

Domestic violence on the Thai-Burma border: international human rights implications

by Caroline Lambert and Sharon Pickering

This article focuses on domestic violence against women living in camps, highlighting both the potential and the limitations of human rights standards in bringing change to women's lives.

Women from Burma who live in the camps along the Thai-Burma border are increasingly coming into contact with the concept and practice of women's human rights. For many women, learning about rights is a significant part in the process of recognising experiences of injustice and accessing remedies or protection. While levels of awareness are increasing, however, the effects of such change are limited to the women themselves. Indeed, among the women we spoke with, there was a recognition that adopting a human rights framework could be detrimental to women, placing them at risk of family and community disapproval. In addition, as the women are without legal status in relation to the Thai state, the primary dependence of human rights mechanisms on the nation state for the realisation of human rights further diminishes their usefulness as a means of remedy or protection.

Domestic violence in camps

Many of the women we spoke with identified domestic violence against women in the camps as an issue of serious concern.¹ As women's organisations have become more established and a greater number of women have become involved in activism within the camp communities, they have sought to create a multi-faceted series of interventions to address domestic violence, involving the individuals and the camp committees.

At the level of the individual, many of the women we spoke with discussed the ways in which learning and talking about human rights increased

their confidence to speak out about behaviour they considered unfair or unjust:

It tells you what is wrong and then what is not right, and then you also know that you can express what's right, that your rights were being violated.

Learning about human rights and recognising that women have human rights challenged the way women and men in camps thought about domestic violence:

[F]or example, in the camp we have some case, it is domestic violence. ... at the beginning we think the women are not good. So yes, the husband should beat, like that. Now we change the opinion.

As awareness of the incidence of domestic violence increased and women's organisations brought the issue into the open, other strategies became possible, including establishing huts in the camp that women could go to when they needed to escape violence. In particular, women stressed the importance of women's organisations having a physical presence in the camps and being available to help women talk with their husbands about why their behaviour is wrong:

So also they, they call both husband and wife and they explain them about not hitting like this. We are human being, the same human being and not to hurt each other.

Moreover, women's organisations have begun to demand more comprehensive responses from the section

leaders or camp committees, including the involvement of women in decision-making structures. One woman noted that even if the government failed to implement human rights treaty obligations, the fact that women know about them has changed the way they interact with their local communities:

We can also compare what the leaders should do or they should not do, so it makes more understanding of what the state should do to the women...

Identifying domestic violence as a human rights violation empowers both individual and collective action and contributes to the eradication of the practice. It is no longer dependent on individual women taking isolated action.

Domestic violence in international law

Domestic violence has had a fractious relationship with international human rights law. While throughout the 1990s women's human rights activists loudly proclaimed that violence against women is a human rights violation, the political players at the UN were less convinced. The 1993 Declaration on the Elimination of Violence Against Women deliberately did not name violence against women as a human rights violation, choosing rather to elaborate a series of rights which were detrimentally affected by such violence.² More recently, the Beijing Plus Five outcomes document characterises violence against women as a human rights **issue**, recognising that violence against women perpetrated by state actors is a human rights violation.³ However, the negotiators resisted the argument that there is a state responsibility to ensure the human rights of all individuals in their territory. This notion - 'due diligence' - requires that states take concrete steps to respect, protect and fulfil all human rights obligations.

Any act of violence against women, including domestic violence, therefore constitutes a violation of human rights if a state has failed to implement programmes and legislation which work towards the eradication of domestic violence in their community.

The central point of contention is the different status accorded to acts perpetrated by state and non-state actors within human rights law. Human rights law is predicated on the accountability of the state: realisation of rights and remedies for violations are mediated through state mechanisms. So while the gendered dimensions of state-sponsored violence against women have been recognised (for example in the recognition of rape as a war crime within international humanitarian law), the issue of violence perpetrated by non-state actors remains contested. At a legal level the Committee on the Elimination of Discrimination Against Women (CEDAW) has clearly elaborated the nature of states parties' legal obligations with respect to the eradication of violence against women; the Committee recognises that violence against women is a form of discrimination and that states parties to CEDAW have therefore an obligation to eliminate violence against women as part of their legal duties owed under the treaty.

Limitations

The state-centric focus remains a significant impediment to the use of human rights, particularly in relation to domestic violence for women in many locations around the world. This issue is compounded for women living along the Thai-Burma border. Around the world domestic violence is perpetrated by an individual with varying levels of censure by the community and by the state. Within a human rights framework, however, the only entity with clear accountability for human rights violations is the state. Therefore, while women may experience a level of personal empowerment, they remain dependent upon broader community acceptance of equality between men and women and their equal entitlement to the realisation of human rights.

Even when women are able to raise issues of human rights with their husbands, if their husband rejects them there is very little recourse for the

women, particularly if they are frightened of further violence or economic hardship or community disapprobation:

Probably with some of the women leaders they are quite assertive and they can discuss these things with their husbands, but only telling them. But to really do something against it, I still cannot see.

The challenge for women remains that the views of their husbands very often reflect the dominant views of the community that domestic violence is a private issue between family members. While the requirement to take steps to change such attitudes is an obligation under CEDAW and the Platform for Action, for women living along the Thai-Burma border it is very difficult to identify the state which bears responsibility. Both Burma and Thailand have signed CEDAW, which requires that states parties take measures to eradicate all forms of discrimination against women, including violence. But it is almost impossible to hold the authorities in Burma accountable – and most of the women activists along the border do not recognise the military junta in Burma as a legitimate government. The Thai government imposes strict restrictions on individuals living in refugee camps and local police officials have an antagonistic relationship with those living in the camp. Women from camps and migrant workers have reported violence perpetrated against them by Thai law enforcement officers and the Women's League of Burma has argued that such violence is often treated with impunity.⁴ So while the provisions of CEDAW should extend to all those living in a territory, in practice women face extreme difficulty in accessing the mechanisms of the Thai state.

In place of the formal apparatus of the state, the camp committees take on a de facto state role – notably in the distribution of food and health care and the provision of education. Many women noted that the Camp Committee, often dominated by men, fails to take the issue of domestic violence seriously. While women may go to the camp committee to discuss women's human rights, the formal legal mechanisms of the UN human rights treaty system again fall short in addressing the most influential organisational entity in women's lives. In

preparing their Shadow Report⁵ for the CEDAW Committee, women from Burma stressed their frustration over the inability to address the actions or inaction of the camp committees.

UNHCR has observer status in the 14 camps along the border. An important next step for our research is to examine the ways in which UNHCR is engaging with such issues. One woman who lived in a camp and was involved in women's organising discussed with us the difficulties women face in bringing the issue of domestic violence to the attention of external agencies, including UNHCR. She talked about the practice of UNHCR and NGOs coming into the camp and talking to the camp committees but not talking to women.

Conclusion

Discussion of international human rights has brought a number of gains for women living in the camps on the Thai-Burma border, particularly relating to increasing women's individual and shared empowerment. However, these gains are significantly challenged by the lack of state responsibility. There is a need for NGOs and UN agencies to take a stronger and clearer role in relation to issues of domestic violence, and be made more accountable for both the camps and the levels of domestic violence in the camps.

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1. They also referred to sexual violence perpetrated by agents of the SLORC/SPDC and violence against undocumented women living and working in Thailand.
2. Declaration on the Elimination of Violence Against Women, UN Document A/Res/48/104, February 23, 1994.
3. Report of the Ad Hoc Committee of the Whole of the 23rd Special Session of the General Assembly 2000, UN Document A/S-23/10/Rev.1, paragraph 13.
4. *Ibid.*, 30.
5. A Shadow Report is an alternative account of a country's performance under CEDAW submitted by NGOs.