

Internally Displaced Women from Kashmir: *The Role of UNHCR*

In the last one decade there has been a growing global concern at the increasing numbers of displaced people. The numbers have been increasing rapidly and much more in contrast to refugees (Schmeidl, 1998). Subsequently this apprehension has been reflected in the refugee agendas, as well as the growing literature on refugees and displaced people (Cohen and Deng, 1998, Cohen, 1995; UN Commission on Human Rights, (1995) Francis M. Deng, Report on Internally displaced people, E/CN.4/1995/50; Forbes, 1990; Canas, 1992; Frelick, 1999; Korn, 1999). Despite these trends there has developed no consensus on various concerns cutting across refugee and displaced people's issues. UNHCR has been increasingly drawn into the IDP process of both protection and rehabilitation. In its latest position paper issued in March 2000 UNHCR states that in view of the growing linkages between refugee problems and internal displacement, UNHCR is committed to greater engagement with the internally displaced within the parameters of its principles and pre-requisites for operational involvement (UNHCR, 2000).

This particular paper tries to understand the impact of displacement, particularly on women. The article is about women who have encountered the process of violent armed conflict and live in islands of hardships and exclusion from the mainstream of the nation state. By contextualizing this issue where the displaced women from Kashmir are concerned I hope this paper will try to define whether the augmented role of UNHCR can be universalized without affecting its original mandate.

The Sites of Conflict Location and Dislocation

There is a fundamental linkage between conflict and displacement. Armed conflict is linked inexorably to people leaving their homes to seek refuge sometimes within

territorial borders and sometimes outside it. Conflicts are ever present on contested borders and link territories to violence in people's lives. Partitioning of territory creates conflicts as it produces borders, which turn intractable, when it comes to settlement. In the territory, both sides of such borders, violence becomes a part of people's lives. The Israel-Palestine and India-Pakistan divide fall within these fault lines. Conflict also results in mass movements of people, sometimes moving across borders as refugees and sometimes remaining within them as displaced persons¹.

In the Indo-Pakistan border problem, the most complex has been the Kashmir zone. Since the partition of India in 1947 hundreds of thousands of people have been forced to leave their homes. Earlier it was the conflict of 1948, 1965 and 1971, which were responsible for the creation of refugee streams, and large displaced groups. Since 1989 the increase in intensity of conflict combined with civil disorder in the State of Jammu and Kashmir (J & K) which is part of Indian territory the numbers of displaced have increased. Some displaced have crossed borders to fall into the category of refugees, but most have stayed within.

In this movement of people the largest stream has been of Hindu Kashmiris who have been forced to move out of the Kashmir Valley in India to other parts of the country. This paper concentrates on their plight. In this paper I draw from ethnographic field research conducted intermittently during the last two years. It has not been confined to any one camp or border area, but is a preliminary task of trying to understand the people who left Kashmir in the backdrop of increasing civil disorder.

These women are from camps and settlements both in areas of Jammu, which are a constituent part of Kashmir and some from further afield in Delhi. It includes women from the Nagrota, Muthi and Mishriwala camps in Jammu and non-camp women in Delhi. The article is not only about the Kashmiri Pandit groups who are Hindus but also other Kashmiri Hindus and Muslim Kashmiris forced to leave their homes. The article includes those women from border areas who have been displaced a number of times over. It is also about those women who have tried to return back to their homes but were forced to go back to a life in camps.

The Narratives of Displacement from Kashmir

The history of large scale Kashmiri displacement began only in the nineteen ninety's though it is the outcome of the unsettled borders left over after Partition. Internal power politics mixed with external happenings created a situation of conflict in the perpetuation of which women played no role. At this time when there is an arms race in the South Asian sub-continent combined with intrastate and regional instability, the study of the effect of conflict is significant. As peace falters women's peace initiatives can also become important.

The mass exodus began on 1st March 1990, when about 250,000 of the 300,000 Kashmiri Pandits fled the State (Puri, 1993: 20)². Many Hindus were made targets of threats and acts of violence by the militant organisations and this wave of killings and harassment motivated many to leave the valley. Interviews with displaced Kashmiri women revealed a trail of events related to the exodus. Narratives of massacre of women and children, of abductions of whole families and mass suicides by women wanting to escape sexual abuse and of corpses flowing down the river Jhelum. Looting and setting on fire houses and business were common narratives in the camps.

As is the case in refugee situations, even here women and children were sent out of the State before the impending disaster. Whole families followed soon after. The rape and murder of Sarla Butt, a Kashmiri Pandit nurse of Soura Medical hospital created a panic among Hindus who sent their women from the Kashmir valley to safer places. In the first instance those who left were Kashmiri Pandits, then other Hindus and non-Muslims, followed by non-Kashmiri Muslims, and finally the Kashmiri Muslims.

They fled for two reasons, fear or economic uncertainty. As to specific reasons for women leaving Kashmir especially Muslim women, fear of sexual assault by militants and in some cases security personnel has been a major element. What complicates the feminist perspective is the role of the Dhuktarane Millat, a militant women's organisation. Women I met spoke in whispers ten years after being forced to leave

their homes by these women who tried to force them to use the veil or face humiliation. Most fled to Jammu in the first instance. Soon militancy spilled over into Jammu targeting the displaced (Kirpekar, 1994). As numbers in camps also swelled many moved further, especially into Delhi.

Can a case be made for ethnocide? Did ethnic cleansing take place? Answers can be found when one investigates into the impact of violence used during conflict on women. How has conflict affected women's lives is a question confronting not only feminist scholars but is an important dimension in the general study of peace and conflict which is overlooked.

Conflict and Violence

Displacement due to conflict is universally often preceded and accompanied by physical violence. In this dispute over Kashmir, though conflict affects men as they join the forces or who are targets of state violence because they are militants or are supposed to support these groups, it affects women differently. Recent years of global conflict has shown us that the targets of ethnic violence are particularly women and they, suffer the worst forms of cruelty and indignity in the form of rape (Koenig, 1994; Nordstrom, 1996; UNHCR, 1993). Sexual violence is the result of the civil disorder in the State and has also been used as a strategic method aimed at a people who are considered as the 'enemy'. Sexual violence is not only a personal trauma but has a social stigma attached to it. A woman violated sexually becomes socially outcast. This has found to be the case in Sri Lanka, Kosovo, and Kashmir.

The Geneva Convention has outlawed rape in war, which state: "Women shall be especially protected... against rape, enforced prostitution, or any form of indecent assault". Special Rapporteurs of the Human Rights Commission have categorised rape as a form of torture and in certain instances it is considered to constitute a war crime and a crime against humanity, but unfortunately these protections have not been sufficient (Tompkins, 1995).

During conflict situations such as in Kashmir, displaced women face not only a continual threat of rape, but also other forms of gender based violence including prostitution, sexual

humiliation, trafficking and domestic violence. The psychological effects of traumatic experiences such as these in the context of gender-relations are still to be explored.

Women and Displacement

Displacement causes social dislocation. Gender experiences of displacement are significantly different. In Mishriwala on the Jammu-Akhnoor Road Kashmiri Pandits, displaced from the Valley live. Families here battle not only for rights but also have to protect their lives from militant attacks. The displaced are mostly educated, the men speaking English, some women also know both English and Hindi. Education of children is a major concern, though the government has provided primary and high schools. The women feel that a whole generation has been lost. Employment becomes more difficult as they continue to live in camps. In the Nagrota camp the young are leaving camps to go to Delhi and other areas to access employment opportunities.

Health, especially reproductive health care is a major problem among those displaced in Jammu, especially for those who cannot access facilities due to their limited financial resources. Though Medicare is free in government hospitals medicines are rarely available and have to be paid for. The facilities, location and environmental conditions at the camps are not favourable to healthy living. Sanitation remains a major problem in camps. It has its gendered dimension as it makes women vulnerable to physical and sexual harassment both by camp and non-camp males. There is little freedom for women in contrast to their sisters in Delhi, as Jammu is still an extended militancy area.

In Delhi, more than 100,000 of the Kashmiri displaced live mostly outside the camps. These displaced receive financial and other assistance from the government. Those living in camps are the poorer sections with little access to good jobs.

In Delhi, the apparent visible sense of independence, and mobility of women was in contrast to those for instance in Mishriwala. Here women, especially young educated women could find suitable employment. Women work both in private

and public sectors. Kashmiri women have had to develop new skills to cope with the totally different environment. In displacement, the women being alienated from their traditional resource were forced to look for new ones. This was especially significant when they migrated from rural to urban areas, especially in Delhi. Loss of traditional occupations, such as agriculture, were no longer options available and handicrafts become unfeasible, because of unavailability of raw material and breakdown of the traditional commercial markets. Women, especially in Jammu had to compromise with taking up unskilled wage labour, which is both irregular and underpaid.

The increase in social disturbances is illustrated by increased alcoholism and gambling in the camps. Psychological problems due to loss of employment and property and lifestyles by men have resulted in increased violence against women.

During conflict some socio-cultural norms and identities lose their value while others are entrenched which changes the life styles of women. On the one hand women have been found to be socially and politically oppressed by forces within and outside the community, which disempowers them. On the other hand, they create spaces in which they locate new identities and powers.

The Politics of Disempowerment

Loss of homes, property, productive capabilities and of social networks are the outcome of displacement which disempowers families, especially women. Powerlessness and loss of self-esteem among displaced people is not gendered. Human Rights discourse view women during conflict as victims. This discourse projects women as victims of rape and sexual abuse and therefore being disempowered during war. I would argue that what is singularly disempowering is the baggage of traditional patriarchal norms communities carry with them into displacement.

Among women there has been found in the initial stages of displacement a sense of helplessness. The State support system is usually slow to respond. Women have tried to commit suicide and many suffer in silence. Very few women

can take the help of the police or the courts, as they are in a place where their extended social connections are missing.

Relief, it has been noticed is another disempowering element. There is recognition among humanitarian relief agencies that it is usually women who bear the material and psychological brunt in refuge and displacement. They recognise the need for a gender sensitive relief and rehabilitation policy. Yet it remains rarely employed and most programmes remain within the conventional development thinking. There is no effort to develop culturally appropriate and effective strategies for women's empowerment in the context of the Kashmiri armed conflict and displacement.

Religion is an important factor in disempowering women. This has been a very visible and critical factor in the context of displaced Kashmiri women. There have been increasing pressures, on both Hindu and Muslim women, from local communities and religious leaders to conform to the conventional patriarchal modes, they are not used to.

The Politics of Empowerment

The probability and nature of women's empowerment due to conflict sets no boundaries, as regards to their roles and status. Disempowerment is basically the product of the absence of State and social support. Consequently to escape this positioning women have to assume unconventional roles than the ones they are accustomed to. With many young women heading households going out to the workplace, society is forced to accept their new found independence. Most women have been exposed to the extreme trauma of a conflict and observed violence they had not known of. They have through the process of familial loss and of an environment that is familiar gained a new confidence. Through their new decision making powers they have been able to confront both society and State. As they have taken up traditionally male roles they achieve the confidence to cross bureaucratic hurdles and violations of their self-esteem and dignity. Women in Jammu have stood up against camp official outrages. They have pleaded for their husband's and son's release when they have been taken into custody on

charges of supporting militancy. Though vulnerable in their new role they have gained legitimacy in their authority.

Single women, whether Hindus or Muslims especially widows have challenged conventional religious constructions. The cultural dichotomy was less as Kashmiriyat had kept the two communities together. When displaced though the redefining conceptions of womanhood had to be countered many women withstood it. New spaces have been located as they struggle with new gender roles and identities. Women are achievers in such situations despite the initial powerlessness. The history of displacement is not one of disempowerment but also a triumph for women. Women have found organisations in displacement such as the Daughters of Vitasta, the women's wing of Panun Kashmir a Kashmiri Pandit organisation. The formations of networks is itself a process of empowerment.

At the same time women do not consider it as a triumph. For them clearly the process of empowerment can be burdening. These women are different and therefore the world may consider them as empowered decision-makers, able to take on the disasters confronting them, but society sees them as detractors from traditional socio-cultural norms. The process of empowerment therefore is complex and guilt ridden, and not easy in a hostile environment where patriarchal norms remain entrenched. For women this new space remains fettered by socio-cultural boundaries and past trauma but at the same time a space of hope for a future with limitless possibilities.

Women when Displaced or as Refugees

If we are to analyse the Kashmiri situation it is apparent that displaced women from conflict areas have problems which are not far removed from those of refugee women. They face gender specific violence, they are disempowered initially, but many cross these barriers and find methods of empowerment. The problems of camps are the same, the sanitation and health services are similar. The dividing line between refugees and displaced is very narrow. Protection needs remain the same.

Where does then the difference lie? India is not a signatory to the Refugee Convention, it does not have a special rights charter for refugees. Refugees and IDPs are both governed by Constitutional guarantees and international conventions which the Indian government has ratified. It is obvious that difference lies in the relationship of the displaced and refugees with the State and the response of the latter to them. A significant difference is that as citizens the Kashmiri women have used the right to protest when their rights are abused by the State. The refugees do not protest in an overt manner against the host country but do so discretely and through national and international human rights agencies, a method being increasingly adopted by the displaced also.

Conclusion

I began with the recent concern regarding IDPs and as to the issue of UNHCR taking over the IDP cause. Is it possible in the Kashmiri case? First, when seen from the perspective of the UNHCR it is possible, because Art 9 of the Statute allows it to engage in such activities as the General Assembly may determine within the limits of the resources placed at its disposal. While UNHCR has worked with IDPs in Sri Lanka, Guatemala, Iraq and Kosovo. Until the last decade its approach to the issue was ambivalent. The UN General Assembly resolution 48/116 (1993) set out important criteria to guide UNHCR's decision on when to intervene on behalf of internally displaced persons. This resolution, together with article 9 of the Statute, provides the legal basis for UNHCR's interest in and action for internally displaced persons.

UNHCR set out new guidelines setting out principles under which UNHCR can take on the responsibility of IDPs (UNHCR, 1994):

- (a) internally displaced populations are present in or returning to the same areas as repatriating refugees, or areas to which refugees are expected to return;
- (b) refugees and displaced persons in similar circumstances are present and in need of humanitarian assistance and/or protection in the same area of a country of asylum;
- (c) the same causes have produced both internal displacement and refugee flows and there are operational

or humanitarian advantages in addressing the problems within a single operation, including for example a "cross-border" component; or

- (d) there is a potential for cross-border movement, and the provision of humanitarian assistance and/or protection to internally displaced persons may enable them to remain in safety in their own country.

In the case of Kashmir we have to analyse UNHCR's response in the context of Indian policy towards UNHCR. India is not a signatory to the Refugee Convention, but it is a member of the EXCOM and would prefer to let UNHCR work on its territory. This has not always been the case and UNHCR's position has always been unstable. Indian co-operation has always been grudging as for many years the UN and many of its bodies were seen as part of the cold war extension. With India's own policy towards UNHCR changing in consonance with its overall policy towards the United Nations one would expect the country to allow free operative space to the UNHCR. This has not been the case³. Initially during the Kargil war the response towards Afghan refugees who are UNHCR recognised refugees came under suspicion. These situations affect the government's working relationship with the UN body. Under such circumstances to consider UNHCR's mandate to cover IDPs is difficult to conceive. Kashmir is an extremely critical concern in Indian national security, and any issue related to it would be judged microscopically. The ICRC, which is working on issues relating to Kashmiri detainees, has to tread very softly. I would argue that any attempt by UNHCR to concern itself with IDPs in India would compromise its work with refugees. Even though it might be allowed to stay in India the very little independence it enjoys would be further curtailed.

To conclude if UNHCR continues its global policy of increasing its mandate to include IDPs it would mean 1) putting up another barrier in the way of refugees being granted asylum in developed countries who would increasingly depend on the "provision of humanitarian assistance and/or protection to internally displaced persons may enable them to remain in safety in their own country". 2) It would also mean increasingly larger budgets for IDPs in contrast to refugees, as UN budgets are already limited and

crisis budgeting is always resorted to. I would argue that there can be no neat and universal package for UNHCR's involvement in IDPs. Its role must be limited to areas where the refugee and displaced cannot be sorted out.

*The author is Co-ordinator,
Centre for Women's Studies,
Utkal University, Bhubaneswar, India.*

Notes:

¹ Refugees are governed by the 1951 Convention. Though there might be disagreement on the Convention it can be discussed and changed. The term IDPs has no international definition. The Guiding Principles on Internal Replacements, 1998 by Frances Deng stated that IDPs are 'persons or groups of persons who have been forced to flee or to leave their homes or places of habitual residence as a result of, or in order to avoid, in particular, the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border'. As it includes displacement due to development projects it cannot be limited to political or human rights abuse as in the case of the refugee convention. At the same time there have been attempts to enlarge the refugee definition as in the OAU Convention. The use of Environmental refugees coincides with the use of development related displaced. The only difference being the crossing of borders. With states increasingly closing borders the displaced increase.

² Figures provided by different agencies range from 250,000 to 300,000. Rita Manchanda writes that the exodus includes 200,000 Kashmiri Pandits, 70,000 Kashmiri Muslims to India and 120,000 to Pakistan. From Kargil and the border districts some 35,000 people have been displaced in Pakistan and 100,000 in India. She does not provide the source. What is significant is that only about 5-10% of the original Hindu population remains in the Kashmir Valley today (Manchanda, 1999).

³ UNHCR's presence in Delhi has not been legal. UNHCR High Commissioners' visit in May 2000 may bring in the legitimacy UNHCR wants. At the present, to justify its presence in India, UNHCR has chartered out a different course than its normal one of Protection and Rehabilitation. It carries out advocacy work and disseminates information to public and academics. The major work of UNHCR seems to be directed towards formulating a national legislation for protection of refugees in the country. For this purpose, it has selected a few institutions and agencies like the National Law School of India where it set up a chair on refugee law. Support to the research agency the Indian Centre for Humanitarian Law and Research (IHLR) and an NGO AWARE. It has supported Universities, National level Human Rights organisations, research centres and national NGOs. The impact of UNHCR policy has been felt increasingly on refugee studies and law. The information on refugee protection through these organisations has been targeted at the elite alone. It has not affected either India's refugee policy or provided protection to refugees on the ground. What has been more important is the increasing case load and refugee protection through the courts. What is lacking in UNHCR's approach is its ability to link with grass root movements and human rights organisations working in the field, and use of media a very powerful force in India to create awareness.

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