The Refugee Perspective

During the 1970s, the literature tended to study the initial phase of refugee experience: specifically, the causality and patterns of flight that created the conditions for refugees.31 During the 1980s, the literature focused on refugee resettlement and integration in the countries of asylum.32 More recent studies on refugees have focused on the repatriation of refugees.33 Previous approaches to refugee studies were reactive, exile-oriented, and refugee-specific as opposed to the present discourse on refugees, which seems to be more proactive, homeland-oriented, and holistic.

Few scholars have examined the motivations for the repatriation of refugees and their alleged ties or links to their countries of origin and their ability to regain status through repatriation. Little academic research focuses on the aspects of reconstruction and rehabilitation among returnee-refugees in their countries of origin. Bascom34 contends that the mass movements of human beings symbolize a changing world order. Rogge emphasizes the importance of the social transformation of refugees in exile as a contributory factor in their repatriation.35 The fundamental preconditions for “voluntary repatriation,” according to a minimalist interpretation, are the cessation of

28 This argument is based on findings from research conducted on Tamils and Chakma/Jumma refugee-returnees in Vavuniya, Mannar in Sri Lanka, and Khagrachari in Bangladesh in 2002. I assert the refugees’ decision to belong “home” is acute in the absence of status in asylum. But the idea of “home” to refugees is dissimilar to insurgent views on homeland, such as Tamil Eelam, or Jummaland; rather, it means the possibility to resume “day-to-day activities.”
29 As stated in an interview in Chennai (India) July 2002, a higher official dealing with refugees stated, “we don’t understand the philosophy behind meanings of home etc., as long as refugees repatriate to country of origin we are alright with their decisions.”
30 The same official in Chennai stated in an interview in July 2002, “these people need to go back to their ‘home.’” In this instance “home” was meant in the general sense of the term. Most of these officials were aware that the peace process in Sri Lanka was working well, which in the long run could facilitate the return of refugees as “the killing etc., has stopped” in Sri Lanka.

Available from http://www.wiscomp.org/peaceprints.htm
military conflict, regime change (where applicable), and the stability of the home-government.

To understand why refugees may be hesitant to repatriate, it is necessary to begin with an analysis of the country of asylum. Kunz has identified two basic categories of refugees that are inclined to return: the “event-related refugees” and “majority-identified refugees.”36 The “event-related refugees” are less likely to return home due to a lack of fundamental changes in their countries of origin if groups become well-integrated economically and socially in their countries of asylum. The “majority-identified refugees” are most likely to repatriate when the opportunity arises, which seemed evident in the context of Africa. These challenges are particularly problematic in contexts where refugee movements have been spurred by civil conflict and over a longer period of exile. Also, most studies on refugees tend to be territorially-based37, and until recently, the discourse on repatriation had overlooked integration problems involved in the post-repatriation context.

The literature also tends to overlook the nexus between the legal position of refugees in their countries of asylum and their choice to repatriate. Therefore, it is imperative to understand the conditions for the “voluntary” repatriation of refugees. Stein et. al.38 suggest a classification of repatriation along the continuum of conflict resolution in countries of origin. The different classifications are: ricochet repatriation, with almost immediate return; relocation-stimulated, when host governments try to move refugees into camps; alienated-induced, when some refugees cannot identify with the emerging refugee community; secondary relocation-stimulated, when host governments try to move refugees to settlements a long way from the border; and the major repatriation, where the UNHCR promotes mass return. The literature does not address the lack of political status of refugees in the countries of asylum and the consequences upon refugees’ decisions to repatriate. The gap in the literature is manifested in several ways: first, the resolution of refugee crises seem to be more homeland-oriented, which might mean little to refugees; second, studies on repatriation have failed to address why refugees are inclined to repatriate; and third, the linkages between refugees as “temporary” exiles encourage notions of repatriation.

The Official Perspective

Repatriation can occur based on the terms and conditions involved in return. The decision to repatriate often requires a sense that the return would be long-lasting or durable. The durability of repatriation is due to a “change in circumstance in the country of origin” that would make repatriation a feasible and preferable option for refugees. However, certain assumptions are involved in the notion of “change” that can be difficult to ascertain, which leads to an emphasis on the “voluntariness” of return.39 The notion of voluntary repatriation operates within the boundaries of refugee law it relies on the ability of the country of origin to use it to its own advantage. In its *Handbook for Emergencies*, the UNHCR asserts, “[a] voluntary repatriation program presumes there are refugees who return to country of origin


Available from http://www.wiscomp.org/peaceprints.htm
based on change in conditions in their country.” 40 Elsewhere, the UNHCR describes voluntary repatriation as “a practical technique for affecting the safe and dignified return of refugees once the conditions that forced them to flee or to remain outside their country no longer exist.” 41 The UNHCR can legally determine when repatriation will occur, and it can also send refugees back based on the provisions stipulated in cessation clauses. The UNHCR’s Protection Guidelines on Voluntary Repatriation states, “the idea behind promoting and subsequently encouraging voluntary repatriation is to give the refugee an opportunity to voluntarily return home with UNHCR protection and assistance before he or she formally ceases to be a refugee.” 42 The drive to resolve refugee problems is accomplished when refugees make a voluntary and conscious decision to return. The countries of asylum are obliged to help refugees repatriate in accordance with the accepted standards for voluntary repatriation. The concept of “safe return” has gradually replaced the concept of “temporary protection” that had legitimized instances of “involuntary return.” The idea of “safe return” in repatriation literature has a “lower threshold” than voluntary repatriation, so it is applied when countries of asylum seem inclined to apply the cessation clause and promote only safe return. 43 International norms require states to acquire voluntary consent from refugees prior to the repatriation process. The process begins with a visit by UNHCR officials to refugee camps; they request that the refugees complete questionnaires to verify their consent and the voluntary nature of their return. In some cases, refugees have affirmed their consent without being properly informed of the changes in their countries of origin or other such manipulation. 44

The “promotion” of voluntary repatriation in the Handbook to represent an evolution in the perspective of the UNHCR, with a move from an advocacy role that emphasized taking actions from the very outset of a refugee situation to prevent immediate return 45 to one that promotes repatriation. The earlier definition was much more elaborate: “Furthering or advancing the development and realization of voluntary repatriation as a durable solution to the refugee problem on the basis of the principles of international co-operation and State responsibility to create conditions conducive to the safe and dignified return of refugees.” 46 The concept of “promotion” now involves “planning

40 UNHCR 1983 at 231.
41 See UN Doc. A/AC.96/815 (1993).
42 According to the cessation clause, refugee status can be withdrawn when “situations have improved in the country of origin” and every other factor contributing to refugee’s status ceases to exist. An interesting notion as in most situations, the timing of the withdrawal of status is crucial as it is meant to act as a deterrent and refugees are encouraged to return with slight improvement in country of origin.
43 The cessation clause can be divided into two broad sets: the first set comprises of four clauses that relate to a change in personal circumstances of the refugee, brought about by the refugee’s own act, and which results in the acquisition of national protection so that international protection is no longer necessary. The second set comprises of clauses that relate to the change in the objective circumstances in connection with which the refugee has been recognized, so that international protection is no longer justified (the ceased circumstances’ cessation clause).
44 This was the case during the repatriation of Sri Lankan Tamil refugees in 1990-92 when the UNHCR was accused of working against the interest of refugees. Some local NGOs in Tamil Nadu (India) questioned the role of the UNHCR in ascertaining whether the refugees had voluntarily consented to go back. Most of the refugees were shown a video showing positive changes in Sri Lanka that encouraged refugees to consent; in reality, the returned refugees failed to notice any distinctive change in circumstances. As asserted by refugee groups residing in open relief camps in Pessalai, located north of Sri Lanka.
46 UNHCR Document, Protection Guidelines on Voluntary Repatriation (1993). (Emphasis original). Although there is no clear reference as to why the state has been given the responsibility and what the nature of the state is, it might be used in the context of liability and accountability for wrongful acts and
and organizing the voluntary repatriation of refugees under conditions which are conducive to their safe return and durable reintegration.”47 Since the mid-eighties, the UNHCR’s right to initiate the organisation of repatriation was accepted and endorsed by the Executive Committee (and the General Assembly).48

The 1951 Convention Relating to the Status of Refugees49 and the 1967 Protocol50 stipulate that refugee status ceases if refugees voluntarily re-establish themselves in their country of origin. Furthermore, the successful completion of a voluntary repatriation programme would indicate that the circumstances that caused the refugees to flee no longer exist. The UNHCR has adopted “a spectrum of institutional positions on repatriation which explicitly includes the facilitation of return ‘even where UNHCR does not consider that objectively it is safe for refugees to return’”51 I will now construct a framework to investigate why refugees in South Asia view repatriation as a solution and how successful their integration process has been in the post-peace, post-repatriation context.

What Explains Belonging of Refugees: A Case of South Asia

My paper problematizes refugee repatriation in the absence of political and formal recognition of refugees in the country of asylum and posits that as the primary cause of repatriation. I draw upon the state-formation literature to establish linkages between rights attributed to citizens and denial of rights to non-citizens as one of the effects of state-formation processes in postcolonial societies in India, Sri Lanka, and Bangladesh. I argue the state-formation processes in South Asian countries have shaped state policies of accommodation as well as the marginalization of certain minority groups. In Sri Lanka, the unitary-state was responsible in adopting policies that discriminated against the minority communities. The relatively new states defined the boundaries of belonging based on citizenship rights and entitlements. Over a period of time, the sense of alienation and deprivation has led to conflicts, creating conditions of refugee

---

47 UNHCR Handbook, Voluntary Repatriation: International Protection. (1996). Similarly in UNHCR Doc. 1993 these activities are discussed separately under the heading of “encouraging” voluntary repatriation: a heading that serves to underline that encouragement of the solutions only takes place after its promotions have yielded the desired conditions “conducive to return.” The Handbook retains a similar emphasis by distinguishing between the promotions of solutions on the one hand and the promotion of voluntary repatriation on the other.

48 In addition, the perception of the UNHCR speaking “on behalf of the international community as a whole, representing a universal, non-political, humanitarian concern for refugees” could be adduced (Statement of the High Commissioner to the Third Committee of the General Assembly (1992; text printed in; 4 International Journal of Refugee Law,4: 541). Recognition of this perception was formulated as a prerequisite for the UNHCR’s effectively extending international protection to refugees.

49 “As a result of events occurring before January 1, 1951, and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, outside the country of his nationality and is unable or, owing to such fear, is willing to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or; owing to such fear, is unwilling to return to it” (emphasis added).

50 The 1967 Protocol relating to the Status of Refugees removed the “temporal and geographical limitations” contained in the 1951 Convention. The Protocol was intended to broaden the basis of “refugee-hood” criteria.

flow into India. In India too, the state-centric view dominated the citizenship rights, which was based on nationality.

The ethnic affinity between refugee group and host population has an important role in determining the asylum state’s management of refugees, as more refugee groups seek asylum in a society that shares a similar language, culture, and kinship structures. But shared ethnicity is also instrumental in determining whether refugee groups will be repatriated. Good inter-state relations between the countries of origin and of asylum can lead to the improved treatment of refugees as the asylum state may choose to “repatriate” to signal good relations between the countries of origin and of asylum. In either event, the lack of defined status or recognition creates instability and insecurity among refugee groups, which further enables asylum states to treat them as bargaining chips in bilateral relations.

While postcolonial societies have similar experiences, they have dissimilar outcomes. This paper does not claim that all postcolonial societies share or have similar outcomes; however, it is certainly true that South Asian countries share a similar history, heritage, and past. The trajectories of state-formation in these countries reflected the distinctive legacies of postcolonial societies. The state represented a set of institutions, with extreme coercive power of domination and force, accompanied by a monopoly on the use of force, with an aim to protect territorial integrity. Tilly defines states as “coercion wielding organisations distinct from households and kinship groups and exercise clear priority in some respects over all other organisations within substantial territories.” However, some would argue that state-formation could evolve over a period of time and be transformed to accommodate different interests since policies may accommodate differences in alternate spheres. The state thus represents an institutionally complex body that provides a basis for the personal safety, rights, and entitlements of its citizens.

Most developing societies have adopted a model of state-formation with a strong central state that may reduce external and internal threats. State-formation was the means by which political entities acquired attributes of statehood, such as legitimacy, which impacted the process of state-building in decolonized societies. A strong state provides a strong institutional mechanism to diffuse or accommodate any divisive tendencies within predominantly pluralist societies. The centralized states in Bangladesh and Sri Lanka enforced policies of homogeneity over their diverse populace, which contributed to acute marginalization of minorities such as the policies of imposition of “Islamization” in Bangladesh and “Sinhala Only” in Sri Lanka. This marginalization paved the way to a discourse of majoritarianism in these nations. In Bangladesh, these policies prevented the minority or indigenous people (Jumma) from being accepted and acknowledged within the structure of their formal constitutions.

The new Bangladesh state defined boundaries of belonging based on citizenship rights and entitlements, which led to a direct confrontation between the Bangladeshi and Bengali identities.

In Sri Lanka, the educated Tamil minority were forced to accept the Sinhalese dominance over language and religious practices. In both instances, the state processes were responsible for reversing the histories of these two countries. Recently, scholars have argued that interests in the study of state are a reflection of “relationship of domination, politics and forms of state building”55. State-formation involves an understanding of power, the authority to build states and to attribute meaning to categories through a process of construction and deconstruction. Krohn-Hansen and Nustad56 emphasize how the study of state-formation has permitted a deeper understanding of cultural processes, and regimes of power. Corrigan and Sayer identify the state as “cultural forms” and state-formation as “cultural revolution,” arguing that new identities are formed through constant categorization and re-creation of “everyday state routines and rituals,” which in turn produce “individual and collective identities.”57 State-building has imposed rigorous homogenization projects, especially in Sri Lanka and Bangladesh, where attempts were made either to forcibly assimilate or to integrate people into the dominant group.

Previously, I have discussed the literature on citizenship and state-formation to assess why non-nationals remain outside the purview of a rights-based understanding of citizenship rights. Also, despite strides made in the globalized world, states have failed to acknowledge rights of non-nationals. I apply this understanding in the South Asia case to understand rights of non-inclusion of certain categories of people and determine how postcolonial state-formation shapes the rights of citizens. I contend that the refugees’ desire to seek a “home” in their homeland is a consequence of their lack of former status when they are in exile and the discrimination faced during that exile period. This is particularly relevant to two refugee groups: the Chakma and Tamils in India. In India, the normative basis of membership was determined either through descent or residence; in reality it prefers nationality-based citizenship.

The postcolonial states in South Asia (India, Bangladesh, and Sri Lanka) favoured a state-centric view on citizenship with little scope beyond the territorial boundaries of the state in terms of rights, status, and recognition. These postcolonial states failed to adequately accord status to certain categories of people during the process of state-building and nation-building, which led to the marginalization and alienation of ethnic minorities. Furthermore, the postcolonial policies of Bangladesh and Sri Lanka created conditions of refugee flow into India. From the perspective of the asylum state, the refugees were given low priority over citizens; hence the less significant need to determine their status. The citizenship rules in India thus demarcated the boundaries of belonging to exclude refugees and other aliens.

---


Since the state provides legitimacy to members based on legal standing, it denies the same to non-members. Moreover, territoriality is the basis for rights and entitlements of members of a state. The notion of such membership or citizenship is based on the presumption of political belonging and positions derived from the placement within the state. In this manner, citizenship is a political tool to carve out principles of inclusion and exclusion based on formally established normative ties between the state and its subjects that may be characterized as contractual or legal. Herbst discusses the relationship between citizenship laws and their “explicit tie to...unique territoriality defined politics.”

Citizenship can be seen as a contractual relation between the state and its inhabitant that also determines a particular trajectory of belonging. I question the legitimacy of citizenship rights that are accorded on the basis of nationality determined at birth or marriage within a territorially demarcated state. The legality of refugees’ belonging is based on their legal position within the asylum country. I argue that if refugees were to be accepted within a framework of partial recognition, the Indian state would find it difficult to repatriate, as exemplified by the Tibetans in India and some Afghan refugees in India. The political status of refugee communities in their countries of asylum has great significance for the determination of the future of such refugee communities. A very important connection should be drawn between “belonging” based on membership or citizenship and the role of the asylum state with respect to refugees.

This paper discusses a lack of framework drawn from the citizenship literature to address the issue of “alienage” or formal recognition to non-citizens. There are many other reasons why an asylum state chooses to deny status to non-citizens. States with contiguous borders have little choice but to keep an “open door” policy regarding refugees. Sharing ethnicity and a similar language with asylum states can provide an incentive in the refugees’ choice of a place of refuge. Refugees are naturally inclined to seek refuge in areas where they share a similar ethnicity with the host population; this can be a cause of concern to the asylum state and affect domestic politics. However, a prolonged period of stay of a large number of refugee groups with similar cultures and languages can be also a deterrent for the asylum state. Ethnic affinity is thus a double-edged sword, since it influences asylum seekers to go to countries of asylum that offer a shared language, culture, and kinship, but the asylum state may also feel threatened by the presence of a large number of refugees and fear the consequences for domestic policies. Another cause for concern can be the increasing burden on resources due to the presence of a large number of refugees that may expedite the process of repatriation. Asylum states can provide minimum assistance and protection to refugees, but they appear reluctant to institutionalize the role in terms of formal charters of rights. Therefore, from the vantage point of the country of asylum, repatriation represents the “end of refugee cycle.” I argue that while the refugees’ lack of formal status should have limited application in determining the probability of repatriation, it nonetheless constitutes one of the predominant factors in the refugee narrative. The seemingly “temporary” status of refugees warrants their lesser status in countries of asylum, which influences their decisions to repatriate.

Another reason refugees decide to repatriate is due to ties to “home” or homeland. Homeland is one of the factors that influenced refugee repatriation to their countries of origin. These refugees’ notions of home are also shaped by the asylum state’s policies. In this case, the Indian state isolates refugees in campsites to prevent them from...

intermingling with the local populace. The refugees are never given a genuine opportunity to forge emotional links with the socio-cultural landscape of their asylum country. This segregated spatial arrangement reinforces refugees’ imaginations of “home.” Refugees residing in camp are a de-territorialized people with deep associations with the physical location of campsite, which is an extension of the territory in the home country. Camp-refugees consider the campsite as sites of mobilization and opportunities to create a new identity based on location-of-stay (i.e., camped in enclosed areas with a bamboo structure and daily rations). The mobility and identity of refugees is drawn from “camp sites,” where the ultimate power lies with the state officials. Refugees residing in camps are engaged in an emotional construction and reconstruction of history as “a people,” which forms a part of the collective, influencing the return process. Refugees view themselves as a nation in exile often empowered to reclaim or create a new homeland upon return.

**Conclusion**

I have examined the literature on state-formation and citizenship to discuss notions of belonging held by states, the prioritization of rights-based approach on citizens, and the nexus between the state and those who can legally belong within the territory. I have argued that refugee accommodation poses a challenge to the idea of citizenship based on notions of nationality. I have analyzed the literature on citizenship to discuss the centrality of a rights-based approach and the manner in which it creates a hierarchy of belonging. I have also analyzed notions of “home” in refugees’ narratives to discuss motivations of refugee repatriation, especially in the absence of status in exile. In this context, I have discussed the nation-building projects of Sri Lanka and Bangladesh, especially how state-formation demarcated boundaries of belonging between communities on lines of majority and minority. The complexities involved in the process of migration, displacement and repatriation thus need to be viewed in a way that transcends limited notions of citizenship and incorporates the demands of a globalising world.

---

Select Bibliography


Nasreen Chowdhory: Assessing “Belonging” and Claims of “Home” among Refugees: A Note on Repatriation in South Asia


Nasreen Chowdhory: Assessing “Belonging” and Claims of “Home” among Refugees: A Note on Repatriation in South Asia


______, Rehabilitation and Reconstruction Needs for Displaced Persons in Somalia: With Special Reference to the Northern Regions and to the Juba Valley. Winnipeg: Disaster Research Unit, 1993.

______, From Relief to Development: Case Studies of UNDP in Bangladesh, Cambodia, Ethiopia, Mozambique and Somalia. Winnipeg: Disaster Research Institute, 1994a.


Burmese Refugee Women in India: Victims and Agents of Empowerment*

Sheena Kumari

Abstract

The experiences of Burmese refugee women in India have been largely understudied. While reports from Delhi regularly focus on the marginalization, discrimination, medical and housing issues, as well as gender-based violence that refugees face, less is known about the attempts at reconstruction and adaptation within the existing refugee networks. What needs to be studied is not just the predicament that women refugees find themselves in after fleeing Myanmar but also the encounter and engagement between Burmese refugee networks and communities with the Indian state, NGOs, Burmese pro-democracy groups and the UNHCR. Little is also known about the issues of transition and the construction of gender among refugee women, their negotiation with their personal experiences of trauma, memory and exile along with the cultural and socio-political issues of the refugee experience. This paper thus focuses on issues of resettlement, cultural adaptation, adjustments of belief systems and gender roles, sexual and racialized violence and their subsequent political and economic mobilisation.

Author Profile

Sheena Kumari recently graduated with an MA in History from the National University of Singapore and pursues independent research. Her research interests include interdisciplinary approaches towards the study of gender and women’s history, post-colonialism, intellectual and cultural history, theories of travel, literature, and narrative studies. She has several publications (forthcoming) based on her research on British women’s travel writing about Southeast Asia and is currently working on a project documenting the oral narratives of the Burmese refugee community and their collective memories and history.

*This article is the result of research conducted during the author’s Consortium of Non-Traditional Security Studies (NTS-Asia) Research Fellowship with WISCOMP in New Delhi. Segments of the article have been previously published by the Centre for Non-Traditional Security (NTS) Studies for NTS-Asia, S. Rajaratnam School of International Studies, entitled “Burmese Refugee Women and the Gendered Politics of Exile, Reconstruction and Human Rights”, 2011.
Introduction

The experiences of Burmese refugee women in India provide a uniquely interesting angle from which to explore the linkages between the active agency of refugee women in reconstructing their lives and negotiating the possibilities of belonging and the effects of discursive practices and institutional, structural processes that continue to perpetuate their ‘outsider’ status. This study challenges the stereotypical discourse that has surrounded academic and popular knowledge of Burmese refugee women by interrogating their positions as “symbols” of a larger socio-political struggle in the wider arena of transnational feminism, human and women’s rights and democracy. The study thus problematizes the very status of Burmese refugee women – conceptualising them as racialised, sexualised displaced “others” both within their “home country” and an “alien” host country which has been hostile to the influx of refugees into their capital city and the state of Mizoram. This paper aims to provide deeper insights into the gendered nature of refugee life – the manner in which identities, traditions, cultural and gender roles have been negotiated (and continue to be renegotiated) by the Burmese in the process of reconstruction, integration and re-creating a “place/space” for themselves as a refugee community.

The study situates the predicament of the Burmese women refugees in India within the larger global experience of women refugees. This involves an investigation of the manner in which Burmese women refugees have represented themselves and their cause and have been represented by various parties including: the UN, women NGOs, legal associations, political organisations, ethnic women’s organisations and the media. Their participation in the global dynamics of feminist politics and women’s rights movement suggests a willingness to go beyond the traditional cultural and gender roles, identities and expectations and instead work in a larger transnational context for socio-political change. This calls for tracing the trajectory of the struggle of (a segment of) Burmese women and their roles in women’s activism – whether for human rights or for political agendas. Their experiences – both distinct and universal have resulted in displacement and destabilisation – but has also afforded them newfound space in which to represent themselves and their community, to articulate their demands, exercise their rights and engage an international audience.

Although precise statistics are not available, the United Nations High Commissioner for Refugees (UNHCR) currently recognises the presence of 8,800 Burmese refugees in Delhi while local civil society groups, refugee organisations and international non-governmental organisations estimate the number to be between 10,000 – 11,500 and a further 70,000 undocumented refugees in the north-eastern state of Mizoram.1 This paper focuses primarily on the urban Burmese refugee population in Delhi which includes Burma’s many ethnic groups including Chins, Burmans, Kachins and Arakanese.2

---

1 As of December 2011, UNHCR recognises 8,800 refugees in India (limited to Delhi as UNHCR does not have access to Mizoram and the border areas). See 2011 UNHCR Country Operations Profile - India, http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e4876d6. Higher figures are reported by local and international organisations like Chin Refugee Committee Website, http://crcdelhi.wordpress.com and Chin Human Rights Organisation Website, http://www.chro.ca. There are an estimated 4,000 women and 3,000 children refugees in Delhi.

2 While the country was renamed Myanmar by the State Law and Order Restoration Council (SLORC), later renamed the State Peace and Development Council (SPDC), this article utilises the pre-SLORC moniker, Burma. “Burmese” is used to denote nationality, thus incorporating all ethnic nationalities, and “Burman” refers to the majority Burman ethnic group.

Available from http://www.wiscomp.org/peaceprints.htm
state, the poorest state in Burma, although they belong to different sub-tribes (Matu, Hakha, Falam, Zomi, Lushai, Mizo, Zo, Asho, Lai and Khumi). Women (and men) refugees have fled to India for many reasons including ethnic civil war, severe human rights abuses inflicted by a ruthless military regime, discrimination against and the isolation of ethnic minorities, the policy of Burmanisation, forced labour, religious and political persecution, silence on political dialogue, economic mismanagement, lack of educational and employment opportunities, and the daily struggle for survival in a climate of fear. Women in particular leave the country due to gender-based violence, including rape, harassment, forced marriages to military officials or border trafficking.

Living in New Delhi: Circumstances and Challenges

Women refugees arrive in India after being subjected to various forms of violence. While most are responsive to being interviewed, many are also hesitant, wary and cautious about revealing information due to the sensitive nature of their experiences in Chin State, the traumas of making perilous journeys over border areas or simply out of fear of confiding their thoughts. Commenting on the politics of fear in Burma, Monique Skidmore notes how fear is the most common emotion evoked by the regime to subdue the population engendering a reaction of being “pressed down, indicative of the experience of feeling trapped and pinned down.” Abuse of ethnic minorities which also includes beating, torture, imprisonment, and systematic rape and abuse of women is part of a larger strategy by the Burmese regime to terrorize them and curtail their freedom of religion and participation in political activities.

Women suffer the greatest burden of these systematic attacks as they are oppressed on the basis of their gender as well as their ethnicity. There is also a direct connection between rape and migration: some women flee Burma because they have been raped, others do so to escape being raped. Sexual violence by the army is widespread in Chin State; women experience rape as soldiers patrol villages, during forced labour, whilst farming and as retaliation when family members are suspected of anti-government activities. In most cases, victims have received no legal recourse as most were afraid to report abuses for fear of further abuse in military-controlled villages which makes these cases difficult to document. Like most conflict contexts, the issue of rape remains taboo amongst Burmese people, even though it has been alleged that SPDC has used rape systematically to subjugate the population. The SPDC has refuted the reports of rape against ethnic women and International NGOs and UN agencies continue to be denied access to at-risk populations in Burma.

Gender violence against women is but a symptom of a more deep-rooted phenomenon – the interplay of traditional and cultural values that not only support a patriarchal society but tacitly sanction a fundamental disregard for women’s rights. Sexual assault by the military is but a tactic of war, an assertion of masculine power to terrorise and reinforce the

vulnerability of the opponent, as ethnic women come to symbolise the honour and weakness of the ethnic minorities. These more overt forms of violence against women are reinforced by subtle forms of cultural and structural violence, discrimination and inequality. Women in Burma continue to be valued primarily for their traditional roles as wives and mothers. The Burmese saying “Respect son as Master and husband as God” continues to hold in Burma and women are “responsible for the general well-being of each member of the family. In the face of poverty, women are expected to make sacrifices for the family. “Good” women are rarely single; they are expected to marry and bear children.”

Women’s social roles, adherence to gender stereotypes and a lack of women’s rights within the family domain are further reinforced due to the crisis and poverty. Even with steady disintegration of family structures, traditional ideologies continue to hold sway. Women are expected to carry dual responsibilities as home-makers and to become primary earners when their husbands are imprisoned, killed or leave to join resistance movements. Poverty means that families prioritise sons over daughters to attend school. Confiscation of land, livestock and crops by the military has also made working on farms unsustainable for women. NGOs also note how the deteriorating situation in Burma in terms of women’s economic and personal rights, forced marriages, high maternal mortality rates and lack of health infrastructure in conflict areas continue to impinge upon their status in a patriarchal society. As a woman refugee explained during an interview, women had no conception of what women’s rights were until they came to Delhi and were exposed to these new ideas. A woman refugee’s narration of the situation reflects the interrelation between forced marriages, gender norms and patriarchy:

In my childhood, I used to hear that soldiers would be promised of promotion if they could marry a Chin Christian girl. As no Chin will marry a Burmese soldier willingly and since they can’t marry the girl and they want to be promoted, soldiers will rape these Chin women. And in Burma, we have a patriarchal society so once you get married, you will follow your husband’s religion and tradition. So the Chin woman would have to convert and be forced to marry. The social stigma of being dishonoured is there unless you get married. And if you are raped by a Burmese soldier, no Chin man will willingly marry you again. So women are forced into marriages by sexual violence and this is still going on. Patrolling soldiers are the ones who rape women and leave. If women show resentment, even in silent expression, her father and brothers will be beaten or all their cattle will be taken away.

In Delhi, their outsider status has continued on multiple fronts – by virtue of being ‘refugees’, an ethnic minority and their gender. Women refugees are aided by the UNHCR

6 ALTSEAN Burma, op.cit., 3. The report highlights how the government’s policy of encouraging soldiers to marry ethnic nationalities compromises on their rights. Given that the ethnicity of children is determined by that of the father’s, the government promises monetary rewards and promotions for marriages which contribute to the program of Burmanisation. Forced marriages result in women and their children being abandoned in their villages when the troops are rotated to other areas (15). WLB also notes how poverty and the state’s expenditure of less than five percent of GDP on health has resulted in poor health and nutrition levels and an alarming rise in abortions and maternal mortality ratio. An estimated 580 deaths occur per 100,000 live births and due to the lack of contraception, illegal abortions, around 2,000 per day are carried out in unsafe conditions. WLB, Breaking the Silence, 12.
7 Personal interview with Tialte (pseudonym), Member of Burmese Women Delhi (BWD), Delhi, September 6, 2011. Tialte arrived in Delhi in 2006 at the age of sixteen.
and its local Implementing Partners (IPs), Don Bosco Ashalayam (DBA), Young Men’s Christian Association (YMCA) and the Socio-Legal Information Centre (SLIC). These IPs facilitate refugees’ access to health, education (YMCA), employment and training (DBA) and legal services (SLIC). Due to the increasing number of refugees, UNHCR outsourced the registration of refugees to SLIC in August 2009. In India, refugees fall under the Foreigners Order of 1946 which grants the government the power to restrict movement, limit employment and the mandate to 
refoule (return) refugees, actions which are barred by the Refugee Convention. Considered ‘alien’ according to the Constitution of India and the Foreigners Act, refugees are nonetheless granted the right to religious freedom, non-discrimination, personal liberty, freedom of housing and are granted identity and travel cards. India has signed a number of international conventions which impose several obligations including the Universal Declaration of Human Rights, 1948 and the International Convention on the Elimination of all Forms of Racial Discrimination. However, India has neither ratified the 1951 Refugee Convention nor the 1961 Protocol despite housing one of the world’s largest refugee populations. Therefore, no formal arrangement exists between the government and UNHCR even though India is a member of the Executive Committee in Geneva and allows the UNHCR to conduct operations from the capital city. Due to the absence of a national refugee law which excludes them from the right to work and leads to discrimination in all areas of daily life including access to healthcare, legal services education and housing Burmese refugees continue to suffer on several counts.

Many Burmese refugees therefore hope for third-country resettlement, especially to the United States and Canada, but the chances of such resettlement remain slim. The hope for a better future for their children with improved educational and employment opportunities make resettlement to a third-country a desirable end. However, resettlement is granted in rare cases and priority is given to those who are especially vulnerable. UNHCR is unable to guarantee resettlement due to factors out of their control, for much depends on the responsiveness of host governments who may lack the capacity to absorb large numbers of refugees. Bureaucratic policies, possible domestic political costs, absorption capacity of the host community, national security considerations and the need to maintain good international relations are some of the factors which hamper resettlement.8 In recent years, the UNHCR has been stressing integration with the local community over resettlement as a more viable option for refugees in Delhi, so that refugees can become naturalised inhabitants who can engage with Indian society while maintaining their community identity and achieving self-sufficiency. Such an approach, it is believed, would give refugees an impetus to integrate, achieve financial independence and also dispel local prejudice. This is also based on the pragmatic understanding that a refugee’s arrival to a third-country host is not an end in itself for they will continue to encounter socio-cultural and economic barriers as they rebuild their lives in a foreign environment.

One of the strategies UNHCR adopted for facilitating this reintegration was the gradual phasing out of monthly Subsistence Allowance (SA) for refugees from 2002 and a new approach which encourages self-sufficiency through employment and “active integration” with local society. Since 2010, monthly SA’s to the refugees were terminated after three months to encourage them to find employment. However, the IPs continue to provide free vocational and skills training. Currently, only Extremely Vulnerable Individuals receive assistance, however it is interesting to note that while the policy was in operation, female applicants for the SA were entitled to the full amount only if they were single. Once married

---

and considered a dependent on her husband, women received only Rs. 600 month instead of the full Rs. 1,400. Not only was this policy based on gender stereotypes, reinforcing “the sexist idea that men should be the dominant figure in a marriage and a family, and forces the woman into a state of utter dependency on her husband,” this was also in contravention of the principles laid down by the UN. Although the self-sufficiency of refugees through employment is a key goal – there are many obstacles which hamper their efforts. Employers hesitate to hire illegal workers and women are pushed into the informal labour market where they work in low skill and low-paying jobs at factories, restaurants and as cleaners and domestic helpers. Others are self-employed, stitching traditional clothes and bags or undertaking small scale catering services. Some have found employment under the Koshish Enterprise at the Don Bosco production centre in Vikaspuri where they are trained in weaving and sewing. However, women refugees mention various problems at the workplace including language barriers, exploitative working conditions, inequality in payment and assault.

While in theory, access and assistance to healthcare, education and legal services are available, there remain many hurdles. Lack of language skills, long waiting times, intimidating bureaucratic structures and perceived discriminatory treatment at government hospitals lead many refugees to opt for the free volunteer refugee clinic such as Yamuna Clinic and the Women’s Rights and Welfare Association of Burma (WRWAB) clinic in West Delhi. Even though trained midwives and nurses run these clinics, well qualified medical practitioners are lacking and so are supplies of medicine, a basic community health surveillance system, family planning, birth control and information on STDs. The result is high prevalence of malnutrition, common illnesses, respiratory problems and treatable gynaecological diseases that are caused by poor diet, overcrowded accommodation and unhygienic living conditions. Women also suffer significant psychological trauma and depression from experiences of abuse, forced exile, breakdown of family and social support systems and difficulty in adjustment and household maintenance in an insecure environment. Dr. Tint Swe, who founded Yamuna Clinic in 2002 notes, More than 63 % of my patients are women. Most of them are with child, so most of the cases are pre-natal issues and pregnancy cases. Both men and women, young and old, have anaemia, vitamin deficiencies because they come from underdeveloped areas. Communicable diseases are very common and flu, Hepatitis A, dengue and malaria are

9 South Asia Human Rights Documentation Centre, Human Rights Feature: Burmese Refugees in New Delhi: Denied Refugee Status, Subsistence Allowance, http://www.hrdc.net/sahrdc/hrfeatures/HRF37.htm. The report notes that “not all refugees receive the same amount of SA. The head of a household (most often male) currently receives Rs. 1,400 per month; an additional Rs. 600 is given for each of the next three dependants, regardless of age. An additional Rs. 450 is given for each of the next three dependants, and Rs. 250 is given for each additional person in the family. Although a female primary applicant is given the same amount of SA as a man, if she later marries she is then considered as his dependent, and receives only Rs. 600 a month. A man, however, not only retains his full SA after he marries, but he receives additional money for his “dependent” wife.” The Refugee Women and International Protection Act (NO.39 [XXXVI]-1985) recommends “that States, individually, jointly and in co-operation with UNHCR, redefine and reorient existing programmes and, where necessary, establish new programmes to meet the specific problems of refugee women, in particular to ensure the safeguard of their physical integrity and safety, and their equality of treatment.” UNHCR, Basic Legal Documents on Refugees Fourth Edition (Delhi: The UN Refugee Agency, 2002).

10 A survey notes that those with no knowledge of Hindi and English earn about Rs. 1, 400 monthly while refugees fluent in English can earn up to Rs. 2,200. The Other Media, Battling to Survive, 53.

11 Both clinics operate three times a week, providing free treatment and medicine. WRWAB (established in 1996) receives its medical supply from YMCA and is supported by Women for Civil Society, made up of a coalition of Burmese women’s groups. YMCA works to reimburse the costs of medicine, runs a shuttle service to facilitate access to hospitals, provides interpretation services and offers counselling for women and minors.
very common amongst Burmese refugees because of living conditions which are substandard level, so they are prone to infections. The most common diseases apart from that are gastro-intestinal diseases, diarrhoea and dysentery and chest infections of different types are very common, from cold to pneumonia to tuberculosis. The incidence of morbidity is increasing...Extremely insufficient healthcare services are provided by UNHCR. Refugees are forced to visit government hospitals and dispensaries...

Professionally speaking, I noticed that the quality of medical care from government hospitals is questionable.\textsuperscript{12}

Language barriers and cultural differences prevent assimilation and women are particularly concerned with their children’s education. Government schools are available for refugees, however, cases of bullying and Hindi medium instruction result in many opting to send their children to schools catering for the Burmese community such as Prospect Burma. YMCA also runs Hindi and English language classes along with Mathematics and computer training. Women are forced to live in overcrowded accommodation in highly unsanitary conditions. Unable to pay full rent and to offer support to newly arrived refugees, majority live in shared accommodation which often means up to six people living in a single room in urban villages located at Bodella, Jeewan Park, Vikaspuri, Janakpuri and Tilak Nagar (located in West Delhi). Additionally, women refugees face gender-based violence in Delhi including domestic violence, sexual harassment and rape. Ms. Akhu, in charge of the India branch of the Women’s League of Burma (WLB) and the “Women Against Violence” programme notes that,

women continue to suffer domestic violence as men think that they can beat women anytime if they don’t obey – the same thinking in Chin state and similar to that of our grandparents and fathers. We have started a safe house for women where we provide food, security and counselling. Once a victim is in a safe house, we give counselling to their husbands about women’s rights and we explain the Indian law. Most cases are due to arguments between partners, overcrowded accommodation, shortage of money, unemployment and alcoholism. Some women are HIV positive and we also give them counselling.\textsuperscript{13}

Women refugees echoed similar sentiments and shared that:

Room rent is very expensive. On top of that the local landlords do not like Burmese people because we have a different culture and different food. For example, when we cook pork, there is a little smell. But we want to eat our traditional food, but they do not allow us to. It may be very trivial, but it can be a problem...we have to stay in big groups and sometimes the landlord evicts us. They treat us like animals, whenever their mood is not good, they shout at us. At work, local [people’s] salary is more than ours because we are refugees, but we are doing the same thing. I earn Rs. 6,700, which finishes after paying for room rent and food and to take care of my younger sixteen year old brother. It is difficult to maintain our culture since we have different looks and dress. If we wear our cultural dress, there will be some awkwardness with local people, so we have to adapt sometimes. For me, I used to wear kurta sometimes, the Indian cultural dress. It makes us more comfortable.\textsuperscript{14}

\textsuperscript{12} Personal interview with Dr. Tint Swe, Founder of Yamuna Clinic, Delhi, September 15, 2011.
\textsuperscript{13} Personal interview with Ms. Akhu, Women’s League of Burma, Delhi, September 20, 2011.
\textsuperscript{14} Personal interview with Mang Dol Tial, Community Animator at DBA, Delhi, October 1, 2011. Currently working at DBA where she acts as an interpreter of information, she arrived in New Delhi from Chin State at

Available from \url{http://www.wiscomp.org/peaceprints.htm}
Mang Doi Tial, Community Animator, DBA

When my children play outside, local children throw stones and pebbles at them. Once, one of my sons was seriously injured and a Chin elderly brought him home. It’s worse than Burma here, I do not feel safe.15

Maw Maw, Member, Zotung Women Development Network (ZWDN)

I came to Delhi in 2006. I got admission into university with the help of Chin Student Union and Mizo Student Union and I also got a scholarship from UNHCR. It’s really nice out here, you get exposed to ideas and you can be open about your views. But on the other hand, it is really difficult as a refugee to study in an Indian university where you have to hide your identity all the time because as a refugee you have no rights to study in university. I tell people I’m a Mizo from India and I have also picked up some of the language. They might look at me with different eyes, with pity, which I don’t want. A lot of refugees have problems at university such as identity crisis, financial issues, and language barriers.16

Tialte (pseudonym), University Student and member of BWD

Majority of them are villagers from Chin state – uneducated, illiterate, no skills, so to adjust to daily life in a city is so difficult. Plus they do not have money, they cannot speak the language so they cannot communicate well with the local people. So every day, they face problems – they are beaten up, sexually abused at workplaces, at the night markets, raped by neighbours. They also have no access to the Indian legal system. Drinking and domestic violence are also major issues, the stresses of life are taken out on women. The UNHCR also issues refugee certificates on a family basis which makes divorce cases very messy. Women’s organisations have to work with SLIC to resolve these cases. There are also many young girl refugees who are unaccompanied by family members. They also face many problems when they share accommodation and a lack of privacy is also not good.17

Thin Thing Aung, Presidium Board Member, Women’s League of Burma and Mizzima News

At nearly every interview with refugee women, one heard stories of unpleasant experiences on the streets, harassment during visits to night markets and cases of sexual assault which are indifferently treated by the police due to the inability to identify the perpetrator. Burmese women refugees seem to be targeted as easy victims because of their perceived vulnerability, helplessness and inability to converse in local languages. Their distinct socio-cultural backgrounds and looks are also identified as reasons for why they are targeted. In a recent newspaper report, Cing Deih Lam Siang from Bodella states that “it is very demeaning. Just because we dress differently and look different, people stare at us and sexually harass us.”18 These cases, while not reported by mainstream media are often

15 Personal interview with Maw Maw, member of ZWDN, Delhi, September 13, 2011. Maw Maw arrived in Delhi in 2010 after her husband was taken away by government soldiers and she has four children. She is also the leader of the Women’s Wing in WZDN.
16 Personal interview with Tialte (pseudonym), member of BWD, Delhi, September 6, 2011.
17 Personal interview with Thin Thin Aung, Presidium Board Member, Women’s League of Burma and Mizzima News, Delhi, September 20, 2011. She arrived in 1990 as a political refugee.
highlighted in online reports. More disturbing is the perceived nonchalance on the part of authorities and the IPs to look into their cases and the sense of passivity which accompanies women refugees’ fear of sexual assault. This is evident in the case of Mang Doi Tial who states,

*We go to the night market after 10pm. They tell us not to venture out at night, but this can’t be helped, as we have financial problems. But on the way there we face harassment by the locals. Even in the daytime, sometimes they follow us on bikes and molest us. I have faced this problem four or five times. I requested help from SLIC and UNHCR’s Women Protection Centre but there is no response. Maybe it is because we can’t identify the culprit. But it is a common problem so maybe that is why it is neglected.*

Apart from the frustration at the gender insensitive attitude displayed by authorities and agencies, refugee women also reveal a keen sense of being a “racial, cultural other” when they speak of their experiences. From Tialte’s fear of being discovered as a refugee by fellow students, to Maw Maw’s anguish at the discrimination her children face and Mang Doi Tial’s awareness of local hostility towards Burmese food, living arrangements and cultural dress which sets them apart, women display feelings of alienation and disempowerment.

While facilities are in place to help refugees, financial instability, unfair wages at work and social barriers continue to plague their efforts. The primary struggle for most refugees in resettlement countries, as Egon Kunz notes, is the lack of cultural compatibility between the host society and the refugee community which determines the extent and success of integration.21 There is a need for concrete solutions and effective programs that do not reinforce social inequality and unfair power dynamics.

Although encouraged to send their children to public schools, refugees prefer sending them to informal refugee schools where they are not pressured to learn Hindi and face less hostility, suggesting that specialised schools are needed to cater to refugee children who are often older than their classmates and may suffer psychological stress in a new environment. Similarly, while the UNHCR and its IPs work towards the goal of early self-sufficiency for refugees, which both legitimises the organisation’s authority and justifies its policies, it needs to avoid romanticising refugees’ agency by acknowledging that they face significant hurdles while living at the margins in Delhi. Although many women refugees are employed, they are underpaid and have no savings, which thus begs the question whether financial independence and employment are realistic measures of self-sufficiency. Legislation which treats refugees as foreigners despite residing in the country for many years hampers efforts at integration and supports the politics of exclusion. It affects the ability of refugees to access justice when faced with discrimination and unfair treatment.

Refugee households are ‘survivalist’ households where earnings are spent immediately on basic necessities thus resulting in little or no savings, leaving women with no financial

---


20 Personal interview with Mang Doi Tial, Community Animator, DBA, Delhi, October 1, 2011.

independence. Due to the disruption of the agrarian lifestyle and family structure, women are forced to go into non-traditional fields of work (cleaning, factory work). Often they are forced to bring their young babies to work due to the lack of childcare facilities or relatives to look after them and cannot afford to take childcare leave for fear of antagonising their employers. Women continue to shoulder the burden of domestic duties and child-rearing. As Thin Thin Aung notes, women in abusive households are unable to resort to divorce or separation due to UNHCR rules on resettlement and issuing refugee certificates. Cases of domestic violence have increased in recent years and women are at a distinct disadvantage as they remain linked to and dependent on their husbands for purposes of verification and resettlement chances. Women refugees continue to lack access to birth control and also do not practice it due to religious reasons (abortion is not encouraged amongst the community), thus resulting in unwanted pregnancies. While they may find employment in Delhi, women refugees continue to be disadvantaged by religious beliefs and traditional gender norms.

Burmese refugee women, however, are not helpless, demoralised victims of suffering and although vulnerable in their host country, are simultaneously engaged in processes of change and liberation in a new environment. Despite the struggles they face, women refugees acknowledge the freedom of expression they enjoy, the ability to freely practise their faith and freedom of movement. Many women report that they find great solace in Christianity, their family and their cultural traditions which remain primary markers of self-identity. While Western discourse on refugee and migrant gender relations often presupposes that ethnic women continue to be oppressed and have limited rights in their host environment, for Burmese women refugees, freedom consists of the ability to actively and openly practise their religion and customs. They continue to define themselves through their family relations, traditions, religion and take great pride in their ethnic identity and loyalty to Chin State. Christmas (Krismas), the New Year (Kumthar) and Easter (Tho) remain important social festivities for the community and Chin National Day (February 20) and Chin Sports Festival are celebrated annually in Delhi. Religion is a main source of motivation for women refugees and many are active participants in Christian fellowships. The refugee community patronises different Christian fellowships by ethnic sub-tribes, including the Delhi Burmese Christian Fellowship, Chin Believers Church, and Zotung Christian Fellowship (See Table 1).

In the face of religious and ethnic persecution in Burma and the constant fear that the Chin culture would be “lost” in subsequent generations due to the process of refugee migration and resettlement to different countries thus causing an eventual erosion of ethnic and community ties, perhaps it is not surprising that refugees continue to hold firm their cultural roots, dialects and community-based networks. Integration with the local community is therefore made difficult due to an acute self-awareness of being culturally different. Women interviewed seemed resigned to the need for personal sacrifice but their primary concern remained that of self-sustenance. Their current situation, highly revealing of how national tragedies come to be reflected at the family and personal levels, is also a result of an independent act and the decision to leave – a symbolic assertion of their human rights and

---

the importance the community places on human dignity, freedom and equal treatment as nationals of Burma.

<table>
<thead>
<tr>
<th>Name of Church</th>
<th>Ethnic Affiliation</th>
<th>Name of Church</th>
<th>Ethnic Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burmese Roman Catholic Fellowship</td>
<td>All ethnicities</td>
<td>Lai Christian Church</td>
<td>Hakha and Thanthlang</td>
</tr>
<tr>
<td>United Church</td>
<td>Pentecostal Church</td>
<td>Chin-Pentecostal Church</td>
<td>Chin Believers Church</td>
</tr>
<tr>
<td>Delhi Burmese Christian Fellowship</td>
<td>Falam</td>
<td>Delhi Chin Baptist Church</td>
<td>Hakha</td>
</tr>
<tr>
<td>Gospel Baptist Church</td>
<td>Falam</td>
<td>Chin Christian Fellowship</td>
<td>Zotung, Zophei, Mara, Loutu, Senthang</td>
</tr>
<tr>
<td>Zotung Fellowship</td>
<td>Christian Church</td>
<td>Zotung</td>
<td>Kachin Christian Church</td>
</tr>
<tr>
<td>Zophei Fellowship</td>
<td>Christian Church</td>
<td>Zophei</td>
<td>Burma Mizo Christian Fellowship</td>
</tr>
<tr>
<td>Mara Fellowship</td>
<td>Mara</td>
<td>Seventh Day Adventist</td>
<td>Zomi, Matu, Mizo, Falam</td>
</tr>
<tr>
<td>Khumi Fellowship</td>
<td>Christian Church</td>
<td>Khumi</td>
<td>Matu</td>
</tr>
<tr>
<td>Delhi Matu Christian Fellowship</td>
<td>Matu</td>
<td>Bethel Assembly of God</td>
<td>Zomi</td>
</tr>
<tr>
<td>Zangiat Fellowship</td>
<td>Christian Church</td>
<td>Falam</td>
<td>Zomi</td>
</tr>
<tr>
<td>Zomi Baptist Convention of Myanmar Church</td>
<td>Zomi</td>
<td>The Truth Mission Evangelical Fellowship</td>
<td>Lushai</td>
</tr>
</tbody>
</table>

Table 1: Churches and Fellowships established by the various ethnic groups/tribes of the Burmese refugee community in Delhi

Burmese Women Refugees as Activists

Besides challenging the conventional constructions of victimhood in the refugee experience, the case of Burmese refugee women also reveals the need to reconceptualise their identities as multiple and fluid as they regenerate themselves as socio-political and historical actors. As Frances Tomlinson notes, “the label ‘refugee woman’ is inherently multiple, indicating not only gender and placement in a category replete with political overtones, but also a position as ‘not from here’, and thus able to be placed in some minority, ethnic or cultural group.” The complexities of the female refugee experience, however, involving both loss and regeneration, disruption and re-integration, has resulted in providing opportunities for activism, independence, building social interconnectedness in a new location and inculcating a sense of ethnic consciousness and belonging. “Regeneration’ can be traced in the resilient ways people work through the effects of trauma by generating counter forces which potentially motivates their agency.”

this is illustrated via their bonding over shared past experiences, social identification as an ethnic community and the desire to help the community and raise awareness about its socio-political issues by forming community organisations. The organisations comprise large women’s organisations with transnational links, mainstream women’s community organisations and small informal ethnic refugee organisations. While those who run these organisations hold official posts and work full-time, others work on a voluntary basis or contribute as regular members.

The Women’s League of Burma (WLB) and the Women’s League of Chinland (WLC) are two examples of large women’s political organisations with transnational links. They maintain links with refugees and human rights group along the Thailand, India, China and Bangladesh borders and have several regional offices. While WLB focuses on providing peacebuilding training workshops and networking at international conferences, their primary objectives include the political empowerment of women in Burma, promoting democracy and eradicating gender-based violence. The WLC focuses specially on Chin women, advocating women’s and political rights, lobbying and conducting health awareness workshops and educational programs for children and women along the border areas and within Chin State. The organization’s blend of ethnic focus along with the rhetoric of globalization and transnationalism provides interesting insights into the continued engagement and ties between migrants, activists and those in Chin State. As Inge Brees notes, the workshops and training programs conducted at border areas and within refugee communities abroad have “the potential to influence social hierarchies and fixed mindsets in the home community, thus transnational activities on a household level can have political consequences. For example, gender awareness raising activities in Thai refugee camps can lead to a transfer of these ideas to family members at home and, as such, to growing concern about female participation in political matters in Burma.”

Within the refugee community in Delhi, organizations such as Burmese Women Union (BWU), Burmese Women Delhi (BWD) and Women Rights and Welfare Association Burma (WRWAB) play a more active role. These organisations are community-based networks which provide advocacy support, intervention in cases of gender-based violence, interpretation services, conduct research and discussion sessions, and liaise with Indian civil society groups to conduct workshops and training in the fields of women’s rights, refugee rights, human rights and raising awareness of health, legal and employment concerns. BWD, for instance, is supported by Hope Adelaide, an international NGO which funds their monthly workshops and programs (conducted in ethnic dialects) which conduct programs on female-empowerment emphasizing the value of women’s work, legal rights, reproductive health and birth control. Besides giving women an opportunity to rebuild their lives via active engagement, these organizations are a key source of support for incoming refugees as they are culturally sensitive and recognise the barriers that refugees face. Women refugees have also further organized themselves into smaller informal refugee organizations catering to every sub-tribe/ethnicity in the community so as to act as a bridge between mainstream organizations and these groups and also to serve the communities better. These include the Chin Women Union, Burma Mizo Women Organisation, Kachin

25 Women’s League of Burma, http://womenofburma.org/. Based in Chiang Mai, Thailand, the WLB collectively compromises of thirteen different ethnic-based women’s organisations.
Women Organisation and Rakhaing Women Union amongst many others (See Table 2). They provide assistance with counseling, housing, translation of official documents and fund-raising for needy refugee families. Collectively, these smaller organizations are vital in ensuring refugees do not feel isolated, by providing social assistance, defending collective interests and promoting socio-cultural bonding. On their work within the refugee community, two women describe the nature of their participation and service thus:

We provide training on family planning, vaccinations and hygiene. We have workshops once a month and we tell people about family planning and how it will help their future. We make them understand that it is difficult to have a large family with a very small income of Rs. 2,000 – Rs. 3,000. I joined because I have experience and I can speak some Hindi and English. I am sympathetic to their cause and so I help.29

When I first came, BWD helped me and so now I want to help Burmese refugee women. Once a month we have meetings and workshops at different refugee settlements in Delhi. Each month we have different themes, this month we teach healthcare, the next we teach human rights and so on. I also used to work at Refugee Healthcare three times a week because in our Burmese community there are many patients. The UNHCR wants to help us I think, but there are so many of us... I didn’t want to die in Myanmar so I fled here, but here there are also many problems. In Burma, we don’t know about women’s rights and human rights. But now I can help other people, so it’s a little bit better.30

For many of the women activists interviewed, living in Delhi has allowed them to take on new roles and responsibilities. While some employed label of ‘volunteering’ which stressed their motivation in helping their community, for others, the appeal of working in refugee organisations lay in the flexibility allowed, and an escape from the informal employment sector where they become subjects of multiple discriminations in occupations that deskill and declass migrants. Community-based ethnic women’s organisations are in many ways gendered spaces and act as support systems which provide a sense of the familiar in terms of ethnicity and language as women rebuild their lives. Being able to communicate in their ethnic dialect removes a structural barrier to women’s participation in empowerment projects within the refugee community (a hurdle many civil society groups and agencies still face in their interaction with refugees). Working alongside women of their own community enables an empathetic understanding of the practical concerns and constraints on their participation while also providing women an important base to develop as community leaders and gain valuable organisational skills. Apart from raising gender consciousness in the struggle against women’s inequality, they actively perform a range of services vital to the community, such as assisting with disputes and initiating new refugees into the city, within the more personal and private space that informal refugee community organisations allow for. More crucially, volunteers see their active participation as a way of giving back to their community, a moral and practical duty to ensure the well-being of their people. In the face of organisational indifference and limited aid from agencies, they play a critical role in refugees’ lives and in rebuilding a sense of community for them in Delhi.

28 They also work in co-operation with other organisations including CHRO, Chin Student Union, Chin Refugee Committee and the Kachin Refugee Committee. For a full list of community based organisations and women’s organisations see Table 2.
29 Personal interview with Mary, member of Women for Women Healthcare (sponsored by Austrian Burma Center), Delhi, October 1, 2011. In 2010, she was in charge of women’s issues at CRC. She has also served as co-ordinator for the Central Chin Women’s Organisation (1996-7).
30 Personal interview with Cherry, member of BWD, Delhi, October 1, 2011.
Beyond the practical duties and support they extend on a daily basis, Burmese women refugee organisations are concurrently active in political activities such as report releases and the occasional demonstration, such as on World Refugee Day. They are politically aware and continue to follow the progress of democracy in Burma. On her participation in demonstrations, Mang Doi Tial notes that, “the power of the group is important. But at least we participate and demand something during demonstrations. I hope to see a good situation and good government in Burma, without corruption and discrimination.”

They are also simultaneously involved in efforts to raise awareness of their community’s predicament in collaboration with NGOs to resolve hostile local attitudes by positioning themselves as people who are yearning for better lives and genuine democracy. This is a community which remains deeply invested in events back home. In many ways, theirs is a femininity which encompasses an active agency and subjectivity which empowers them to speak up, serve and fight for justice on behalf of their community. With their transnational ties and links to border camps, NGOs, international refugee agencies, resettled kin in third countries, these refugee women are beginning to make an impact on the larger mainstream struggle for democracy and human’s rights in Burma, a domain once dominated by the figure of Aung San Suu Kyi and the resistance groups.

There are, however, constraints to the impact and influence of these smaller organisations, especially in circumstances when resources and funding are inadequate and when traditional gender stereotypes hold women back. While women refugees in Delhi are more vocal and articulate in sharing concerns, uneducated women refugees tend to be less active in engaging with socio-political affairs and see themselves as subordinate to men. Majority of the women interviewed claimed that they face no opposition from their family members when participating in workshops organised by women’s groups, but they do not attend political demonstrations and events because of insufficient knowledge about politics. Says Tialte, “Women in my community do not want to speak, do not want to interact and give their own views, so I am not so optimistic.”

Women refugees are still regarded as purveyors of tradition and community identity and this is especially clear at social events and community gatherings where they take the lead in cooking traditional food, participating in cultural performances and selling ethnic wear and goods. These refugee women challenge the construction of women refugees as victims of conflict and forced migration, for their experiences have also opened up new avenues for them to develop agency. Prominent political activist Thin Thin Aung who came to Delhi to continue the struggle for democracy in 1990 also notes the difficulty Burmese women face when participating in politics, “my family was against what I was doing, they do not support my activism.” She acknowledges that it is easier to be a political activist without the responsibility of having children and family. Political repression, along with traditional gender norms made it difficult for women to be politically active in Burma, but Delhi has provided a safe haven for female political activists, although those with family obligations are necessarily restricted. Many volunteers and members of these women’s organizations have been subjected to sexual violence and faced financial difficulty, yet by stepping forward, they have reshaped their experiences as mere victims. Their service in education, health, income-generation projects, fund-raising and raising political awareness constitutes important humanitarian work which supplements the work of IPs. Their tireless promotion

31 Personal interview with Mang Dol Tial, Community Animator at DBA, Delhi, October 1, 2011.
32 Personal interview with Tialte (pseudonym), Member of BWD, Delhi, September 6, 2011.
33 Personal interview with Thin Thin Aung, Presidium Board Member, Women’s League of Burma and Mizzima News, Delhi, September 20, 2011.

Available from http://www.wiscomp.org/peaceprints.htm
of women’s and human rights has larger significant implications for the future of gender relations within the community as they provide gender sensitive training and perspectives. Their protestations against trivialisation of rape and sexual assault by authorities and protection agencies ensures that gender-based violence against women refugees continues to remain in the public eye.

<table>
<thead>
<tr>
<th>Women’s Organisations</th>
<th>Location in New Delhi</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Burmese Women Delhi</td>
<td>Bodella</td>
</tr>
<tr>
<td>2 Women Rights and Welfare Association Burma (WRWAB)</td>
<td>Bodella</td>
</tr>
<tr>
<td>3 Kuki Women Human Rights Organisation</td>
<td>Bodella</td>
</tr>
<tr>
<td>4 Central Chin Women Organisation</td>
<td>Sitapuri</td>
</tr>
<tr>
<td>5 Hakha Women Union</td>
<td>Jeevan Park</td>
</tr>
<tr>
<td>6 Zotung Women Development Network</td>
<td>New Delhi</td>
</tr>
<tr>
<td>7 Khumi Women Advancement Organisation</td>
<td>Chanakya Place</td>
</tr>
<tr>
<td>8 All Burma Democratic Lushei Women Organisation</td>
<td>Bodella</td>
</tr>
<tr>
<td>9 Burma Mizo Women Organisation</td>
<td>Asalatpur</td>
</tr>
<tr>
<td>10 Chin Women Union</td>
<td>New Delhi</td>
</tr>
<tr>
<td>11 Mara Women Organisation</td>
<td>Janakpuri C-1</td>
</tr>
<tr>
<td>12 Matu Women Union</td>
<td>Sitapuri</td>
</tr>
<tr>
<td>13 Zomi Women Union</td>
<td>Bodella</td>
</tr>
<tr>
<td>14 Kachin Women Organisation</td>
<td>New Delhi</td>
</tr>
<tr>
<td>15 Falam Chin Women Development Society</td>
<td>Bodella</td>
</tr>
<tr>
<td>16 Rakhaing Women Union</td>
<td>New Delhi</td>
</tr>
<tr>
<td>17 Burmese Women Union</td>
<td>New Delhi</td>
</tr>
<tr>
<td>18 Women’s League of Burma (WLB)</td>
<td>Bodella</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Refugee Community-based Organisations</th>
<th>Location in New Delhi</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Chin Refugee Committee (CRC)</td>
<td>Chanakya Place</td>
</tr>
<tr>
<td>2 Kachin Refugee Committee (KRC)</td>
<td>Ashalatpur</td>
</tr>
<tr>
<td>3 Chin Human Rights Organisation (CHRO)</td>
<td>Ashalatpur</td>
</tr>
<tr>
<td>4 Chin Student Union</td>
<td>New Delhi</td>
</tr>
<tr>
<td>5 All Kachin Student &amp; Youth Union</td>
<td>Ashalatpur</td>
</tr>
<tr>
<td>6 Kuki Student Democratic Front</td>
<td>Bodella</td>
</tr>
<tr>
<td>7 Zomi Community Commitee (Tiddim tribe)</td>
<td>Bodella</td>
</tr>
<tr>
<td>8 Matu Youth Organisation</td>
<td>Sitapuri</td>
</tr>
<tr>
<td>9 Burma Lushei Organisation (Lushei tribe)</td>
<td>Vikaspuri</td>
</tr>
<tr>
<td>10 Naga Youth Organisation (Naga tribe)</td>
<td>Bodella</td>
</tr>
<tr>
<td>11 Burma Mizo Community (Haulngoi &amp; other Mizo tribes)</td>
<td>Asalatpur</td>
</tr>
</tbody>
</table>

Table 2: List of Burmese Women’s Organisations and Community-based organisations in New Delhi

Available from [http://www.wiscomp.org/peaceprints.htm](http://www.wiscomp.org/peaceprints.htm)
Select Bibliography


Abstract

In our globalizing world, trafficking of human beings, especially women and children, has increased in both magnitude and in reach, becoming a major human rights concern. An estimated 2.5 million people are in forced labor (including sexual exploitation) as a result of trafficking, out of which 1.4 million (56%) are in Asia and Pacific region. This paper seeks to assess the current situation of women trafficking in the Indian Subcontinent in general, and in the eastern part of the Subcontinent, in particular. It seeks to answer the following questions: How is trafficking related to forced migration? Are trafficked women prone to become stateless without proofs of identity? Is it possible to frame a regional regime to combat trafficking of women in South Asia?
“This is a story of a 19-year old Nepali girl Rukmini Tamang1”, said Purnimadi, an experienced worker of the anti-trafficking cell of Durbar Mahila Samanway Committee, a non-governmental organisation based in Kolkata.

It was May 2008. Rukmini was rescued from a house at Sonagachhi, one of the oldest red light areas of Kolkata and was brought to the short-stay home run by the autonomous board set up by our Durbar Committee in 1996 for empowerment of sex-workers as well as prevention of trafficking and entry of minors and unwilling adults in the brothels of the state. The home mother Anwara called us immediately after Rukmini’s entry to our home. Anwara informed us about the problems with the girl. She wanted anyone from our side; either me or Kamala should come and speak to her at our earliest. Generally, whenever a girl is rescued from a brothel, she is produced before the members of the autonomous board. Our preliminary work is to find out whether the rescued girl is a minor or an adult. If she is a minor, she is sent either to her own home or to a short-stay centre associated with us. In this case, since the girl was a foreigner, we thought, we should arrange to send her to her own country.

When we first met Rukmini she was adamant about not going back to her country, neither was she willing to go to any ‘home’. She wanted to work here at Sonagachi. We were surprised and asked her whether she knew what work one had to do here. Rukmini nodded her head and said that she knew ‘everybody here earned a living by raising their dresses’. She was so prompt in her reply that we didn’t really want to expand our conversation in this matter. We asked her about her age and came to know that she was only nineteen years old. We advised her not to take up this profession as her country (Nepal) doesn’t allow any entry into this profession before a person is 21. Therefore, she would be taken into custody if she does. She became furious and said ‘who will feed my family if I go back? Do you know the education of my brother and sisters depends on my income? How can they go to school if I go back home? Would you help them continue their studies?’

Gradually we started realising the complex nature of this case. Rukmini was an adult under the Indian law but a minor under Nepali law. She didn’t have any identity card with her. As we failed to convince her we decided to contact Maiti Nepal, our associates in that country to help us. This organisation in Nepal helps in the repatriation of trafficked women. We hoped if they came and talked to her in their own language, the situation could be changed. Representatives from Maiti Nepal came but failed to convince her to return to Nepal. As we did not have any other option we handed the girl over to the anti-trafficking department of the Kolkata Police. In the course of our work on prevention of trafficking, we have seen that generally it takes three or four years to repatriate a foreign woman and the whole process is very complicated. In this case Rukmini got shelter in a government ‘home’ due to legal complications. Since then she has been confined within the walls of that ‘home’. You know, sometimes I think of Rukmini’s family. She said that she had her

1 All names in the paper have been changed to protect the identity of the trafficked women.
parents and three younger brothers and sisters in Rolpa district of Nepal. How are they now?

After narrating Rukmini’s story, Purnimadi stopped and silence engulfed the office of Durbar located at Nilmani Mitra Street.²

Rukmini is not the only one. There are many trafficked women and children from Nepal and Bangladesh surviving in government run ‘homes’ and/or NGO sponsored short-stay ‘homes’ in West Bengal facing almost identical fate. However, Rukmini’s story reveals that situations of endemic poverty lead to an increase in trafficking of women and children. In fact, experts have argued that poverty and globalization are important factors for human trafficking in South Asia. According to Upala Devi Banerjee, the accelerated pace of globalization associated with trade liberalization in the last decade has had far reaching effects worldwide, and nowhere have the effects been more pronounced than in South Asia. IMF and World Bank imposed loan conditionalities coupled with structural adjustment programs have rapidly disintegrated rural communities in South Asia and the impacts have been felt most severely by women and children³.

Several studies have already made it clear that trafficking is essentially a gender and age specific phenomenon in South Asia. It affects women and children particularly. There are undoubtedly instances of trafficking of men within the region as well. However, the movement of men and the profits to agents facilitating the transportation of men occurs primarily as smuggling or illegal/undocumented migration. Trafficking of boys and men in South Asia in no way approximates the dimensions that trafficking in women and girls has acquired in the region⁴. It is also interesting to note that although both women and men are smuggled or illegally transported for economic gain, men are more likely to have consented to this migration whereas women and children are trafficked.

In our conversation, Purnimadi opined that the ‘raid, rescue and repatriate’ approach to removing girls and women from brothels and sending them ‘home’ often simply disrupts their lives and adds to their suffering. There are disturbing reports of human rights violations in many shelters. Several cases of women returning to the same brothels or taking up prostitution elsewhere have also been reported. In most cases women are unaware that they need to keep identity cards with them. In the absence of any proof of identity, trafficked women become even more vulnerable in an alien land.

² Purnimadi was interviewed on 2 February 2012 at Durbar’s office located at Nilmani Mitra Street, Kolkata. This case study has also been published by Durbar in its periodical Namaskar.
⁴ Jyoti Sanghera, Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead – A Broad Assessment of Anti-Trafficking Initiatives in Nepal, Bangladesh and India. (UNICEF, ROSA and Save the Children Alliance, South and Central Asia, 1999), 7.
Despite the magnitude of the problem and the severe impact, very few cases related to cross border trafficking ever reach South Asian law courts and in no case have trafficked victims received any compensation. The number of prosecutions against traffickers is very low compared to the estimated amount of illegal activity. It has been noted that in India the crimes reported in 2005 under the Immoral Trafficking Prevention Act were 5,908 showing an increase of 2.8 per cent over the crimes reported in 2004\(^5\). According to a survey conducted by the UNIFEM, among more than 4,000 survivors of commercial sexual exploitation, trafficking occurred in only about 40 per cent of the cases\(^6\). The routes, methods and activities of traffickers are increasingly more organized and there is a greater penetration of organized crime syndicates into the trade and trafficking of women and children within and from outside the region\(^7\).

Against this backdrop, this paper seeks to assess the current situation of women trafficking in the Indian Subcontinent in general and in the eastern part of the Subcontinent, in particular. How is trafficking related to forced migration? Are trafficked women prone to become stateless without proofs of identity? Is it possible to frame a regional regime to combat trafficking of women in South Asia? These are some questions that are discussed in this paper.

**Setting the Scene**

The United Nations Protocol on Trafficking in Persons, which was adopted in November 2000 and came into force in December 2003, defines trafficking as:

> “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

According to the protocol, ‘consent’ is considered irrelevant in the case of children. If any of the means stated above are used, consent becomes irrelevant in the case of adults too. This definition clearly indicates three elements are relevant to determine legality of the movement of persons namely, a) an action with intention, b) the means and c) the purposes. Thus, whether a person is trafficked or not is indicated by whether he or she

---


\(^7\) Jyoti Sanghera, *op.cit.*.

has been subjected to the means mentioned above. ‘Vulnerability’ refers to that section of a population, in a socio-economic context of severe deprivation, which is at risk because of its inability to cope with the pressure of life and living. It is understood to “refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.” Since its inception this definition of the aforesaid exploitative situations has been taken as the relevant definition worldwide. However, in South Asia the definition of trafficking has only stressed on ‘commercial sexual exploitation’. A discussion on the South Asian definition is included in the later part of this paper.

In this context, the Global Alliance Against Traffic in Women (GAATW) report entitled *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World* is especially relevant. The report underlines that trafficking in persons does not include only criminological issues but it is rather a multi-dimensional phenomenon including issues such as social, economical and criminological ones linked with issues like gender, health, migration, development and economic. These are more pronounced in the informal sector.

GAATW also mentions that there are laws and policies that have negative consequences for the people they seek to protect. These laws are grouped by types of impact they have. They include: 1) those providing assistance for trafficked persons conditional on cooperation with law enforcement officials, 2) the anti-trafficking measures affecting migrants and labor workers, and 3) the misuse of the concept of ‘trafficking’ to further the political agendas of governments, which refers also to the impact of prevention campaigns, conducted since 2001 in countries throughout the world by the United States with a view to counter terrorism. To fight trafficking of women, GAATW suggests that the governments should link gender, migration and labor laws to combat trafficking.

From GAATW’s interventions, it seems that the UN Protocol responds to trafficking by criminalizing traffickers rather than by ensuring rights of trafficked persons as migrants. Also, the Protocol has failed to treat women as full citizens whose rights need to be recognized.

In our globalizing world, trafficking of human beings, especially women and children, has increased in both magnitude and in reach, becoming a major human rights concern. An estimated 2.5 million people are in forced labor (including sexual exploitation) as a

---


result of trafficking, out of which 1.4 million (56%) are in Asia and Pacific region\textsuperscript{12}. Human trafficking affects vulnerable individuals, particularly women and children, in every region of the world and South Asia is no exception to it. South Asia is estimated to be home to the second largest number of internationally trafficked persons, around 150,000 annually.\textsuperscript{13} The pattern of trafficking in the region has led scholars and officials into designating some countries as sending countries or sites of origin, while others are being treated as receiving countries or sites of destination. However, the situation on the ground is complex.

India, for instance, is not only a site of destination within the region, but a transit country as well. It works as an intermediary space from where women and children are trafficked to sites within the region as well as to other parts of the world. Bangladesh and Nepal, on the other hand, may be characterized as sending countries or countries of origin, whereas Pakistan is both a country of destination as well as transit. It has been observed over the recent years that trafficking of South Asian women and children occurs not only within and across countries of the region but to other regions and continents as well.\textsuperscript{14} Due to the underground and clandestine nature of this trade it is difficult to procure reliable statistics on the number of women and children affected by trafficking, but recent reports published by government as well as non-governmental organizations and the newspapers indicate that the magnitude of trafficking within and from the region is expanding. It is also true that dearth of data prevails because of the complexities in regulations, which vary from country to country.\textsuperscript{15} At present, there is no law governing the repatriation of trafficked victims from India to Bangladesh and Nepal.\textsuperscript{16} Only NGOs working in the field are able to provide data on this aspect as they have sought to assist trafficked girls in reaching their homes by liaising with partner organizations across countries.

It is estimated that every year between 5,000 to 10,000 Nepalese women and girls are trafficked to India for the purposes of commercial sexual exploitation and work in brothels in various cities in India. However, 90% of India’s sex trafficking is internal with victims of trafficking mostly being used for forced labor. Trafficking from neighboring countries accounts for the remaining 10%. Of this 10% about 2.17% is from Bangladesh and 2.6% from Nepal\textsuperscript{17}. Movement from Pakistan and Sri Lanka has also been observed.

\textsuperscript{13} The highest numbers are estimated to come from South-East Asia, estimated to be 225,000. See State of World Population 2006: A Passage to Hope; Women and International Migration. (UNFPA, 2006), 45.
\textsuperscript{14} Jyoti Sanghera, op.cit..
\textsuperscript{17} See Trafficking in Persons: Global Patterns, United Nations Office on Drugs and Crime, Vienna, 2006.
During times of hardship, what starts out as illegal migration often ends up as trafficking.

A study conducted by the UNDP shows that the average age of trafficked girls from Nepal to India fell from 14-16 years in the 1980s to 10-14 years in 1994. Citing the data collected by Sanlaap, a leading Kolkata based NGO working for the rescue and rehabilitation of trafficked girls in West Bengal, the Asian Development Bank report indicates that about 10,000 women have been found in Kolkata brothels, of which 70 per cent are from Bangladesh\textsuperscript{18}. The experts working on trafficking have identified many purposes namely, forced marriage, domestic work, agricultural labor, construction work, carpet industry, garment industry as well as other sites of work in the formal and informal economy, forced begging and organ harvesting. However, trafficking for commercial sexual exploitation is the most potent form in South Asia.\textsuperscript{19} A study of the International Labor Organization estimates that whereas 43% of all victims are trafficked for sexual exploitation, another 32% are victims of economic exploitation, the rest being undetermined.\textsuperscript{20}

Once these women are trafficked from one country to other, they lose most of their rights and become virtually stateless people. Even migrant women workers from Nepal and Bangladesh end up being trafficked. The NNAGT report (2002) reveals that there are cases where the journey starts as a migrant worker but ends up in brothel primarily because there are no authorized or safe channels for women migrant workers where their employment and payment for their work are guaranteed. In most cases the migration occurs without any legal or authorized documents. Unskilled female workers, between the ages of 9 and 25 years are the most vulnerable group and are often trafficked.\textsuperscript{21}

**Migration and Trafficking**

There is an increase in the trafficking of women and children alongside an increase in illegal and undocumented migration within the region.\textsuperscript{22} This dramatic growth in migration and trafficking flows has resulted from a combination of push, pull and facilitating factors. Illiteracy, poverty, class clashes, natural calamities, political and ethnic unrest have all constantly increased vulnerabilities of marginalized groups, and made them susceptible to gross violations of human rights. At the same time, economic growth, relative prosperity and peace in industrialized and newly industrializing countries act as ‘pull’ factors. Growing economies create increased demand for imported

\textsuperscript{18} Combating Trafficking of Women and Children in South Asia: Country Paper Bangladesh, op.cit., 21.
\textsuperscript{22} Jyoti Sanghera, op.cit., 3-4.
labor. Young women are in particular demand because they are regarded as more compliant and less likely to rebel against substandard working conditions. In this context, it is to be noted that much of the earlier migration flows in Asia involved unskilled men looking for any type of work. However, studies indicate, a steady feminization of migration since the 1990s as women seize the economic opportunities that migration offers. This phenomenon has also affected the trafficking situation.

Radhika Coomaraswamy’s report provides important indicators for the possible intersections between trafficking and migration. To describe the trends of trafficking in this part of the region Coomaraswamy says, “…traffickers fish in the stream of migration. They prey on the most vulnerable section of the migrants to supply to the most exploitative, hazardous and inhuman forms of work. Traffickers can also create migration situation by capitalizing on the lack of choice for the poor especially women and children. This very powerlessness of the migrants creates a condition in which they can easily be duped, coerced and exploited furthering their susceptibility to continuance of exploitation”. A high demand for the services of women and children have been created in the flexible labor markets where women and children are paid much lower wages than men as they are considered “cheap” labor force and have little or no capacity to negotiate. “Women and children are in greater demand within the trade of human labor as the market is segmented on the basis of gender and age. Moreover, they are easier to control, intimidate and exploit than other groups and offer a far greater range of services at a very small cost. The gender discrimination they suffer and exclusion from the economic and political arenas makes them socially vulnerable subjects and is the key ingredient in their oppression.”

Human trafficking per se involves forced or coerced movements. Sometimes people are kidnapped outright and taken forcibly to another location. In other cases, traffickers use deception to entice victims to move with false promises of well-paying jobs. After providing transportation to get victims to their destinations, they subsequently charge exorbitant fees for those services, creating debt bondage. What begins as voluntary movement ends in some form of coercion.

Crossing the borders between India-Bangladesh and India-Nepal is a daily routine for many. It is interesting to note that India shares a 4,096 km border with Bangladesh, a large part of which is flat terrain and has only 20 official checkpoints manned by the Border Security Force (BSF) along this border. Being few and widely dispersed, often they are ineffective in maintaining strict vigil and illegal entries by traffickers are very common. A number of illicit migration businesses have developed to facilitate this cross-

23 Ibid.
25 Ibid.
border movement which may charge up to Rs. 50 per person for each trip. A well-organized bribe system also assists the informal system that has developed. Further, a multiple passports system ‘facilitates easy entry of Bangladeshi girls into Kolkata brothels and a close nexus exists between traffickers and border village communities’. In Kushtia area of Bangladesh, some villages are used as stations for the traffickers. Rajshahi borders of Bidirpur and Premtali are used because there are fewer check points. The border adjacent to Jessore is very popular with traffickers. Some hotels are used to keep the girls brought from different parts of Bangladesh. Usually the traffickers do not accompany the women while crossing the border. Therefore, it is difficult for the border police to arrest them. There are female members in the trafficking gang and this helps to hide their identity. Once the women enter India, they are kept in West Bengal and Orissa. After being ‘sorted and graded’, they may be sent to Delhi, Mumbai or even to the Middle East.

Similarly, India has a 1,740 mile long open border with Nepal with 14 legal entry points along the entire stretch. Under the 1950 Treaty between India and Nepal there is no immigration control for Nepalese traveling or migrating to India, which makes it easier for the traffickers to cross undetected. The ADB study on Nepal lists the districts through which this movement takes place and identifies the entry and exit points as well as the major border regions used by traffickers between Nepal and India.

Internal conflicts in Nepal and Bangladesh have been a boon for traffickers. While adverse human security conditions in this part of South Asia have contributed to the process of forced migration and thereby created opportunities for trafficking, traffickers have also used the ongoing conflict to their advantage. Since border controls and normal policing are reduced at the time of turmoil, it becomes easier for the traffickers to move victims across borders.

Moreover, female members who are traditionally used to living within the private space, face a changed social context due to the conflict. The conflict places them on the streets, in the midst of the public space. When the patriarchs themselves are at risk, they have less power to escape, defend themselves and their female folk or obtain the protection and assistance necessary to survive. The weakening or breakdown of community and family protection mechanisms make displaced women and girls especially vulnerable, leaving them subject to physical and sexual attacks, rape, and domestic violence. All these conditions increase vulnerability to trafficking. Experts argue that in many cases


29 Ibid.

when conflict leads to refugeehood and internal displacement, women and girls are taken as hostages and later trafficked into slavery, forced prostitution, abduction, forced military recruitment or sold into marriage. Sometimes refugee women and girls may be forced to provide sexual services to men in exchange for safe passage for themselves or their families or to obtain needed documents or other assistance.

On the other hand, it has been noted that internal trafficking within a state shares many overlaps with internal displacement. The United Nations Guiding Principles on Internal Displacement describe IDPs as “persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence…and who have not crossed an internationally recognized international boundary.” The Handbook for applying the Guiding Principles on Internal Displacement makes it clear that the distinctive feature of internal displacement is coerced or involuntary movement that takes place within national borders. The reasons for flight may vary and include armed conflict, situations of generalized violence, violations of human rights, and natural or human-made disasters. Whatever be the reason for displacement insecurity prevails.

Sometimes, internally displaced women and girls are forced to take refuge in the make-shift camps for their survival and security inside the camps leaves women and girls at risk of attack by men. In camps where protection is weak, prostitution, alcohol abuse, trafficking in drugs and other illegal activities have been considered as normal incidences. Women’s inability to obtain basic services or protection takes a tremendous toll on their physical and mental health.

In Search of Protection

The GAATW report reveals that migrant women, who might also be trafficked, combine multiple identities. They are victimized during trafficking, but as migrants they continue to be agents, devising resistive strategies, individually or collectively, as subaltern subjects. In this process of resistance, nationality, religion, class, caste and race are factors that provide cohesion, shaping their consciousness and identity.

Migration of people from conflict zones and crisis situations in turn interacts with structures of gender equality at every level - national and global, in families and communities. In the process of migration or forced displacement of these women, often their identity documents are lost, forfeited or destroyed. This issue gets accentuated in the context of trafficking. There are widespread reports of documents being stolen or destroyed either on arrival in a third country or prior to transfer. Once undocumented, problems can arise in relation to the establishment of both identity and nationality. This, in turn, may make it impossible for individuals to prove their status when they try to re-

32 Ibid.
enter their country – of their own accord or where the host country attempts to return them, or obtain assistance while in the host State. Thereby they may become *de facto* stateless\(^{33}\) in due course.

Statelessness can have a severe impact on the lives of the individuals concerned. This is in part due to the role that nationality, as membership, plays in the formation of people’s identities and the connection that they feel to the place where they live and the people around them. The possible consequences of this identity crisis are profound and touch on all aspects of life. These people may be easy prey for exploitation as cheap labour. In such situations sexual abuse and trafficking go hand in hand. Given these complex connections between trafficking and statelessness, trafficking of women and children must be seen as both a cause and a consequence of statelessness.\(^{34}\)

In most cases the trafficked women and girls do not have documents that prove their legal status and this becomes a primary reason for their vulnerability and statelessness. Without papers they are unable to access justice or demand rights. These women do not have any unions to protect their interests and neither do they have linkages with their embassies. Also most of these women come from very poor families, so even their family networks are unable to protect them. In fact, often their families are responsible for selling them. Thus at a time when they need it most, these women are unable to turn to either the state or the community or the family. The moment they cross borders they become stateless and liable for prosecution, if they are caught. They are unable to protest because they are undocumented migrants. In all countries of South Asia stateless people are dealt with much severity notwithstanding the fact that they have been trafficked. In countries such as India stateless people are marked as “illegal migrants” and are often equated with terrorists.

\(^{33}\)Within the realm of public international law, rules have evolved in response to the problem of statelessness such as 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness. According to the International Law Commission, the definition of stateless persons contained in Article 1 (1) of the 1954 Convention relating to the Status of Stateless Persons now forms part of customary international law. The Article defines “stateless persons” as those who are not recognized as nationals by any state under the operation of its law. They therefore have no nationality or citizenship and are unprotected by national legislation and left in the arc of vulnerability. The International Law Commission has observed that the definition of a stateless person contained in Article 1(1) is now part of customary international law. 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness exclusively deal with the issue of statelessness. These two legal instruments explain statelessness mainly in two ways *de jure* and *de facto*. A stateless person as defined by the 1954 Convention is generally equated with the term *de jure* statelessness. Besides, the Convention also refers to the category of *de facto* stateless persons - who remain outside the country of their nationality and hence are unable, or, for valid reasons, unwilling to avail themselves of the protection of that country. For a detailed discussion see Carol A. Batchelor, “Statelessness and the Problem of Resolving Nationality Status”, *International Journal of Refugee Law*, Vol. 10 no. 1, 1998.

Anasua Basu Ray Chaudhury: Trafficking of Women and the Crisis of Identity

In addition to legal issues arising out of statelessness and lack of identification papers, repatriation process itself poses several problems. In most cases the repatriation process is long and complicated and often obstructed by difficulties with cross-border cooperation in such matters. In this context, one can cite Jubeida’s story, which shows how the process of repatriation can be further complicated where brothel owners and others have been involved in the exploitation of girls over an extended period.

Jubeida is a 16 year old girl. She lived in Rongpur, Bangladesh with her mother and four younger siblings until a relative promised to find job in Dhaka. The relative ultimately trafficked her to West Bengal and sold her to a brothel. After two years of living in the brothel, she was rescued and taken to a short-stay home, where she delivered a baby boy. When she was rescued, Jubeida had given her name as Ratna – the new name given to her in the brothel. Out of fear of her exploitation she had also given the police false family information, which caused delays in the repatriation process. When Jubeida later shared her real name with counsellors, the relevant organisation located her family and the order was issued for her repatriation. Yet, because her son was born in India, he could not be repatriated along with her.\textsuperscript{35}

While Jubeida’s story tells us about some of the legal complications that may obstruct the process of repatriation of trafficked women, these are further problematized due to statelessness. Trafficked women and girls without their identity papers become almost nowhere people in an unknown land.

Cloud of Suspicion

Until recently, in the Eastern part of South Asia, the issue of cross-border trafficking was not a priority at all. While countries like Nepal and Bangladesh, the two main sending countries in the region, were interested to deal with the growing incidents of women and child trafficking regionally, the receiving countries like India and Pakistan did not want to acknowledge the cross-border dimension as being a major contributor to the problem. This polarization made it extremely difficult to address the issue of cross-border trafficking in an effective manner as countries played the "blame game" without wanting to take responsibility to combat the problem. As a result, no consensus existed on accepting the issue as a cross-border problem with regional dimensions.

However, in the last decade there have been changes in the attitude of most of the South Asian governments. One of the key shifts has been the growing consensus among countries in the region to view trafficking as a cross-border issue with clear regional dimensions, which has to be addressed jointly. In the year 2000, the then UN Special Rapporteur on Trafficking, Radhika Coomaraswamy visited all South Asian states to assess the problem and evaluate the response of state and non-state partners to combat the problem. The Report she submitted to the UN Secretary General was an important

catalyst in bringing about the desirable shift. The signing of the SAARC Convention on Trafficking in 2002 is the strongest indicator of the changed approach.

Article 1 of the Convention defines trafficking as:

“...the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consents of the person subjected to trafficking…”

The purpose of this Convention is to promote cooperation amongst member states so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevention of the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination.

Though the SAARC Convention is seen as a milestone on the path to coordinated interventions against trafficking at the regional level, the Convention has its limitations. It defines trafficking within the limited scope of prostitution. Critics have argued that as the definition of trafficking provided in the Convention does not address trafficking from a general perspective, but only focuses on prostitution, the text of the Convention needs to be reviewed in order to broaden its scope. When there is no recognition of the fact that not all women in prostitution are held in force and that some enter it voluntarily, then the autonomy of women and their agency to make choices, however limited these may be, is denied. It has been said that when adult women are denied agency then they are ‘infantilized’ and in this situation they are treated as minors and children. While it is more or less universally agreed, that children may not enter commercial sex work since it is extremely hazardous for them as such work violates their rights, conflation of women with children is a different matter. Treating women as children deprives them of their adult status, and their right to mobility, sexual autonomy, agency and work. Besides, it also fails to address the differential needs and rights of children. Moreover, the Convention is a regional instrument but it holds back from laying out specific processes for regional or bilateral collaboration to combat trafficking. On the other hand, there is apprehension that the Convention may become an instrument to restrict or control the voluntary movement of women from one country to another, and thereby reinforce patriarchal mindsets that it was expected to break.


However, it is true that most of the countries of the South Asian region which are affected by the problem have made a commitment at a national level to combat trafficking of women and children. Thus, India, Nepal, Bangladesh, Pakistan and Sri Lanka have each formulated some policy or plan of action to address this problem. Of these, Nepal, Bangladesh and India are perhaps the most proactive in attempting to combat the problem. To varying extents, most countries of the region have ratified the relevant international Conventions such as the UN Convention on the Rights of the Child (1989), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), the ILO Conventions No. 29 on Forced Labour (1930) and No. 138 on Elimination of Child Labour (1973). In addition, the Fourth UN Conference on Women in Beijing (1995), the World Congress Against Commercial Sexual Exploitation in Stockholm (1996), and the two International Conferences on Child Labour in Amsterdam and Oslo (1997) have provided avenues and impetus to the South Asian states to promote the human rights of the children and women.

Countries in South Asia, especially India, Bangladesh and Nepal have tried to bring about specific legislation addressing the issue in a broader perspective and not limiting it to prostitution as was the case so far. The Government of India has redrafted the Immoral Trafficking Prevention Act (1956), so that it moves away from victimizing the victim and addresses more effectively the issue of punishing the traffickers.38 The Government of Nepal had as early as 1986 enacted a special law to deal with human trafficking. In recent years, due to extensive lobbying and advocacy by NGOs and women's activist groups, the inadequacies in this law are being examined and a new Human Trafficking Control Bill has been proposed. The Government of Bangladesh has also shown interest in defining strategies to arrest the rising incidence of trafficking in women and children. Bangladesh has set up an inter-ministerial task force to address the issue of trafficking. However, in most of the cases implementation is very weak. Due to limited advocacy for cross border cooperation and collaboration among the states at the multilateral and bilateral levels, expected results have not been achieved. As a result, trafficking of women and children from Nepal and Bangladesh continues unabated.

It is important to underscore the fact that every major anti-trafficking initiative in the region has been led by civil society. NGOs have carried the main burden in reaching out to trafficked persons, providing health and legal assistance, raising public awareness, steering the national legislative initiatives and providing training and technical assistance to law enforcement and border control authorities.39

It would not be incorrect to say that an atmosphere of suspicion lies over South Asia. Suspicion has driven South Asian states to progressively tighten the strings on those migrants who may claim membership, thus creating growing pockets of statelessness at their cultural and geographical margins.\(^{40}\) It has also been argued that if migration and the consequential presence of ‘illegal’ immigrants is an issue related to resources such as land and money then it is an issue related equally to nationalized politics, citizenship, and search for a self-sufficing identity”.\(^{41}\) In South Asia, colonial legacy, partition of the subcontinent and post-colonial state formation have together made trafficking a more complex phenomenon. As a result we see that the notion of nationalism, in a way, has become reflexive in South Asia, such that the nationalism of one South Asian country is articulated only vis-à-vis that of another South Asian country.\(^{42}\) Therefore, “India will be nationalist vis-à-vis Bangladesh and never Great Britain, Pakistan vis-à-vis India or Bangladesh but never USA.” To a South Asian country, articulating nationalism and defining nationalism has to be done in terms of distancing itself from other neighboring countries. Under the situation, without mutual understanding among the states of South Asia on human trafficking and migration and acknowledgment of the cross-border dynamic of the problem, stories like those of Rukmini and Jubeida will continue to persist.


\(^{41}\) Ranabir Samaddar, “The Insecure World of the Nation” in Migration and Circles of Insecurity, Ranabir Samaddar and Paula Banerjee. (New Delhi: Rupa & Co, 2010), 5.

\(^{42}\) See Anasua Basu Ray Chaudhury, SAARC at Crossroads: The Fate of Regional Cooperation in South Asia. (New Delhi: Sanskriti, 2006).
Select Bibliography


Christmas in Polokwane

Kamini Karlekar

Abstract

In March 2009 the author was deployed to work as a Protection Officer with the United Nations High Commissioner for Refugees (UNHCR) in Musina, South Africa, eight kilometres from the border with Zimbabwe. As a Protection Officer, she focused on the needs of the hundreds of Zimbabweans crossing the border into Musina to escape the political, economic and social crisis in their country. This article comes from the pages of her journal and documents the turbulence in her mind and in the lives of those she was expected to protect.

Author Profile

Kamini Karlekar consults on refugee and migration issues. Over the last ten years she has worked with the United Nations High Commissioner for Refugees (UNHCR) in India, the United Kingdom, Sudan, Liberia, Israel, South Africa, Egypt and Switzerland. In 2008 she published her first book, (Un)settled - Notes from a shifting life - a work of non-fiction based on her experiences in Sudan and Liberia. She has degrees in History, Development Studies and Refugees Studies from the Universities of Delhi, London and Oxford, and is currently working on her second book.
In March 2009 I was deployed to work as a Protection Officer with the United Nations High Commissioner for Refugees (UNHCR) in Musina, South Africa, eight kilometres from the border with Zimbabwe. For the next year, I focused on the needs of the hundreds of Zimbabweans crossing the border into Musina every day to escape the political, economic and social crisis in their country. Once in South Africa they registered as asylum seekers and were considered for refugee status. While the government handled all the asylum issues, international and local organisations provided assistance and protection.

In my work with newly-arrived Zimbabweans, I responded to, among other issues, sexual and gender based violence; human smuggling; cross border harassment and violence; shortages of food and shelter; challenges accessing documentation; and xenophobic attacks. While I dealt with many difficult and traumatic incidents in Musina, one particular xenophobic attack that occurred in December 2009 in Polokwane, left me very disturbed. Although it did not compare with the xenophobic violence of May 2008 when 1,00,000 people were displaced and over sixty people killed in South Africa, or attacks that took place in the Western Cape at the same time in 2009, it was the first large-scale attack I dealt with.

A young man with his face cut in half stood facing me. Blood dripped off his body. His head was full of oozing wounds. He was speaking to me but I couldn’t hear any words. Behind him were other young men, their faces all cut in half. They started walking towards me, their arms outstretched. I woke up screaming. Was it a scene from a movie? Was it just a bad dream? Was it a premonition? I called my fiancé at work. When I had finished recounting my nightmare, he said one word: ‘Polokwane’.

My phone rang at 6 a.m. The line was crackly but the voice at the other end was deadly calm. ‘Kamini, how quickly can you get ready?’

Quickly enough, why?
‘There were xenophobic attacks in Polokwane the night before’, my colleague said, ‘106 Zimbabweans have been moved from the township they lived in to a stadium. We need to get there now’.

A bit hard given Polokwane was over two hours away, but I got his drift. As I got into the office car half an hour later, I started calling other agencies. One of my responsibilities in Musina was to coordinate inter-agency emergency response. In Musina, this meant that between us, UNHCR, Medicin San Frontier (MSF), International Organization for Migration (IOM), UNICEF and a small number of local faith based organisations, we had to cover everything from food, shelter, medical assistance, psycho-social care, transport and documentation. I wondered what it would mean in Polokwane, and how we would manage the distance.

An increase in crime and rape in the township had supposedly led to animosity between the local South Africans and Zimbabweans. Things got out of hand after a young South African man was murdered. A community meeting was held and it was decided the Zimbabweans were responsible and had to be driven out, or killed. The local men, drunk and aggressive, then went through the township in their pick-up trucks, brandishing golf clubs and broken
beer bottles, pulled out every Zimbabwean they could find and beat them till they were bloody and broken.

In December 2009 in Musina, I was used to being called out to deal with refugee emergencies almost everyday. A man was attacked and raped at the border, could I please find safe shelter for him. There was mayhem at the detention centre where a refugee was refusing to hand over a child that the police were certain wasn’t his. A young unaccompanied child was trading sexual favours for joy rides down the highway to Pretoria and back. And in July, twenty two Zimbabwean men were chased out of a village they had lived in for a year, their homes looted and burnt. As it turned out, a few of them were construction workers who hadn’t been paid wages for six to eight months. There too, crime was touted as the reason, while the locals secretly rejoiced at how effectively they had dealt with their debt. This was life in the field, life at the border, and I was used to it. Or so I thought.

Polokwane was the most important urban center north of Johannesburg, and the capital of Limpopo province. Once in Polokwane, we found a confused, dazed group of people sitting around at the stadium. In a press statement, the police spokesperson said, ‘When we arrived at Westernburg1, we found a lot of foreign nationals injured, bleeding and in pain. Most had serious hack and stab wounds. Many others had been stoned. It was clear that they had been beaten, stoned and left for dead by angry locals. Some of the victims who were found hiding in the bushes and in different parts of Westernburg were in a serious condition’2. Twenty South Africans were arrested, seven young Zimbabwean men reportedly found lying in a pool of blood3 with serious head wounds were taken to the hospital and the remaining Zimbabweans were moved to the stadium for their safety.

It was clear that the incident was being taken seriously. Political statements were issued, the local community was addressed by local politicians, police officials and representatives of the local government, and the displaced quickly relocated to a safe location where their basic needs for food and shelter were met. Polokwane had hosted the fifty-second African National Congress Conference of 2007 when Jacob Zuma was chosen party leader and was due to host a few games during the FIFA soccer World Cup in 2010. It was in fact an old wing of the Peter Mokaba Stadium, where the World Cup games were to be held, that the police relocated the foreign nationals. Everybody was scrambling to preserve the image of the city. An increase in unemployment and petty theft was the stated reason for the clash. Nobody wanted to hear the word xenophobia.

Along one wall, in the shade, lay a young man. His face was bloated. His eyes, little slits, were bruised and swollen. A big, heavy bandage was wrapped around his head and his shoulder was covered in gashes. He leaned against a sack, his breathing slow and laborious, a bottle of Fanta at his feet. The wounds on his face were oozing blood and pus. As we arranged for an ambulance for him, seven other young men emerged from inside the building, all with serious head wounds. They had been released after the most cursory examination and were given some Paracetamol for pain. They had recognized the UN car. They sat down around me and started to speak. They were angry, and terrified. I tried my best to focus on what they were saying and not look directly at their cuts and wounds,

---

1 The township where the violence occurred.
2 http://greatindaba.com/issue/december-vol-15/article/polokwane-turns-on-zimbabweans
3 http://www.observer.co.za/stories/xenophobia-either-police-remove-them-or-

Available from http://www.wiscomp.org/peaceprints.htm
almost impossible given their faces were criss-crossed with rough black stitches and streaked with dried blood.

’I’m nineteen. I arrived in South Africa a few months before. My family is in Harare; they’d sent me to make some money. I worked as a daily labourer, my boss man, he lives in the township. I heard all the shouting. I was hiding in my shack. I put my bed, my table, my stove against the door. I lay flat on the ground. But they saw me. There were three of them. They took turns kicking and punching me. Then one started with a golf club and repeatedly hit me on the head. I said “Please, I’m the only one to look after my people, let me be” and then he took out the beer bottle, and hit me with that too’. His lip shook as he fought to hold back the tears. A colleague held his hands and spoke to him in Shona⁵, comforting him as he finally broke down. A frail, slight young man, he was barely more than a boy.

The eight young men were the worst affected. Blamed for stealing jobs, women, and for the murder - they were the main targets of the attack. But a hundred plus others had also been attacked and several hundred displaced. We went from group to group, gathering information and details. ’I was just putting some food on my child’s plate’ said a young woman holding a five-year-old boy on her lap. ’He said “Mummy, what’s that sound?” and then I heard them. I told him “Get up, get up, we have to go” and I opened the back door and we ran. I heard later someone saw my husband being beaten. I don’t know where he is. He is an old man. I am so worried he has died.’ Turning her face to the side, she continued, ’What do I tell my child? Why did this happen to us? Where will we ever be safe?’ Shaking her head, she walked away. I never heard if she found her husband.

Another middle-aged woman grabbed my hand and took me aside. She showed me her bruises. The men had grabbed at her, ripping open her shirt. She was saved by her elderly South African landlord who came and stood in front of her, shaming the hoodlums. While no rapes were reported, we were told that many hadn’t made it to the stadium. There were reportedly no deaths either, but again some of the young men believed people had been killed and their bodies dumped.

At 1 a.m. the next morning, we had got everyone’s names and details. MSF had set up a mobile emergency clinic. Food, water, blankets had already been provided by the local Municipality. We established temporary committees, settled the different groups down for the night and hit the road. I got home at 3 a.m., and was back on the road at 6 a.m. For the next two weeks, the two-hour drive back and forth was my daily grind. There was always something to be dealt with, from rallying for food donations, attending coordination meetings with government, and working with Home Affairs to update documents, to waiting with the people till the lights came on at night so they were less scared. We had become their security blanket.

A week into the displacement, the government started agitating that it was time for the asylum seekers to move on. They needed their stadium back; it needed to be prettied up for the World Cup. It was ten days to Christmas and they wanted all this wrapped up so they could start planning their holidays. Besides, they had ticked all the boxes. They had provided the people safety, food, water; they had made all the right political statements. It was time for us, the ‘guardian angels’, to step up, or step out. In an effort to find the right solution, we attended a community meeting at the township to evaluate if the asylum

⁴ Interview with author.
⁵ A Zimbabwean language.
seekers could return home. A Home Affairs officer sat right at the back. The ward councilors who were expecting us, sat up at the front. We were taken to join them and there we sat, facing the community. Most smiled at us graciously but one belligerent young man stood up “Who are you?” he demanded, “We don’t need more foreigners”. He shouted that the Zimbabweans were criminals and that they were not welcome. He was one of the twenty men arrested for the violence against the Zimbabweans. He was, like the others, released without charge.

“We are not opposed to foreigners”, a well-dressed community member said, as the young man was pushed down. “It’s the bad apples we want out. They are committing crime’ she said, ‘and the police are doing nothing to stop them’. She said the township was poor and neglected. They had very poor services and the foreigners added to their problems. They were struggling with unemployment and food security issues. Their needs were being ignored by the government and so they felt they had to do something themselves to correct the situation. They weren’t against the foreigners. In fact, the Zimbabweans were welcome to come back, but they must promise to stop their criminal activities, and behave ‘properly’.

In the back, the young man continued to make threats. As we left the meeting, he walked up to the car. He leered, slurring on his words, “don’t you want to speak to me, lady. I’ve got some stories to tell. No, you’re not interested in me. You’re only here for your Zimbabweans.” He was dragged away before I could speak.

It was an isolated incident, the authorities said , even as attacks on a smaller scale started out in other townships. “Look at these asylum seekers, they have nothing. You have to give them more so they won’t steal. Then everything will be fine”. It was about crime, and poverty not xenophobia. It was that we were so close to Christmas, the people were desperate, tempers were short. It was about the situation in Zimbabwe overflowing into South Africa. Back at the stadium, the people refused to move back. They didn’t believe it was an isolated incident. The authorities gave us one day to find them new homes; we pleaded and stretched it to a week. The eight young men had already left for Zimbabwe; their families had come and taken them home. I had watched as the last one got into a taxi with his father. The older man was shattered, his little one’s face marred with scars. The young man was quiet. He lay his head on his father’s lap and turned and gave us one tiny last wave. Left behind, were the families, the women with children, the old men and women.

In the week that followed, we all worked together to find solutions. UNHCR found new rental properties in safer townships for those who wanted to remain in Polokwane and covered rent for the first few months. IOM provided assistance and transportation for those who wanted to return home to Zimbabwe. MSF continued with their counselling and established focal points for future contact. An international NGO linked to the Musina network agreed to provide food for the first few months.

On the last day, the Municipality provided trucks to help the people move. As the stadium gate closed behind us, the last of the ‘trespassers’ out, cleaners emerged, armed with mops and buckets, poised to wipe the slate clean. I wished I could do the same with my mind. The exposed, seeping, bloody wounds of the young men, the stitches criss-crossing their skulls, their shoulders, their trembling young faces, were etched in my mind. I had heard from friends about how destabilizing it could be to work in such situations, but never experienced it myself. It was routine in refugee status determination interviews as well as other.
interviews with asylum seekers and refugees to hear about violence they faced. But usually by the time we sat face to face, their wounds had healed, at least physically.

I told myself that my job had been to ensure the best assistance and solutions were provided. I wasn’t tasked with their long-term safety, only their immediate care. I consoled myself that they were now with their families, being loved and cared for as they deserved. And each time I fretted, worrying how they would recover, I reminded myself that their recovery wasn’t my responsibility. After several sleepless nights, angry and distraught, I shut down completely. In fact, I buried the memories so deep that when I woke up that morning in April, I thought at first the images belonged to someone else’s nightmare. How I wished that were true.
Internal Displacement and the National Approaches of Countries of South Asia: Sri Lanka

Jeevan Thiagarajah

Abstract

Between 1977 and 2009, Sri Lanka witnessed conflict-induced displacement with numbers fluctuating annually, due to fighting between the government and rebel forces and corresponding control of territory. The Tsunami of 2004 added further weight in terms of the number of persons displaced. Both factors taken together have made Sri Lanka one of the most displacement prone countries in South Asia. The author seeks to highlight important facts and developments related to internal displacement in Sri Lanka over this period. The 12 benchmarks of the Framework for National Responsibility for addressing internal displacement which have been released in 2009 are used to carry out an assessment of the government’s efforts towards accomplishing each of them, before outlining what has been achieved so far and what remains to be done.

Author Profile

Jeevan Thiagarajah is Chairman of the Institute of Human Rights, Colombo, and the Executive Director of the Consortium of Humanitarian Agencies, Sri Lanka. He is a member of the Institute of Commonwealth Studies of the School of Advanced Study, University of London, also member of the Eminent Persons Group on Refugee and Migratory Movements, Sri Lanka, and a Visiting Lecturer on Diploma in Human Rights Course at the University of Colombo.
Sri Lanka has been the first South Asian country to fully incorporate the Guiding Principles of Displacement into state policy, making it a pioneer and possibly a role model for other countries in the region. The paper seeks to highlight important facts and developments related to internal displacement in Sri Lanka over a period commencing from 1977 and moving up to 2011. The 12 benchmarks of the Framework for National Responsibility for addressing internal displacement which have been released in 2009 are used for this assessment. While the time span of three years is comparatively short to draw any final conclusions/make any definite statements about the success or failure of the Sri Lanka’s commitment and efforts to ameliorate the situation of current internally displaced persons (IDPs) and to prevent future displacement, the paper attempts to shed light on significant developments and achievements as well as problems and thereby, seeks to be a basis for future planning and intervention. What is more, best practices and valuable conclusions are also drawn for other countries in the region that grapple with the problem of internal displacement.

After a brief introduction on the history of displacement in Sri Lanka, the paper discusses each of the 12 benchmarks and the government’s efforts towards accomplishing each of them, before outlining what has been achieved so far and what remains to be done.

Between 1977 and 2009, Sri Lanka witnessed conflict-induced displacement with numbers fluctuating annually, due to fighting between the government and rebel forces and corresponding control of territory. The Tsunami of 2004 added further weight in terms of the number of persons displaced. Both factors taken together have made Sri Lanka one of the most displacement prone countries in South Asia. When Francis Deng, the RSG on Internally Displaced Persons visited the country in 1994, over half a million displaced were in welfare centers, while in 1990 one million had been displaced. When his successor Walter Kälin visited in 2007, once more conflict and natural disaster had caused displacement of over 550,000 with an additional 312,000 old IDPs. In 2009, around 290,000 IDPs escaped to government control at the end of conflict. Sri Lanka is presently witnessing a period of resettlement with efforts being made towards durable solutions.

Prevent Displacement and Minimize its Adverse Effects

Governments have a responsibility […] to prevent and avoid conditions on their territory that might lead to population displacement, to minimize unavoidable displacement and mitigate its adverse effects, and to ensure that any displacement that does occur lasts no longer than required by the circumstances.2

Displacement in Sri Lanka has been due to two major factors, namely natural disaster and protracted political conflict. The policy of the present government following the end of the war and the two rounds of recent flood related displacement has been to minimize the adverse effects of displacement and to encourage return.

---

1 1977 has been taken as a starting point as in this year, Sri Lanka witnessed the first conflict-related displacement due to localized rioting in the Sabaragamuwa Province.

The Resettlement Authority Act, 2007 seeks to protect and assist vulnerable groups, assist in the resolution of ownership and possession disputes and to facilitate community between IDPs and their host communities. The National Human Rights Action Plan is the government’s attempt to develop a normative framework of IDPs’ rights, especially the right not to be arbitrarily displaced. IDP’s rights have to be incorporated into all development planning processes. Any decision requiring the displacement of persons can only be taken after all feasible alternatives have been explored and must be justified by compelling and overriding public interest in order to protect individuals from arbitrary displacement.

In order to mitigate and manage effects of natural disasters, the government has set up a permanent Disaster Management Centre. Disaster mitigation and risk reduction is set in the framework document for Disaster Management 2005-2015 titled “Towards a Safer Sri Lanka: A Road Map for Disaster Risk Management”.

One significant cause of displacement due to flooding has been the inability of drainage systems and irrigation systems to cope with sudden loads of flood water. In an attempt to mitigate the impact of flooding, the government has focused on ensuring that catchment areas are enhanced and irrigation canals enlarged. Overall, the country now seems to be better equipped to deal with natural disasters, particularly after the lessons learnt from the 2004 Tsunami.

**Raise National Awareness of the Problem**

*When internal displacement does occur, a government’s acknowledgment of the existence of the problem on its territory and of its responsibility to address it is an essential first step towards an effective national response.*

In July 1999, the Government initiated the Relief, Rehabilitation and Reconciliation (RRR) Framework process to ensure that the basic needs of people affected by conflict are met; to rebuild productive livelihoods and to facilitate reconciliation across ethnic lines. A series of consultative workshops at the district level were organized by the Consortium of Humanitarian Agencies (CHA) and a number of sectorial or thematic workshops were organized by the National Peace Council (NPC) raising awareness nationwide of the rights of IDPs. Representatives of government institutions, local organizations, stakeholder associations and international agencies attended these workshops. Their purpose was to bring to light the main grievances of beneficiary communities, problems and concerns affecting the districts, to assess existing bottlenecks in the delivery of relief and in the implementation of rehabilitation projects, as well as to recommend strategies and procedures to strengthen RRR work in a multi-cultural and multi-ethnic setting. The Government set up a Steering Committee for RRR to provide leadership to the development of the Framework and to facilitate the necessary linkages with key decision-makers within the Government, civil society and the donor community. Policy principles, an action plan and their justification form the bases of the report.

Moreover, UNHCR and allied agencies undertaking protection activities have engaged in information dissemination pertaining to rights of IDPs.

---

3 See [http://www.dmc.gov.lk/Publications/Road_Map_Volume_2.pdf](http://www.dmc.gov.lk/Publications/Road_Map_Volume_2.pdf)
Collect Data on the Number and Conditions of IDPs

Credible information on the numbers, locations and conditions of the internally displaced is essential to designing effective policies and programs to address their needs and protect their rights.

Registration of IDP’s and related statistics are criteria to claim and qualify for entitlements of humanitarian assistance and are used for planning and delivering assistance. The country has a registration and data collection system. Difficulties arise when IDPs stay with friends and relatives, originate from areas declared as ‘safe’, originate from areas labeled as ‘safe for return’ and are displaced multiple times. The respective Government Agents (GA)/ offices regularly prepare and update official statistics on a monthly basis. For example, World Food Program rations are channeled and the corresponding numbers of displaced beneficiaries are publicly furnished. Similarly, every month government agents tabulate the numbers of displaced and all island figures are released by government agencies. Data is categorized by gender, number of family members and geographical location. Census data captures information with comprehensive household information. The causes of displacement are shown separately since most often the incidents of conflict and natural causes for displacement do not overlap and the latter has mostly been for a much shorter period, except when the Tsunami struck in 2004.

Data collected in the past has been used by all partners in general except in instances when disagreements arose on the number of persons in the zones, to which civilians were directed in the closing stages of the conflict which ended in May, 2009. Data on occasion, if not certified by the Government, when, for example, it relates to ‘old’ IDP’s, leads to contention between the aid and humanitarian agencies and the government. Another example is the comment in the report of the advisory panel appointed by the Secretary General of the UN chaired by Darusman, released in April, 2011 which speaks of underestimation of numbers of IDP’s in the final phase of the conflict by the government, the varying numbers drawn from UN figures quoted and the numbers finally tallied by the Government when IDP’s fled the fighting.

Another source of disagreement has been the use of terminology in national debates on those displaced. Such issues include:

- Do people become IDPs only after they have crossed a district or divisional boundary?
- What about a displaced person who still remains within or near his/her own village?
- What if a person still works on his/her land during the day but feels insecure to stay in his/her home at night and therefore stays with relatives.
- Do people become IDPs only after certain period of displacement? If so, how long does the period have to be?
- Is a person considered an IDP if he/she has fled from fear of conflict rather than from actual conflict?
- IDPs must be civilians. Is there a working definition of civilians in order to address the situation of a person who once was a member of an armed group?
- If a person, who is displaced, is not willing to formally register with the administration, is he/she considered an IDP?
- What about IDPs who have settled in urban areas such as Colombo?
• If a displaced person gets married to someone who is not displaced, is he/she still considered an IDP?
• If a displaced person has attempted to gain permanent residence in displaced area, for example by purchasing land in his/her place of displacement, is he/she still considered an IDP?

Resolving criteria to recognize phases of displacement, their characteristics and context using settled definitions, universally and unsettled definitions nationally, will need to be discussed and addressed in the course of developing the National IDP Policy and Law.

Support Training on Rights of IDPs

Training government officials on the rights of IDPs can be essential for ensuring that they are aware of their responsibilities for protecting and assisting the internally displaced.

The Human Rights Commission of Sri Lanka (HRC) has ongoing trainings for government authorities on the rights of IDPs, and the Brookings-Bern Project on Internal Displacement has held several trainings and workshops on the Guiding Principles and IDP rights. Since its creation in 2002, the Sri Lankan Human Rights Commission’s National Protection and Durable Solutions for Internally Displaced Persons Project (NPDS for IDPs Project) have conducted training programs for the protection and promotion of IDP rights. Training has been provided for HRC staff, government officials (federal and local levels), government security forces (army, navy, air force, and police), NGOs, IDPs and host communities, and private sector actors.

In 2008, the NPDS for IDPs Project trained 4,936 people through 200 trainings using the “Rights Based Disaster Response” training program, which focuses on the rights and protection of conflict and disaster-induced IDPs in all stages of displacement. The NPDS for IDPs Project includes reports of their training sessions in their monthly and annual reports. The NPDS for IDPs Project also conducts Army Training Programs. The course contents include materials on the protection of rights of IDPs, as well as materials on government mechanisms/institutions that are involved in the protection of IDPs. There are five levels in the Army Training Program. Levels three and four are training of trainer programs. The second of which was conducted for Non-Commissioned Officers of the Sri Lanka Army on Human Rights and International Humanitarian Law in August, 2009.

Since 2000, the Brookings-Bern Project on Internal Displacement has supported two regional workshops on internal displacement. The ‘Regional Conference on Internal Displacement in Asia’ was held in Bangkok in February 2000 with the aim to “promote the dissemination and application of the Guiding Principles on Internal Displacement, share information on the problem of internal displacement within the Asian region, and promote more regular networking among organizations involved with internally displaced persons.” In 2005, the Brookings-Bern Project and the Asia Pacific Forum of National Human Rights Institutions organized a regional workshop on national human rights institutions and internally displaced persons. The workshop was held in Colombo, Sri Lanka with the participation of eighteen representatives from the Human Rights Commission and the Director General of the Ministry of Relief, Rehabilitation, and Reconciliation.

Create a Legal Framework for Upholding the Rights of IDPs

Because protection is, fundamentally, a legal concept, developing a national legal framework upholding the rights of IDPs is a particularly important reflection of national responsibility as well as a vehicle for its fulfillment.

With the end of the long term internal conflict, the Government’s commitment towards granting and protecting the rights of displaced civilians has been one of the top priorities. While the country does not have a specific law on IDP’s, policy initiatives have consistently addressed the needs of IDP’s.

The National Human Rights Action Plan of 2011 compiled by the Government defines IDPs as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” The Resettlement Authority Act No. 9 legislated by Parliament in March 2007 vests authority to formulate a national policy, plan, implement, monitor and coordinate the resettlement of the internally displaced and refugees.

NGOs have sought intervention of the Supreme Court for IDP’s to access land particularly in High Security Zones and to register as voters. In both sets of issues, relief, both interim and final, has been granted. In most instances the Court facilitated outcomes and assisted parties to arrive at settlements. For instance, in case of a committee led by the civilian head of local authority in Jaffna, the Government Agent and a Security Forces Commander were instructed to work on incremental release of land from High Security Zones.

Develop a National Policy on Internal Displacement

The adoption of a national policy or plan of action on internal displacement is a distinct, though complementary, measure to the enactment of national legislation. For instance, a national policy or plan of action on internal displacement should spell out national and local institutional responsibilities for responding to internal displacement, indicating the roles and responsibilities of different government departments, as well as identify a mechanism for coordination among them.

The universally accepted rights of displaced persons, to protection, to liberty and security of person, to humanitarian assistance and to their return, resettlement and integration in society constitute a key principle of official policy of the relief, rehabilitation and reconciliation activities on behalf of the internally displaced persons affected by the conflict.

The Guiding Principles were recognized as applicable to the situation in Sri Lanka and a section of principles were highlighted. The government recognized a series of parallel steps needed to be taken to ensure that all ministries brought their policies in line with these
Guiding Principles and to review the legal framework of the relevant laws to ensure that there were no inconsistencies. It recommended that the Government take steps to create awareness among civil servants, military personnel, staff of the Human Rights Commission and the Legal Aid Commission, other competent authorities and humanitarian workers and familiarize them—through dissemination, discussion and training—with the contents of the Guiding Principles on Internal Displacement and their application in Sri Lanka. Through a series of consultations in the conflict areas on the RRR Framework process, the attempt was to aid in providing feedback to the public on its intention to apply these principles. It recommended a review of the legal framework relevant to the displaced using the Guiding Principles as the analytical instrument for identifying gaps in the national regime for the protection of the displaced, in line with Sections II and III of the document; a comprehensive analysis of the situation of the internally displaced using the Guiding Principles as a basis for identifying specific policy and programme improvements to be effected from 2002 onwards; a “National durable solutions policy” for the displaced to ensure a comprehensive and consistent approach to the resettlement of the displaced in their areas of origin or in other areas, and of returning refugees from India or elsewhere, in conformity with Section V of the Guiding Principles; Support the Human Rights Commission in its effort to provide enhanced protection and assistance to the displaced using the Guiding Principles to set the standards; As a means of giving additional focus to the situation of the internally displaced and of promoting the Guiding Principles, the Office of the UN Special Representative for Internally Displaced Persons and of the UN Coordinator for Internally Displaced Persons were to be requested to make their know-how and experience available to Sri Lanka. The time frame for implementation was twelve months and the responsible entities were: Office of the Prime Minister, Ministry of Justice, Law Reform and National Integration, Ministry of Foreign Affairs, National Coordinating Committee on RRR.

It could be argued that in the RRR framework, the Resettlement Authority provided for a National Policy. This was prefigured by the work of The Presidential Task Force on Human Disaster Management. The Government-UN-NGO “Joint Plan for Assistance for Northern Province in 2011” (JPA) aims to ensure the long-term sustainable development of the Northern Province within the shortest timeframe possible. The National Human Rights Action Plan of 2011 recommends the conduct and review of existing legal, procedural and policy frameworks and to formulate/amend laws, policy and procedures as required including access to information, legal assistance, complaints mechanisms, institutional methods of relief and redress. It also calls for review of existing institutional mechanisms involved in the protection of/assistance to IDPs and, based on such review to take necessary action to encapsulate IDP-specific issues within their respective mandates in keeping with the overall National Policy on Displacement and publish, within the National Policy framework, guiding principles for rehabilitation and prepare rehabilitation plans for various forms of displacement and geographic conditions.

**Designate an Institutional Focal Point on IDPs**

*Designating a national institutional focal point on internal displacement can be essential to ensuring sustained attention to the problem and also to facilitating coordination within the government and with local and international partners.*

Sri Lanka has had a long experience with displacement and this has led to the creation of a plethora of agencies by successive governments which deal with displacement. The National Human Rights Action Plan of 2011 refers to the need for institutional coordination of
sectorial policies to deal with ‘rights of displaced persons during displacement and immediately after return, resettlement and reintegration’; identifying, strengthening and establishing a permanent institutional focal point that will coordinate and consolidate efforts of various organizations in the event of large scale displacement.

Since 1983, when displacement assumed significant proportions, the displacement focused institutional mechanisms created by the Chief Executive have been in place including the Office of the Commissioner General Essential Services, the Relief and Rehabilitation Authority for the North, Presidential Task force for Human Disaster Management, Framework For Relief, Rehabilitation and Reconciliation, Resettlement Authority with accompanying legislation. The Authority was to ensure resettlement or relocation; facilitating IDPs entry into the development process; co-ordinate the efforts of the Government, donors, international non-governmental organizations, civil society agencies and others possessing the required mandates and resources in order to end displacement of persons; to formulate and implement specific programmes. The Authority has been succeeded by more powerful institutional arrangements which derive authority from the Office of the President, hence mobilize the entire machinery of government and supporting agencies.

Earlier, two primary coordination mechanisms existed between the Government and humanitarian actors to serve the interests of IDP’s. The Consultative Committee on Humanitarian Assistance (CCHA), a high-level forum for coordination and policymaking led by the Minister of Disaster Management and Human Rights and attended by key ministries, United Nations and key bilateral donors with subcommittees on IDP resettlement and welfare, logistics and essential services, livelihoods, health and education. MDM&HR chaired a monthly IDP coordination meeting which allowed humanitarian agencies to raise operational and protection concerns with ministries, government agents and security forces. More recently, the collaboration saw a tripartite Government, UN, INGO document titled Joint Plan for Assistance for Northern Province in 2011. The primary source of dialogue is meetings with NGO’s and the Presidential Task Force for the North.

Encourage National Human Rights Institutions to Integrate Internal Displacement into their Work

It is well recognized that national human rights institutions make an important contribution to national efforts promoting and protecting human rights. [...] In countries with internal displacement, national human rights institutions have a valuable role to play in protecting and promoting the human rights of IDPs, as indeed has been recognized and encouraged by governments in UN resolutions.

The National Human Rights Commission (NHRC) was established in 1997. The NHRC has sufficient powers, regional presence and full time staff to perform its functions. It is obliged to receive and investigate complaints. It also has an advisory role with the government to formulate legislation, and initiate administrative directives and procedures, to promote and protect fundamental rights. The NHRC has broad powers including investigative and inquiring powers; to intervene in court proceedings with the permission of the court; monitor the welfare of detainees through regular inspections of places of detention; undertake research on human rights issues and public education programmes on human rights and summon persons before the Commission to procure evidence including
documentary evidence and to examine witnesses. (Section Eleven of the HRCSL Act No. 21 of 1996)

The IDP unit of the Human Rights Commission has been advocating sensitivity on best practices. Ultimate effectiveness is guided by the direction and assistance given by the Commissioners. The National Protection and Durable Solutions for Internally Displaced Persons Project was initiated in 2002 in three districts and focused on land issues, documentation needs, claims for government compensation and registration for voting, in the following year it received 5,587 complaints concerning IDPs. The geographical presence of the Office was extended to cover three more districts. By 2004, 2961 additional complaints pertaining to IDP’s had been received.

The 2005 Tsunami resulted in the expanding of the coverage to two more districts affected by the Tsunami. The NHRI with the Colombo University Community Extension Centre undertook consultations on Post Tsunami recovery and progress by conducting 800 focus group discussions with those affected and displaced from 13 of the affected districts. The focus on those affected and displaced by the conflict continued with progress in 2010 as follows: It had regional offices in Batticaloa, Jaffna, Puttalam, Vavuniya, and Trincomalee and coordination office in Colombo. The offices covered additional districts of Mannar, Kilinochchi and Mullaitivu.

The overall impact included the following:

Campaigns for awareness raising were undertaken for 6581 persons through 96 programmes, 57 of which focused on Human Rights Defenders, 278 persons for these campaigns were selected from Vavuniya, Kilnochchi, Batticaloa, Trincomalee, Mulativu, Mannar and Jaffna. Those trained engaged in protection and promotion of human rights activities at the field level. Human rights instruments were translated into Sinhala and Tamil and published as Toolkits; 13 legal clinics were conducted; 37 Human Rights Monitoring Missions [HRMM] were conducted in areas where IDPs were located.

The presence of a dedicated unit focusing on IDP’s is indicative of the importance attached to the subject. The future work of the unit focused on IDPs would be subject to availability of funds to support its work. Mario Gomez writing in 2002 on NHRI’s and IDP’s for the Brookings Berne Project, states, “While governments may have been motivated by their own political agendas in setting up these institutions, the institutions have the potential to take on a life of their own depending on the social and political contexts, the personalities and staff that direct the institutions and the type of engagement that civil society actors have with these institutions. For the human rights activist it does mean that it may become possible to ‘capture’ these institutions and shape their activities in such a way that they may have a positive impact on the overall human rights culture. This would depend on a number of factors: the domestic political and social context, international pressures, the personalities who lead these institutions, the quality of the staff they direct, and the imagination and persistence of the activists. Governments may be motivated by extraneous factors and their own agendas in setting up these institutions this does not preclude human rights activists from using them in ways that can have a positive impact on the human rights culture of a country.

In the area of internal displacement, human rights commissions could begin by integrating internal displacement into government policy and legal frameworks, conducting inquiries into serious violations of the rights of the displaced and by publishing reports and
recommendations. For national human rights commissions, the challenge will be to generate the capacity within the institution to perform these tasks. If the commissions are willing to work with NGOs, local professional associations, the business sector and academics, it will be possible to generate this capacity. It is to be hoped that commissions will show the vision and leadership to do this.

The manner in which the Disaster Relief Monitoring Unit (DRMU) of the NHRI set about its work following the Tsunami is a model worth studying. The DRMU was set up in anticipation of the many human rights related issues which tsunami-affected persons would face in post-tsunami life in both short and long term with a special mandate of monitoring government and non-government activities which would have human rights implications for the tsunami-affected. The DRMU acted as advisor, watchdog, investigator, activist, researcher, consultant, partner, coordinator and awareness raiser to various groups in many different activities. At the field level, in direct contact with tsunami affected persons, at divisional and district level with public servants and implementers of donor relief agencies, and at central level with policy makers and leaders of organizations. The DRMU worked with the National Protection and Durable Solutions for Internally Displaced Persons Project of the NHRC. The DRMU focused on the Tsunami affected and the Internally Displaced Persons project worked on conflict affected IDPs.

The Terms of Reference (TOR) of the DRMU lists out eight specific areas of activity of the DRMU. Based on the TOR, the DRMU staff drafted a set of Policy Prescriptions which further elaborate on the mandate and preferred operational style for the DRMU. The Policy Prescriptions emphasized creating strong partnerships with various civil society organizations, closely working with the government sector, engaging in regular fact finding missions and maintaining direct links with affected persons in order to identify the human rights issues faced by tsunami affected persons. Furthermore, in identifying human rights problems, the Policy Prescriptions direct the DRMU to maintain special focus on vulnerable groups. Finally, the Policy Prescriptions impose a responsibility on the DRMU to lobby for State policy change based on the findings and analysis of the unit.

The NHRI newly appointed set of Commissioners have shown keenness to work with civic organizations. At the same time, it must be admitted that, the NHRI does require additional personnel and hardware to respond to the demands placed by citizens seeking its services.

To facilitate IDPs’ participation in decision-making and to ensure IDP’s have recourse to voice their opinion to authorities. The Resettlement Authority Act specifically provides for consultation and representation. The right of IDP’s to participate in decision making is not denied. However, mainstreaming of the concept has been ineffective as there is little or no effort at listening, providing feedback and accounting for assistance. The Disaster Relief Monitoring Unit of the NHRC following the Tsunami undertook a series of consultations which focused on this vital aspect. At the time of writing this paper, the number of IDP’s in camps has dwindled according to official announcements in the newspapers. However, many are with friends and relatives. The opportunities available for consultations are ad hoc and not mainstream opportunities as it is difficult to get access to the displaced once they are out of the camps.

The process of consulting must be an ongoing effort by all development agencies, an aspect stressed in the National Human Rights Action Plan which calls for the inclusion of principles on access to information on displacement and return among others.
The DRMU reported on the state of consultation of women following the Tsunami as interestingly it affected largely women. ‘The instant that it hit, the Tsunami proved to be a natural discriminator, killing a majority of women and children. In Ampara district, where gender-disaggregated data has been made available, statistics show that approximately 66% of the dead were women. There were 3,677 women reported to have died as compared with 1,926 men. This pattern was repeated across all Tsunami-affected districts.’

Ensure the Participation of IDPs in Decision-Making

*Internally displaced persons have the right to request, and to receive, protection and humanitarian assistance from their governments. An environment must exist where IDPs can make their views known without risk of punishment or harm.*

The importance of participation in decision-making processes from the camp level up to the many committees established by the Government such as the ‘Damage Assessment Teams’, the District and Donor Consortiums and the ‘Grievance Committees’ cannot be highlighted enough. Policy demands have been made for voter rights under the Fundamental Rights provisions of the Constitution. However, the majority of IDPs seem disinterested given other pressing issues in situations of displacement. Moreover, the resources needed to travel to participate in political activities and to vote during times of elections may be discouraging. There are also issues such as non-registration due to procedural conditions which preclude registration in more than one district during revisions of electoral rolls which ultimately results in denial of the right to vote.

While being among the most vulnerable and affected groups by conflict and natural disaster, not many women participate in decision-making processes, although this differs from District to District and from forum to forum as reported in the August 2005 Report of the Women’s Division: Disaster Monitoring and Relief Unit. In addition, cultural and social factors seem to play an important part in determining the degree to which women participate.

The Women’s Division found that there has been a top-down approach in the delivery of relief, rehabilitation and the commencement of reconstruction, causing there to be very limited involvement of IDPs in the decision-making processes. This lack of involvement is even more pronounced when gender disaggregated data is provided. One consistently sees the minimal participation of women at the District level in decision-making roles in Government offices dealing with tsunami-related issues down to the communities in camps, where camp committees are male oriented. In instances where women have formed camp committees of their own, these committees do not generally have any voice when it comes to influencing decisions about the Camp.

Interestingly, in the Muslim camps visited, there was usually a women’s committee that addressed the needs of the women and represented them to NGOs etc. This may be due to cultural norms within the Muslim community that require separation of the sexes. However, although this was true of camps and transitional shelter sites visited in Trincomalee, it did

---

4 The DRMU reported that the Tsunami affected largely women: ‘The instant that it hit, the Tsunami proved to be a natural discriminator, killing a majority of women and children. In Ampara district, where gender-disaggregated data has been made available, statistics show that approximately 66% of the dead were women. There were 3,677 women reported to have died as compared with 1,926 men. This pattern was repeated across all Tsunami-affected districts.’
not apply to all Muslim camps. For example, in Kalmunai (Ampara District), there was a camp where women expressed that they did not want to form their own committee, and preferred to stay in their homes. In this camp, women communicated their concerns to the men who would bring them up in the mosque and make decisions and find solutions on behalf of the women.

The contribution made by women to camp committees, and their participation was found to heavily depend on the focus of NGOs aiding specific camps. If the NGO was gender-sensitive and encouraged participation, women were much more active. For example, in Batticaloa, where the Women’s Coalition for Disaster Management (WCDM) operates, women are actively voicing their concerns and implementing change. The involvement of women in decision-making is essential if policies and actions taken are to be needs-based. Women are often the decision-makers when it comes to domestic matters, for example, decisions regarding feeding and clothing the family. They should therefore be consulted on nutritional needs, and should provide input on decisions that will affect their quality of life during any process of relief, rehabilitation and reconstruction. Women living in welfare centers must be consulted in order to ensure that the best possible solution to relocation and resettlement is found. Their lives are grounded in the community surrounding their homes, thus they often have a better understanding of how and where resettlement should occur. Decisions regarding relocation must also take into account women’s livelihoods, “which are often different to those of men and which may be linked to the physical environment and social context of their original community”, and their physical security which is also linked to their knowledge of the area in which they live. The lack of participation of women at the very basic level of the relief and distribution processes is a matter of concern and can have serious repercussions on broader aspects of women’s rights.

Support Durable Solution

National Responsibility for internal displacement extends to ensuring that IDPs have access to a durable solution to their plight. This means making every possible effort to facilitate the return or resettlement of IDPs in accordance with their rights.

The Resettlement Authority Act was to assist the displaced and refugees obtain lost documents; assist in providing infrastructure facilities; education and health facilities; implement resettlement programmes including housing to assist in the mobilization of both local and foreign financial resources; facilitate solution of problems related to ownership and possession of movable and immovable assets; forge a better understanding between the internally displaced persons and host communities; facilitate the restoration of basic human rights including cultural rights to empower internally displaced persons; receive representations on the needs of the displaced; and make representations regarding the same to agencies mandated to find solutions. It was also expected to mobilize the displaced to initiate and implement partnerships for the recovery and development in accordance with individual or community needs; promote livelihood activities among displaced persons and refugees; provide reasonable access to information on policies, resources and progress on activity earmarked for their recovery and facilitate dialogue with concerned intervening agencies; and ensure a conducive physical environment for resettlement, by clearing land mines and debris and repairing damaged infrastructure.

The Act addresses many of the issues required to end displacement. It is a model legislation which unfortunately remains largely unutilized. In 2009 the President appointed the
Presidential Task Force (PTF) for Resettlement, Development and Security in the Northern Province under the Chairmanship of the Minister for Economic Development, who was then the Senior Advisor to the President. The mission of the PTF was to formulate a strategic framework for the revitalization of the Northern Province and to implement a rapid resettlement and recovery programme. On the directives of the PTF, relevant Government Ministries took over the responsibility to provide basic services and infrastructure in Welfare Centres. An accelerated programme called “Uthuru Wasanthaya” (Vaddakkin Vasantham”, “Northern Spring”) was launched by the PTF to resettle the displaced quickly and safely in their places of origin through a 180 day initial plan; build back better facilities, basic infrastructure and services; and provide livelihood facilities. It was undertaken through two strategy components - humanitarian assistance through a series of relief and early recovery measures to facilitate the resettlement process; rehabilitation of much needed infrastructure, which included provision of permanent shelter, supply of safe drinking water, rehabilitation of main highways and sub roads, railway lines, major and minor tanks, irrigation systems and improvement of hospitals and schools.

**Allocate Adequate Resources to the Problem**

> Carrying out policies and programs for IDPs and providing them with necessary assistance […] as well as ensuring their physical security inevitably requires human and material resources. National responsibility therefore requires that governments devote, to the extent possible, resources to address the needs and protect the rights of their internally displaced populations.

The management of welfare centres and implementation of “Uthuru Wasanthaya” with the accelerated implementation of “180-Day Programme”, cost the government upward of $360.3 million. The commitment made by donors up to the end of 2010 for Northern Province was approximately US$ 2,129 million of which US$ 1,798 million (Rs. 199, 61 million) were loans and US$ 331 million grant assistance from ten major donors. The areas supported included provision of water, housing, irrigation, supply of electricity, rehabilitation of roads and railway, health, in all the five districts.

UN agencies and partners mobilized US$ 187 million (Rs. 20,762 million) for food, education, water and sanitation facilities, Non-Food Items (NFI) and health services. This was about 64 per cent of the total requirement. It did not include assistance provided through national level UN programmes to the Northern Province as well as other parts of the country.

NGO activities in 2009 concentrated on the needs of population in welfare centers and outside the welfare centers only in early 2010. NGO programmes contributions between May 2009 and December 2010 amounts to approximately Rs. 2.5 billion (US$ 22.5 million), with about 50 NGOs contributing. An important aspect of the NGO contributions was their active participation starting from the grass root level, on the basis of needs identified by the Divisional Secretaries with the participation of the communities.

**Cooperate with the International Community when National Capacity is Insufficient**

> When governments do not have the capacity to provide for the security and well-being of their displaced populations, they should, as an exercise of responsible sovereignty, invite
or accept international assistance and work together with international as well as regional organizations in addressing the protection and assistance needs of the displaced and identifying durable solutions to their plight.

During the period of the conflict, the government invited UNHCR and subsequently the entire UN humanitarian response mechanism and international humanitarian agencies to operate and support protection activity for the displaced. The work of the UN has been complimentary to that of the government agencies.

RSG missions of Dr. Francis Deng in 1994 and his successor Professor Walter Kalin, to Sri Lanka highlight the interaction between the mandates of the two RSG’s and the Sri Lankan government. The RRR framework document shows the degree of acceptance of the Guiding Principles by 2002, echoed further by explicit reference, once more in 2011, in the National Human Rights Action Plan.

The RRR under Policy direction and coordination in 2002, recommended that the Government establish a National Coordinating Committee on Relief, Rehabilitation and Reconciliation to ensure that uniform strategies, programmes and procedures are adhered to by all stakeholders; that adequate financial resources are made available; and that the overall humanitarian situation is regularly assessed. The composition recommended included key line Ministries, UN, Donors, ICRC and NGO’s. It is an example of the willingness of development partners to work from a common platform. It is a fact that interventions in humanitarian imperatives during civil strife with ongoing hostilities and fighting often leads to tensions with one or more parties including national governments especially when the conflict ends with a militarized solution. The RRR framework was developed to address these issues.

Collaboration between government and international partners is best summed by the title of the Press Release “Joint Plan for Assistance (JPA) for Northern Province in 2011”, which accompanied the launch of a tripartite call for assistance. The Plan also includes a wide-range of early recovery efforts such as improving health and nutrition, clearing mines to support continued resettlement, education initiatives, water and sanitation strategies and strengthening of civil administration and national protection mechanisms. Several key considerations lay behind the efforts outlined in the document, including the following:

- Efforts of all stakeholders in 2011 concentrate in bridging the gap between relief and recovery, and in moving towards sustainable development and the creation of more livelihood opportunities.
- All programmes and assistance identified is coordinated to maximize the impact of limited resources available and to avoid duplication of work.
- Work towards a stronger partnership with the relevant government entities in an effort to maximize the impact of the agreed programmes and activities, and in full respect of existing agreements and mandates.
- Partnership agreements among Government, the UN and NGOs would be encouraged indicating their respective expertise and responsibilities, so as to add value to the process and partnership.
- The Government and the United Nations will provide more opportunities for engagement of the civil society in the recovery process, for the additional experience they can bring, for the contribution they can have in implementation of activities, and for their ability to help mobilize additional resources for assistance.
Conclusion

The phenomenon of displacement in Sri Lanka commenced before the Guiding Principles on Displacement were developed, however, many of the best practices recommended were incorporated as government policy at the end of the War. The country, in this writer’s view, has succeeded in developing knowledge base that could be used in the future when dealing with displacement. These include the RRR Framework, Resettlement Authority Act, the work of the DRMU of the NHRC and its functions which could provide effective institutional mechanism to end displacement. The role of advocacy particularly by national civic actors is another important aspect of the Sri Lankan story. The recent JPA is entirely the effort of two individuals who worked to bring about resolutions to many difficult issues. The work of the Disaster Relief Monitoring Unit following the Tsunami is inspirational and worthy of emulation. Notwithstanding criticism directed at governments for weak implementation, national responsibility was not abdicated. The efforts at early recovery were founded on a belief of ultimately building better infrastructure and systemic measures for dealing with current IDPs and preventing future displacement.
Select Bibliography


Available from http://www.wiscomp.org/peaceprints.htm
Looking Back at Partition and Women: A Factsheet

Anwesha Sengupta

Abstract

Within patriarchal structures, women are often considered as embodiments of the honor of the whole community. Accordingly, in times of ethnic, religious or other violent conflict, they become major targets. Rape has always been a potent weapon of war in humiliating and emasculating the enemy. This Factsheet provides a glimpse into the magnitude and nature of the sexual violence that was unleashed during the Partition of the Indian Subcontinent in 1947 and the issues that germinated from it.

Author Profile

Anwesha SenGupta is Research and Program Assistant at Mahanirban Calcutta Research Group. She completed her MPhil in 2012 from Centre for Historical Studies, Jawaharlal Nehru University, New Delhi. The title of her MPhil dissertation is People, Territory and Governments: Bengal(s), 1947-1952. Her areas of interests are - displacement and forced migration, communalism and minority condition in South Asia, partition and nation building in South Asia.
Within patriarchal structures, women are often believed to be the embodiment of the honour of the whole community to which they belong. Accordingly, in times of ethnic, religious or other violent conflict, they become the major targets as attacking a woman’s body signifies an assault on the family and the community. Rape has always been a potent weapon of war in humiliating and emasculating the enemy. In this context, one can study the nature of violence inflicted on women during the Partition of India in 1947.

- During the National movement, women were often represented as the embodiment of the Nation especially by the Hindu Nationalists. Paradoxically, this respect for woman within the community led to violence against the women of the ‘other’ community.

- Women, especially those who belonged to Punjab, were possibly the worst victims of the communal violence that accompanied the division of British India. Thousands of women on both sides of the newly formed border (estimates range from 25,000 to 29,000 Hindu and Sikh women and 12,000 to 15,000 Muslim women) were abducted, raped, forced to convert or forced into marriage. Women often internalised the patriarchal notion of their role in the society, and committed suicide in order to preserve the ‘sanctity’ and ‘purity’ of their religion. In a village called Thoa Khalsa, near Rawalpindi, around 96 women threw themselves into a well to avoid being converted to a different religion. In this context, Urvashi Butalia has brought up the issue of agency. She asks if we can universally brand these women as ‘victims’, or did they have an agency in deciding their own fate? Her findings show that in many instances, women took the decision of committing suicide on their own. However, while for some this might have been a ‘choice’, for others the decision must have been one they felt ‘compelled’ to take because of latent pressures from their community. Thus, the issue of agency remains complex because there is no clear way of determining if the ‘choice’ was truly an independent one or whether it was an outcome of the burden of expectations from a socio-historical and cultural context.

- The pre-partition riots in Calcutta and Noakhali (1946) set the stage for communal disturbances in Bengal. In Noakhali Riots of eastern Bengal, hundreds of women were raped. The Hindu married women were stripped off their conch shell bangles (shankha) and vermillion mark on their forehead (sindur) and forced to recite the kalma. The Noakhali Relief Committee was formed to provide relief to the distressed women and to recover the abducted women. Ashoka Gupta, a noted Gandhian, was involved in this relief operation.

- In Bengal, the nature of violence was different from that of Punjab. The massive, spectacular violence of Punjab was not repeated here immediately after the Partition. Violence here had a more ‘everyday’ nature. In partitioned Bengal, minority women faced verbal assault, molestation and abduction at the hands of the men from the majority community. Families that were on the ‘wrong’ side of the border (i.e., where they were minorities), often sent the young unmarried girls to the other side for their safety and security.

A Positive Fallout?

- In Bengal, many scholars have demonstrated a ‘positive’ effect of partition on women: here, the refugee women from East Bengal came out in the public sphere and participated in the political movement, took up jobs and helped their families

Available from http://www.wiscomp.org/peaceprints.htm
to ‘come out of partition.’ Thus, partition had some emancipatory effect on Bengali migrant women. The disintegration of traditional structures could have possibly led to space of greater agency for women.

- Many women actively participated in the Communist movement that took place in West Bengal. Even in Punjab, as one scholar has noted, “Partition narrowed the physical spaces and enlarged the social spaces available to women, thereby affecting the practice of purda or seclusion, modified the impact of caste and regional culture on marriage arrangements and widened the channels of educational mobility and employment for girls and women.”

**Government Response**

- The governments of both India and Pakistan recognised the ‘women’s problem’ and launched a programme of ‘recovering and rehabilitating women’. An ordinance called Abducted Persons Recovery and Restoration Ordinance was promulgated on January 31, 1949, and was subsequently replaced by the Abducted Persons (Recovery and Restoration) Act 1949. The Government of India announced that any conversion which took place after March 1947 would be treated as ‘forced’, and the women would be ‘recovered’ and ‘rehabilitated’ to their respective Dominions. Following the logic of partition, the religion of the woman was the prime determinant of her nationality. This programme, in some cases, further marginalised the women, as their opinions were not taken into consideration while ‘recovering’ and ‘rehabilitating’ them.

- The officers who were charged with the responsibility of rescuing abducted women were mostly women. Mridula Sarabhai was in overall charge of the operation on the Indian side. Social workers like Rameshwari Nehru, Sushila Nayyar, Premvati Thapar, Bhag Mehta, Kamalben Patel, Damyanti Sahgal, Anis Kidwai and others were also involved in this process. These women social workers were assisted by the national police of their country. Every rescue operation was conducted under the supervision of a woman officer, accompanied by the police. The governments of India and Pakistan believed that the women were better placed to handle the delicacy of the situation, and to ‘persuade’ those who were reluctant to give up their new homes, to return to their ‘own’ country and ‘own’ family.

- Abducted Persons (Recovery and Restoration) Act 1949 was not applicable to West Bengal. People like Phulrenu Guha, a veteran Congress leader from West Bengal, did not support this Act. She argued that if a woman had made a new home for herself, she should not be uprooted yet again. Indeed, this was a very controversial Act and many victims of abduction themselves resisted the states’ attempts to ‘recover’ them. Their families were often reluctant to take them back and also many of them were by then settled into their new homes.

- The Ministry of Rehabilitation (under the Government of India) had a separate section to address the miseries of women specifically. Similar sections also functioned in the Rehabilitation Department of the States of Bombay, Delhi, Punjab, Uttar Pradesh and West Bengal under the state governments. Under their supervision, special homes were set up for the maintenance of unattached women and children. Besides provision of food, shelter and other necessities of life, the inmates of these homes were taught various crafts so as to make them self-supporting. Work centres were set up in some camps and towns where women were trained in various crafts and earned wages for the work they did. Some arrangements were made at select places for providing free training to educated girls.
in nursing, midwifery, stenography, etc. In some states, the women’s sections of the rehabilitation department had employment bureaus and even marriage bureaus.

- By the end of December, 1949 there were total 30 Homes in India for the maintenance of unattached women and children with 13,133 residents. However, till then there was not a single Home in West Bengal. But by the end of December 1953, the total number of unattached women and children, aged and infirm displaced persons (including dependents) from East Pakistan in receipt of gratuitous relief in Home or Permanent Liability camp (P.L. Camp), was 39,914 in West Bengal. There were 6 Homes for women, 6 women’s camps, 4 mixed P.L. camps, 5 women training centres. The Riot of 1950 had triggered large scale migration of minorities from East and West Bengal. Among the migrants, there were many women, children and disabled persons. The Government of India or that of West Bengal could no longer ignore their plight.

**Approach to ‘Rehabilitation’**

- Despite the efforts of the government, there have been concerns regarding the availability of these measures for all affected parties. There had been numerous allegations against the Indian state for discriminating between the Punjabi and Bengali refugees. In the case of women refugees too, the discriminatory approach of the state was evident. For instance, while the daily dole for refugee women in Bengal was Rs. 12, it was Rs. 20 for Punjab women. Generally, the living conditions in the refugee camps in western India were far superior to their counterparts in the East. Migration from East Bengal was a protracted process, whereas refugee flow from West Pakistan was restricted to the initial years after partition. Therefore, the nature of the refugee problem was different in these two areas. However, the government authorities often failed to address the refugee situation in Eastern India comprehensively.

The experiences of women during the Partition of Indian Subcontinent indicate the specific challenges they face during and after riots. As refugees, women’s experiences often differ from those of men of the same religious community. In fact, the similarity in the experiences of Indian and Pakistani women reveals the importance of undertaking a study on the gendered impacts of Partition related violence. Moreover, the persistent disempowerment of women as refugees shows the inadequacy of government efforts. This also brings out the need for enhancing comparative research into the narratives of women refugees, to understand their needs and to incorporate changes in rehabilitation policy.
Sources


Book Review

UNHCR: THE POLITICS AND PRACTICE OF REFUGEE PROTECTION
(SECOND EDITION)
ALEXANDER BETTS, GIL LOESCHER AND JAMES MILNER
NEW YORK, OXON: ROUTLEDGE, 2012,191 PP, INR 1500 (PB)

Reviewed by: Ipshita Ghosh

Reviewer Profile

Ipshita Ghosh is an MPhil student of English Literature at Delhi University. A graduate of Lady Shri Ram College in history, she has completed a Diploma in Conflict Transformation and Peace Building from University of Delhi. She has also worked as a consultant with WISCOMP. Her research interests include postcolonial studies, globalization and culture. She has been a student of culture industries and politics at the National University of Singapore and participated in a course on Modernism at the University of Edinburgh. In 2009, her essay on ‘India’s Youth Power and Potential’ was selected among the National Top 15 and published in the India Habitat Center Journal ‘Voices of the Young’. She has also presented papers at various national seminars. Earlier, she also interned at Transparency International India.
Many institutions affiliated to the United Nations have undergone vast changes in their scope and functions over the years. Perhaps this is most true for the Office of the UNHCR. Set up in 1950 to ‘resettle’ the thousands displaced by the Second World War, it has now expanded its focus much beyond Europe. The second edition of UNHCR: The Politics and Practice of Refugee Protection is a compelling history of change and adaptation that has made the organization an important force in global humanitarian affairs. The authors are not only eminent scholars but possess field experience of working with the UNHCR. The book combines theoretical rigor with historical examples to outline the origin, growth and the development of UNHCR in a concise way that a scholar of the subject and a lay reader will find equally engaging.

One of the core objectives of the book which the authors point out in the Introduction, is to draw lessons “from the history of change and adaptation and consider how the Office can more predictably confront the challenge of change and adaptation in the future.” As a part of the series on Global Institutions, this book serves as a critical review of the evolution of UNHCR.

The antecedents of UNHCR were the United Nations Relief and Rehabilitation Agency (UNRRA) and the International Refugee Organization (IRO). The IRO was set up to replace the UNRRA in 1947 and this also constituted a fundamental shift in the approach of international refugee policy. Previously, international organizations only dealt with specific groups considered as having refugee status and therefore a person had to be a member of a particular group for gaining refugee protection. However, the IRO changed the definition of refugeehood to individualized “persecution or fear of persecution” due to race, religion, nationality and political opinion. Thus, individual’s specific circumstances became the determining factor for acquiring refugee status rather than membership of a group.

The UNHCR was established with narrow authorities and limited functions. The Statute that established the UNHCR laid down its primary responsibility to protect displaced persons and find permanent solutions to their plight, either through voluntary repatriation or assimilation in their new national communities. Significantly, the original mandate did not include the provision of material assistance to refugees, which has eventually become a major responsibility especially in the context of India and Pakistan. The United States, in particular attempted to restrict the UNHCR and it was reduced to serve as an agency for the international legal protection of displaced persons. However, one of the central points that this book makes is that notwithstanding these challenges, the UNHCR soon evolved to expand its mandate and offer innovative ways to protect and assist refugees. The authors credit the successive High Commissioners of the Office who maneuvered around the restrictions imposed on the agency for this change. For instance, High Commissioner van Heuven Goedhart enlarged the scope of the institution by obtaining the capacity to gather funds independently and not remain completely dependent on states. A major funding from Ford Foundation in 1952 enabled the UNHCR to provide assistance to a range of NGOs working for refugee protection in Western European nations. As it lacked coercive enforcement power, the Office was seen as a humanitarian agency with a strong moral authority. The High Commissioners portrayed it as an impartial agency with considerable expertise on refugee movements and laws. Thus, many States found themselves depending upon the UNHCR in ways that had not been anticipated at its inception.

The authors trace the changing roles of the UNHCR across the world, from its early actions like the successful intervention in the Hungarian refugee crisis to the expansion into the developing world through the “good offices” approach. In many cases, the UNHCR came into direct conflict with a powerful State. For instance, when it decided to aid Algerian refugees, it faced strong opposition from the French government but the moral authority exercised by the Office helped them fulfill their responsibility.
While on the whole, the authors acknowledge the contribution of the UNHCR, they also point out its various shortcomings. For instance, in the 1980s, the administrative and financial burden of the UNHCR is attributed to its own faulty policies and its willingness to align itself with western strategic interests rather than follow the mandate. Moreover, at the end of the 1980s, the Office struggled to prove its relevance as donor countries channelled their contributions to high profile NGOs and relief programs. Consequently, under the new High commissioner Jean Pierre Hocke, the UNHCR adopted a different policy that emphasized repatriation and assistance rather than protection. This was an attempt to make the UNHCR a more comprehensive body in a new global environment.

The core of the book is the fourth section ‘The Politics and Practice of UNHCR’s Mandate’ where the authors abandon chronological narrative in favour of a critical approach to understand the complexities involved in fulfilling the mandate of the UNHCR. It explores the difficult relationship between the UNHCR and the states and also brings to the fore the highly political nature of the work involved in an apparently apolitical endeavor. The authors do this by constantly referring to the political and historical contexts that shaped the policies of the organization. They highlight the core mandate of the UNHCR, that of protection and the tools it can use to influence states’ behavior. The legal instruments in the Statute and the Convention provide specific social, economic and political rights to the refugees that the UNHCR has to protect. The quantity and quality of asylum that is assured by the Convention ultimately has to be ensured by the UNHCR through careful negotiation with the states. However, the non fulfillment of the states’ responsibility has ensured that the UNHCR has expanded its original mandate and is now directly involved in the management of camps and determination of refugee status. The increasingly political nature of refugee protection suggests the need of greater political engagement. One of the central arguments of the book is that the UNHCR needs to develop a greater sense of political analysis, in order to gauge the way in which states will respond to responsibilities towards refugees. The UNHCR should not misinterpret their ‘non political’ nature and remain dependent on states’ altruism. It needs to recognize that the practice of refugee protection is itself political in nature. Thus, the authors suggest ways to overcome one of the UNHCR and the UN’s core limitations - their inability to make states act for the welfare of those in need of protection. Moreover, they do this by suggesting ways to make internal changes in the policies and orientation of the organization even as they retain their fundamental character. This is one of the striking achievements of the book.

Following this, the authors discuss the internal structure and dynamics of the UNHCR. This chapter may well have preceded the earlier one as it contains details on the way the UNHCR is positioned within the UN system. The details of organization within the headquarters and the field and its relationship with other NGOs and international bodies constitute other elements of this chapter. The authors also discuss the refugee regime complex and show the complex inter-linkages of development, labor migration, human rights and other regimes that overlap. These ‘complementary overlaps’ create opportunities for collaboration to complement the work of the UNHCR. The authors also dedicate a chapter to the new trends and issues facing UNHCR including that of urbanization, migration, climate change and the kinds of displacement emerging out of these. These kinds of issues also point to the need of change within UNHCR’s mandate with regard to ‘who to protect’ and ‘how to protect’.

In conclusion, the authors note how the UNHCR has responded to new political and institutional issues by constantly reinterpreting its original mandate. From taking its focus beyond Europe in the early years, to emphasizing material assistance in the 1960s, to managing camps and providing humanitarian assistance, it has successfully adapted itself to continuity and change. To learn from the past and prepare for the future, the UNHCR needs to learn from its own history of change and how strategic decisions at certain points in history have redefined its status from a time bound European institution to an increasingly relevant global organization. It also needs to recognize its own structural features that inhibit any radical measure. The method of appealing to states’ political interest often fits uncomfortably

Available from http://www.wiscomp.org/peaceprints.htm
with the UNHCR’s moral authority and normative power. The authors thus emphasize the need for political analyses, evenhandedness and effective partnerships to enable the organization to prepare for new directions in its work in a fast altering global environment.

In recent times, most literature produced on the UNHCR has been specific in nature, providing details on the particular policies and achievements of the organization. In the 60th anniversary of its inception, this book serves an important purpose – looking at the past, documenting the changing political dynamics and making suggestions for the future accordingly.