

Burmese Migrant Women and Access to Justice in Thailand

Sunee Kanyajit

Faculty of Social Sciences and Humanities, Mahidol University, Thailand

E-mail: sunee.kan@mahidol.ac.th

Patcharaphan Nakpong

Faculty of Social Sciences and Humanities, Mahidol University, Thailand

E-mail: patcharapan.n@gmail.com

Natthapon Sokantat

Faculty of Social Sciences and Humanities, Mahidol University, Thailand

E-mail: haeyong_pp_@hotmail.com

Abstract

The aim of research was to examine causes and effects of conflicts toward migration of Burmese women into Thailand as well as access to justice of Burmese women. This qualitative research was collected data from experts which were police officers, attorneys, judges and 120 people related to research area which were 60 NGO workers and 60 Burmese migrant women. Data collection was carried out in 3 provinces in Thailand which was Chiang Rai, Chiang Mai and Tak. Methodology for data collect was in-depth interview that relevant to the purpose of study. The data then was conducted by content analysis and presented through descriptive research. The study determined that causes of migration of Burmese women into Thailand were conflicts on ethnic minorities, military dictatorship, human rights violation, poverty, yearning for human right and better living for family, and other violence such as labour abuse, exploitation, violation and sexual harassment. Burmese migrant women possibly face various effects in Thailand such as labour abuse, exploitation, violation sexual harassment, prostitution and inaccessible justice. The significant effect for Burmese migrant women was inaccessible on justice system in Thailand and their right or equity to justice was non-existent. Due to illegal migration and no legal identity and verification, Burmese migrant women fled from administrative officers and they can face illegal employment, extortion, prostitution or human trafficking coercion. Consequently, Burmese migrant women were insecure to meet prosecution with their illegal status as well as barrier in communication and identity verification issue. The research provide recommendation that due to vulnerability, lack of human right and opportunity to Burmese migrant women in Thailand, cooperation between Thai and Burmese government must contribute in order to solicited to resolve the issues and support “adaptation toward right to justice in Thailand”.

Keywords: Migration, Access to Justice, Burmese Women, Conflict

Introduction

Globalization and post-modernization has significant influence over Thai lifestyle, family, community and development. The essential social development goal includes peaceful and inclusive societies, adequate fundamental right and equality of treatment; justice and accountability in criminal law enforcement and judgment at all level of compliance (Tanyasiri, 2012) During International Labour Organization (ILO) 325th Session on Sustainable Development Goal summit in Geneva, Switzerland, 29 October-12 November, supported 136 member countries toward Goal 16. The Goal 16 state that “*Promote peaceful*

and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” (International Labour Organization, 2015). Substantial coverage of access to justice will be implemented, including in vulnerable women. In this connection, feminism idea was widely discussed and adopted in the West.

In late 1980, a large number of women started their opportunity in education and career including global implementation of non-discrimination practice (Chaiyanon, 2009). Access to justice by women has been strengthened. As in academic seminar toward “Access to justice, Access the fair treatment” (Thailand Institute of Justice, 2015), there are various way to introduce access to justice and fair treatment such as legal education and competency, legal aid and assistance. Women’s access to justice has been prioritized including for women in conflicts.

In several aspects, including economic, social and modern international relation, “Conflict” has been substantially discussed. The more subtle conflict became, the more society is influenced. Society is facing potential threat when conflict plays its role on development of the nation. In fact, conflict is in nature of humanism itself (Payutto, 2013). Conflict is natural and inevitable. It is part of society or inter-human environment. In Burma, the country has been in military dictatorship control for over 50 years, crisis of ethnic insurgencies, international sanction, perpetuating extreme poverty dilemma. Fleeing from crisis, a large number of Burmese and ethnic minorities migrated across the Thai border (Bunyaratanasuntorn, 2012). Persisting minorities disruption and separatist movement continues along the border, in Tak province, opposite to Myawaddy, Myanmar (Bunyawat & co, 2007).

The crisis in Myanmar has consequential effect to its people and recognition in women. Perception of conflict is often linked to violence, hostility and hard politics. In this situation, women are severely harmed, fall into desperation and vulnerability. In spite of the constraint, to approach human right and justice, women’s right and competency must be empowered economically and socially.

The research “Burmese migrant women’s access to justice in Thailand” studied conflict, as factor to migration of Burmese women into Thailand and its effect. Analysis of result will serve as guideline, in term of policy, practice and cognition, as sustainable solution for Thailand.

Related Literature

Myanmar is a state and located in north of Thailand. Myanmar border with Thailand around 2,000 kilometres and there is diverse races in Myanmar such as Bamar, Kachin, Shan, Kayah and other ethnic minorities. Most population is Burmese and other ethnic minorities are different in habitant, cultures, traditions and beliefs (Saisin, 2000).

Hills in Myanmar divided the ethnic minorities from centralisation, however, the minorities were independent and peaceful. The conflict of races occurred when Myanmar became British colony in 1885. The dispute on races happen because British separated system of government into Proper Burmese and Hill Areas or Border Areas. Due to undeveloped, British representative commanded and set up parliament to Proper Burmese. This is because Myanmar in prior period was undeveloped compared to India. On the other hands, Hill Areas had their governments and ruled by their leaders. The policy toward system of government by British crated discrimination between Proper Burmese and the ethnic minorities, as a result, the conflict on races was erupted (Saisin, 2000).

The end of World War II, Myanmar under his command by Aung San required free will from British in 1545 and the Representative government under a British Prime Minister gave independent to Myanmar. Although Myanmar was independent and had own government, the

conflict of races was remained and civil war was erupted in 1958. The dispute led to coup by Ne Win in March 2, 1962 and following military dictatorship. Military government had immense power to control over Myanmar and utilised force suppression to the ethnic minorities who against the military junta. Consequently, it created enormous conflict in Myanmar (Saisin, 2000).

According to military dictatorship in Myanmar, even though there is ceasefire agreement, civil between military government and ethnic minorities have been remained. Various violence and adverse effect impact on Thais and Burmese who live near border. This leads to serious problem that ethnic minorities migrant to Thailand due to escaping of several violence and war in Myanmar. Thailand services shelters to migrants while awaiting for deportation or sending for third state. Majority victims are child and women. Most Burmese women face sex abuse, prostitution, human trafficking. Some Burmese are death because of murder, ill and give birth. This humanity issue cannot be refuse. Assurances and healing must provide to victims by cooperation between Thailand and Myanmar (Saisin, 2000).

In 1980, Burmese citizens needed to be democracy and had riot, however, it was unsuccessful. Military government in Myanmar rendered decisive suppression. Coup in 1988 led to violation of human rights and political freedom. Although military government in Myanmar claimed that they were temporary and promised to set up democracy, this statement would be not necessary in the case. It had found that the military government had not establish constitution and ruled over the country for 17 years.

From 2008 to modern Myanmar, the constitution has been regulated. The prior system such State Peace and Development Council by military dictatorship, the President of State Peace and Development Council as king of nation and the Prime Minister as a leader of government was disappeared. The new chapter of Myanmar is democratic under constitutional republic. A president of Myanmar is a head of state and a prime minister is a leader of executive council (The Thai National Legislative Assembly, 2015).

According to immense change, it has seen that refugees live in 9 shelters in 4 provinces of Thailand and those shelters are near Thai-Burmese border. 102,607 refugees stay in Thailand and majority are ethnic minorities from Myanmar. Thai government services shelters and several assurances for those refugees. This is cooperation among Thailand, NGO and UNHCR.

In the light of protection of legal rights and freedom for Burmese women in Thailand, International Commission of Jurists-ICJ, found that a government shall be a major role to protect legal rights and freedom to citizens (International Commission of Jurists-ICJ, 2009). The International Commission of Jurists said that “*the public right is meaningless without mechanism for access to justice*” (International Commission of Jurists-ICJ, 2009). The government must also contribute access to justice which is a core of justice system. Judicial system shall be expediency, effective and cost saving to citizens in terms of access to justice. On the other hand, protection of legal rights and freedom in practice has been found problems and obstacles, particularly women in area of Thai-Burmese border. The problems and obstacles toward access to justice are as following detail;

- 1) Most female migrant labours are from Myanmar, Cambodia and Laos. Majority of the migrant labours has low wage. There are 2 groups of female migrant labours. The first group is legal labours. The migrant labours have register, identity approve and employment through governmental authority. Another group is illegal workers with no legal identity, work permit or visa.
- 2) Prostitute in Thailand has occurred in various forms such as convince or earn income from prostitute. This is illegal and breached by Prevention and Suppression of Prostitution Act, B.E. 2539 and The Anti-Trafficking in Persons Act (2008).
- 3) The large number of Burmese female migrant stay in shelters in Thailand and assist by

Thai government. Even though Thailand is not a party of UN Refugee Convention and does not have law to support refugees, Thai government has conducted a system of register and assistances to refugees due to cooperation between Thailand and UN High Commission for Refugee-UNHCR. Nonetheless, the system and process have not completed, as a result, migrants cannot be legal status and identity (International Commission of Jurists-ICJ, 2009).

Principle of protection on legal rights and freedom to women comprises of;

- 1) It shall not violate human rights that lead to unpleasant to judicial system such as unfair inquiry, disregard of complaint, no punishment to offender and corruption. Consequently, they do not believe justice system and require any assistance.
- 2) It must not discriminate based on gender. It shall not be disregard to female injured person because female injured person possibly face violence several times. Then, female injured people are unpleasant to justice system.
- 3) Misunderstanding toward legal rights and law results in problems on access to justice to women. At the same time, administrators lack comprehension related to law and information to suggest those women as well as problems on language and communication.
- 4) UN High Commission for Refugee-UNHCR, Committee of The Convention on the Elimination of All forms of Discrimination against Women, and Committee on Economic, Social and Culture Rights-CCESCR emphasize on international obligation toward migration and conclude that states shall not discriminate migrants, refugees, homeless and non-state females in their territories and states must reduce loophole for those people. This can determine that the states shall warrant opportunity toward access to justice and healing to female migrants with legal identity and migrant women with no legal identity. Committee of The Convention on the Elimination of All forms of Discrimination against Women says that female migrants can face limitation of access to justice and rights, particularly female migrant workers without legal identity. These female migrants face disadvantages such as mistreatment and sex abuse.

Although Thailand has several laws related to protection on legal rights and healing to female migrants like constitutional law, criminal law, criminal procedure law, Anti-domestic violence Act and labour law, it has been found that female migrant workers have limitation on access to justice and legal rights in reality. Thailand cannot fulfil international standard and need to improve migrated law (International Commission of Jurists-ICJ, 2009).

Objective

1. Examination on causes of conflict that led to migration of Burmese women into Thailand.
2. Study the effect from conflict which led to migration of Burmese women into Thailand.
3. Investigation Burmese women's access to justice in Thailand.

Research Methodology

This qualitative research is based on expert data collection, including professional officers and women in the research area which covered 3 provinces; Chiang Rai, Chiang Mai and Tak, Thailand.

There were 2 focus groups of samples and consisted of 120 participants. The first group was 60 experts which were 20 Police Officers, 20 NGO workers and 20 Justice Administration experts. Another group was 60 women in research area (of 3 provinces mentioned).

The selection of sample group was based on expertise associated with the research subject that was Burmese women's access to justice in Thailand. This sample group included police officers, NGO workers, and justice administration experts. Key informants were selected with purposive selection and based on expertise with minimum 5 years of resolution experience

with Burmese women in the research area.

The Burmese women sample group was chosen from Burmese women residing in Thailand that was the 3 provinces area of Chiang Mai, Chiang Rai and Tak. Likewise, purposive selection sampling was employed in order to achieve objectively comprehensive result interpretation.

Instrument of Data Collection

In this study, in-depth interview was employed to collect data. Tool for data collection structured from literature review as well as interview technique in sociological methodology. Questionnaire was a research instrument and has been inclusively developed based on sociological methodology, undertaking guideline and concept from literature review. Accuracy and content validity of objective framework has been reviewed by 3 executives and advisory level expert. The questionnaire was assessed based on Index of Item - Objective Congruence (IOC). Pilot test was conducted with the revised interview, in the group similar to the targeted key informants for the final amendment prior to data collection with key informants.

Data Validation

The researcher employed Triangulation technique for data validation. In order to valid data collection, the result of the same data was examined or reviewed from 3 sources which were involved time, place and people with more than 1 approach. This research employed qualitative paradigm Denzin & Lincoln (1994). There are four major triangulation techniques:

1. Methodology triangulation, combining multiple methods to gather data.
 - 1) Individual Interview, in-depth interview from expert professionals and Burmese women
- 2 Data Triangulation conducted in this research as following details:
 - 1) Conducted repeated interview from the same informant and examine creditability of verbal information provided each time
 - 2) Cross-examined data with different source, conducting individual inquiry with different voluntary informant to meet objective view point.
3. Investigation Triangulation, data validation by multiple researchers
 - 1) Multiple member researcher reviewed data to examine credibility.
4. According to Theory Triangulation, the researcher has collaborated academic papers and studies in the same hypothetical and theoretical scheme, studying literature reviews as guideline to this study. For example, Myanmar situation, theory of access to justice, conflict, gender and other related theories.

Data Analysis

Data from In-depth Interview was analysed though qualitative content analysis approach to identify topics or categories. Key concepts contributed to pattern or themes and complement understanding and propose appropriate conclusion.

Ethical Consideration

1. Risk prevention strategy is strictly conformed; Sensibility, Flexibility in line with social responsibilities
2. Researcher ensures that every sample with valid consent to contribute information should be adequately informed of objective, involvement in the research. Any doubt existed must be explained
3. Informed consent must be obtained from every participant
4. Participant should be able to freely to withdraw their consent, regardless of any reason and any effect
5. Personal information including name, family name must be treated as confidential. Only overview of this research will be published. This research has been approved by Centre of Ethical Reinforcement for Human Research, Faculty of Social Science and Humanities,

Mahidol University, Thailand.

Results

Interview with experts

According to interview with experts, the factor of conflict against Burmese women migrated into Thailand. In short period of time, numerous Burmese refugees migrated into Thailand, especially women. Primarily, the conflicts in Myanmar are stimulated by ethnic minorities. Regardless of central government, there are a large number of self-administered minorities throughout the country. Centralization of power has not been achieved. The central government deploys hard power to suppress the minorities. Suppression stimulated violence and disruption in the nation and aggravated segregation. Military dictatorship has consequential impact. Conflict situation on human right is violated and minorities are undoubtedly affected. According to informants:

"...Minorities, Racial Segregation - Conflict sensitive factor" (Police officer, 2015)

"...People are different in race, minority. Yet, right belongs to everyone and it must be strengthened to overcome conflict" (NGO worker, 2015)

Poverty is another factor of migration. Burmese refugee migrated through border of Thailand for better living because of escaping from hardship in homeland. Due to insufficiency in education, low employment rate in Myanmar and similarity in agricultural background, Thailand became the most potential relocation. Burmese refugee crossed the border to work in Maesai, North of Thailand and they used border pass which was 7 days validity period and only valid in Maesai area. However, the refugee illegally immigrated into other cities in Thailand, either through smuggler, temporarily permitted area or natural pass when water runs dried in dry season.

When considering the "right" of Burmese women, as illegal immigrant, the right in residing in Thailand is non-existence. They will be deported back to their country, if encountered authority or prosecution. With this constraint, they lived with uncertainty of illegal status.

Most Burmese migrant women illegally migrated from Maesai to inner cities such Chiangrai, Chiangmai and to Bangkok. Likewise, refugee illegally migrated out of designated area for migrant like Chiangdao, the area that provincial administration officer allowed Burmese migrant to stay with restriction of travel. Career opportunity has attracted migrants out of their restriction. In several cases, it's been found that illegal migration led to offences such offences against property or body.

According to Immigration Act of Thailand, illegal immigration is serious offence itself. The number of criminal offences has been raised in both Thai border and out of designated area because of their background of economic issue, including drug offences which severely affected Thais. Widespread of drug abuses were likely to take place in community where migrants relocating. The source is unclear, however, the outcomes are illegal possession, drug dealing and drug using. Police officer claimed that the community, especially area of Chiangdao in Chiangmai. It was the smuggling routes from productive site in Myanmar. The community distributed drug throughout Thailand and this is consequence to having substantial effect on Thailand. From informant's view, the factor to this issue is from both gender migrants.

The effect of conflict against Burmese women migrated into Thailand. The boundary between Thailand and Myanmar has always been indistinctive. For the local people, perception of border is only geographical idea. Strong relation between people along the border has been built up over time. Although border was clearly defined, people were urged to still cross this border illegally. This is because the location has always been community area, trade and transportation. The efficient cooperative solution between Thai and Myanmar is temporarily permitted area at the border area such as Maesai in Thailand. Local people should be able to

commute freely without passport. In the time where ethnic disruption took place, Wah tribe was one of the major groups to escape government's purge and migrated into Thailand. According to traditional believes of Burmese, daughter brings luck to the family. Girl has "offering ceremony" and will be sent to prostitution at the age of 15 in Maesai, Thailand. In this context, the conflicts arisen from economy and social may refer as following detail;

"...The situation in the country is unstable, constant disruption. Women and children are the worst affected. Children left home to support family in Thailand, where there is more opportunity and accessibility" (NGO worker, 2015)

The main industry in Myanmar is agriculture which does not often generate sufficient income. Due to low life expectancy in homeland and restriction to travel across country, people including women are coerced to migrate for better opportunity. Thailand is considered to the most suitable location because a neighbour state like Thailand has better living in economy and social aspect.

According to informants, the major conflict that lead to migration of Burmese woman is economic crisis rather than internal conflict. Considering toward internal conflict is mostly ethnic minorities. An example was that Shan minorities who fled from counter-insurgency to the border provinces of Thailand. They had been compromised to travel restriction. In spite of that, it is more preferred to them than life and death treat back in homeland.

Due to difference in culture, race and religion, the internal conflict between Myanmar and ethnic minorities is complicated issue, particularly Buddhist and Rohingya Muslim. Sectarian clashes occur sporadically in Rakhine State. The government responded by imposing curfew and instigated severe crackdown rather than resolution. The military strongly suppressed freedom of expression. For instance, different religion and politics was persecuted. Racial segregation provoked, riot vastly diverged among Rohingya and other ethnic minorities claiming sovereignty. Insurgency erupted, multiple armed groups against Myanmar military government. The situation developed beyond peaceful resolution. Although military centralized policy is reformed and racial discrimination is diminished, this conflict remains unresolved until present and is likely to prolong.

Regarding to access to justice for Burmese migrated women in Thailand, the right to justice is primarily restrained due to illegal migration to Thailand. This leads to difficult situation in Thailand because high cost of living and limitation of fund, inevitable migration and legalization as well as official fee. Some cases of migration faced overcharge or high amount of bribery from agency including immigration authorities. Migrants were fear and unable to stand for themselves. The migrants faced disadvantages and denied to access to justice, especially complicated bureaucracy system in Thailand.

According to view point of informants, consideration of obstacles and difficulties, there are two factors which affect access to justice for Burmese women as following detail;

1. Burmese migrant women legally entered to the country. They are more encouraged to stand for their rights. However, as less privileged migrant, they will not benefit from going through money-and time consuming legal process in Thailand.
2. Burmese migrant women legally entered to the country with insecurity of their illegal identity. They avoid confrontation with authorities as it could mean termination of their employment.

Major factor toward inaccessible justice for Burmese migrant women in Thailand is illegal identity, inferior social, undoubtedly and legal status. Reporting to authorities is uncertainty instead of seeking assistance. Lack understanding in Thai language, legal procedure, improper communication, working without permission, official identity and confronting authorities is treat of deportation. Constraint of their illegal identity leaves no accessibility to justice. Burmese migrant women are victim of any possible harassment since their abuse cannot be addressed;

“...without legal identity, even law is a threat, justice is merely impossible” (Police officer, 2015)

Secondly, language barrier is another major obstacle for Burmese migrant women. Thai is official language including legal terms and procedures. Official translation of Burmese language is inadequate and largely ignored. Qualified translator is crucially important to efficient communication. Another factor is attitude toward discrimination among Thai authorities. Burmese are stereotyped as illegal migrant. They are likely to face bias and maltreatment. For this reason, negligently, they are improperly informed of their rights, basic knowledge or channel to report abuse.

“...Migrant are facing their existing obstacle and language barrier, they are in need of human right assistance, not discrimination” (Justice Administration expert, 2015)

In order to promote access to justice and strengthen rule of law among conflict, Thai government shall be critical in effective implementation toward access to justice by migrant (not only for Burmese women but for everyone). In addition, regional cooperation from sub-district and village masters are required to established proper counselling of basic knowledge and channel of communication, information material and procedure of reporting abuse. Migrants should be informed their fundamental rights, justice system and procedure of legal identity. Insecurity of authorised confrontation shall be abolished and replaced with knowledge. Migrants are possibly introduced to correct officers.

In the light of these actions, cooperation between Ministry of Interior and royal Thai Police is needed to provide efficient migrant screening system including database, information, location system, timely action and appropriate assistance. Establishment of migrant centre is recommendation to inclusively facilitating toward access to justice and correcting understanding of Thai justice system. Ministry of Foreign Affair shall provide proper arrangement of translators along the border for effective communication. Most important that attitude toward discrimination from Thai authorities must be strongly discouraged. Concern of equity enforcement should be emphasized without prejudice toward Thais and Burmese.

Interview with Burmese migrant women

The interview is conducted from Burmese migrant women at the age of range between 20 - 36 years old. Burmese women consist of 25 Tais from Shan state, 19 Kayins from Kayin state, 16 Kashins from Kashin state, Mandalay, Myanmar. Informant's period of staying in Thailand varied from 2 - 10 years and they are still workers in factory labour, general worker, salon staff, residing in Maesai; Chang Rai, in area of Hangdong and Sunpatong at Chang Mai; in area of Maesot and Pob Pram at Tak. 52 informants are married and most informants have 2 - 4 children with aged between 1 - 14 years old. Informants permanently relocated to Thailand with regular contact with family in Myanmar. 20 informants had family or relative working in Thailand. 56 informants entered illegally to the country. 4 informants entered legally to the country through marriage with Thai. 56 informants had been registered as foreign worker. Every informant requested to keep their information confidential due to fear of possible impact on their stay or their family in Thailand. However, they wished that their experience is revealed to public.

Internal conflict in Myanmar caused migration into Thailand, - According to Burmese migrant women, it has greatly stimulated escape and migrated to Thailand for the better living due conflict and violence in their homeland, poverty and economic demand. Majorities of informants claimed that they faced great difficulties for living, low life-expectancy and unyielding agriculture in Myanmar. They said that;

“...Poverty is widely spread. Our farm doesn't bring any return, either the crop is insufficient or storm severely damaged both our crop and house. We ended up living in temple...” (Kayin Burmese migrant women, 2015)

“...I'd rather die taking chance ahead than living in difficulties...” (Kayin Burmese migrant

women, 2015)

Insufficient support from government, they feel obliged to escape for better living. Thailand was believed to be land of opportunities, convenient relocation, expectedly higher demand of labour, especially among women;

"...Previously I was a vendor in Ta Chileik, my Burmese friend convinced me of better paid waitress job in Chiang Mai, which turned out to be orange farm labour in Fang province" (Kayin Burmese migrant women, 2015)

"...I crossed the border with fake ID to Thailand with my sister. I earn THB 3,000 a month as stall worker in Chiang Mai, with food and accommodation provided. This is far better than at home" (Kayin Burmese migrant women, 2015)

Another group of informant claimed that the main purpose was to earn more money and racial conflict wasn't the main factor. Their purposes were only work opportunity for women, better living and financial support for family;

"...In Shan State where I lived, was far from Yangon, it was not much of conflict happening" (Kayin Burmese migrant women, 2015)

The effects of Myanmar conflict to Thai-Myanmar border

According to key informants toward internal conflicts, their factor of migration was to escape from economic crisis and to look for employment;

"...Chiang Mai has plenty of opportunity to offer, much better than staying home with no income" (Kayin Burmese migrant women, 2015)

"...People in Ta Chileik commutes back and forth, I earned enough working in the market but to earn more, I had to move to Chiangmai. I didn't have paper, so I entered illegally but the employer legalized the paper for me" (Kayin Burmese migrant women, 2015)

Success stories from women in the commune about becoming financial independent and supporting of her family after illegal migration into Thailand, this has proved better opportunities in Thailand and influenced them of the same.

"... A friend in the village moved to Bangkok for a job and she could provide her family. I really wanted to do the same, so I paid an agent to facilitate migration" (Kayin Burmese migrant women, 2015)

This minor group of informants is Shan ethnic. The effect of previous conflict in Shan remains economic instability and lead to migration for opportunities in Thailand.

"...In my hometown, Kashin, exactly where disruption, people remained sheltered at all time. From constant explosion, gunfire, killing, we escaped risk of life and death to Chiangtung, Thailand." (Kayin Burmese migrant women, 2015)

Conflicts under military and racial crisis elevated demand of migration to Thailand. Consequently, this led to raising number of human trafficking agents along the border.

Migrant's challenge and difficulties crossing Thai border

Informants had agreed upon conclusion that the main difficulty to enter Thailand is legal identification and legalization. Coming from small communes, legal document was unfamiliar to them. Lack of proper knowledge and illegal identity was their biggest concern.

"...Our illegal identity put us in utter difficulties. Drought in 10 years ago, resulted in the water ran low enough to walk across to Thailand. My brother and I sneaked into the country avoiding police during the entire journey. Without employment, I started out as illegal labour at orange plantation. We had to look for alternative in the cities when orange season end. It was a real hard time for us back then." (Kayin Burmese migrant women, 2015)

For illegal migrants, the feasible entry is through natural pass along the border. Migrants are transported in full truck by agents who are Burmese residing in Thailand and make their living by charging fee from facilitating migrants in the cities.

"...I crossed Maesai border, with the only pass I had, and never returned again. The agent placed me in longan plantation in Sunkumpaeng, Chiang Mai and charged the fee of 100

baht out of my saving of 200 baht from several months working” (Kayin Burmese migrant women, 2015)

Due to fear of confronting authorities and language barrier, their employment is located by the agent. Mostly, their first job in Thailand is in construction site with daily basis wage.

“...I wanted to have a job but it didn’t turn out to be what we expected, I had to work 2 years in construction site, squeezing in agent’s truck to work each day. After I was arrested, we were placed in labour skill training centre. I’m training beautician skill and will look for a job after my work permit is granted” (Kayin Burmese migrant women, 2015)

Migrants need their right to justice and fair assistance from Thai authorities when facing discrimination and recognition from their government regarding to racial or ethnic identities.

“...We want our government to facilitate our return. We want an end of conflict and proper employment, so we don’t have to endure the illegal status in Thailand” (Kayin Burmese migrant women, 2015)

“...Justice should mean equal and inclusive assistance to every household. Assistance shouldn’t be prioritized or privileged for military member or government worker” (Kayin Burmese migrant women, 2015)

Taking into account of humanitarian assistance, justice is crucially important, especially among Burmese migrant women facing labour exploitation, sexual abuse, human trafficking. Equity should be established among Thai authorities. Social justice must be empowered in accordance with legal justice to bring inclusive access to justice. However, an essential factor to justice is associated with politics and government stability to sustain empowerment of right.

Access to justice in Thailand

Informants are divided into 2 major groups. The first group has limited access to justice as less privileged migrant.

“...We smuggled ourselves across the border, living with insecurity, because we don’t belong to the country” (Kayin Burmese migrant women, 2015)

The second group is that migrants encounter harshly labour exploitation which tended to get worse with inaccessible to justice or if injustice was not addressed. For example, employer deliberately failing to pay can be reported at provincial labour department for prosecution.

“...I started working in tea plantation in Pobpra. In over a year of irregular compensation, we moved on to new job in construction site of Tak city. Construction was completed and the camp moved away, I moved to work in sewing factory where I learned to speak Thai and was sewing for several months until the employer deliberately failed to pay. Despairingly, I contacted provincial labour department, as suggested by Thai friends. However, with authority assistance, I am currently training in skill training centre and will be able to work legally with ID card.” (Kayin Burmese migrant women, 2015)

Key informants strongly believed in illegal identification. If authority found out, they will be prosecuted or deported. Their faith in Thai justice system and officers is non-existence. Their right and equity were merely subjected to identity of legal migrants. Access to justice in this situation is rather avoided. Obstacle of language barrier, complexity of legal process, lack of proper knowledge is more likely to result in disadvantage rather than justice.

The outcome from the study toward access to justice for Burmese migrant women in Thai-Myanmar border conflict is remarkably. Informants comprehended internal conflict and crisis in Myanmar, especially racial discrimination by government. While concern of human right and equity is essential to maintain racial diversity, it is distinctly neglected in Myanmar. Consequently, Thai linked to significant decline in social and economic, perpetuating mobility to Thailand for higher life expectancy. Illegal migration continues to elevate, however, they are undeniable facing difficulties from exploitation, language barrier, lack of recognition in human right, leading to physical and mental vulnerabilities.

According to interviews with Burmese migrant women through their life story, racial conflict was not considered as major factor of migration. Racial conflict and ethnic disruption was perceived as inevitable incident. They have been accustomed to segregation and constant violence in their background. However, conflict and infeasible protection from government had influenced in self-reliance and the need to provide better life expectancy for family. Thailand is land of opportunities in their perception and became the choice of mobility. Illegal immigrated Burmese woman is deprived of labour right and freedom living in terror and fleeing from police was part of life. Work is not stability commitment or stability. It was then merely anything for family support. Typically, new arrived migrants started their job in construction. Learning Thai is solid solution to improve work capacity along with skill training. They have more freedom in Thai labour market. Fluency in language not only prevents them from labour exploitation on the other hand, this offers better qualification, better workplace and higher compensation. Legitimate employment is able to offer work permit and legal registration which is the key to justice in Thailand.

Conclusion

Causes of conflict that led to migration of Burmese women into Thailand are complicated, including ethnic minorities, military dictatorship, violated human rights, poverty and pursuit of better life. In conflict situations, women are the most affected. Burmese migrant women encountered forced labour, human trafficking, exploitation, violence and sexual abuse. Figure 1 below represents synthesis of conflicts which led to migration of Burmese women into Thailand;



Figure 1 Causes of Conflict Leading on Migration of Burmese Women into Thailand

For better life, Burmese women fled their home into Thailand. Migrants who enter the country both legally and otherwise are obliged to pay fees and higher living costs in Thailand.

1. Burmese migrant women who have legal entrances to the country are more encouraged to stand for their rights. However, as less privileged migrants, they will not benefit from going through money- and time-consuming legal processes in Thailand.

2. Burmese migrant women who illegally entered the country and the insecurity of their illegal identity, they avoid confrontation with authorities because as it could mean termination of their employment.

Regarding access to justice for Burmese migrant women in Thailand, most Burmese migrant women is limited to access to justice or non-existence. The key factor is fear which

arisen from illegal identity. With inferior social, undoubtedly and legal status, reporting to authorities is uncertainty instead of seeking help. Due to lack of knowledge of Thai legal procedure, ability improper communicates or work permit and illegal identity, confronting authorities is a threat of deportation. Constraint of their illegal identity leaves no accessibility to justice. Burmese migrant women are victim of any possible harassment since their abuses cannot be addressed.

Currently, the issue is scarcely reported. Due to fear of prosecution, deportation, authority confrontation is discouraged migrants find if more effective to solve the problems by themselves. Hence, cooperation of government and private sector in strengthening equal humanitarian assistance and access to justice must be emphasized in all level and both in Thailand and Myanmar. Basic legal knowledge must be ensured and access to justice must be encouraged.

According to one of success case, where migrant reported exploitation of employer and the trial reached the fair verdict. The employer indemnified employee the loss in accordance with the research conclusion that justice can be feasible to migrants in Thailand. However, unfair treatment, sexual abuse and human trafficking must be diminished. Commitment of equality and fair treatment among Thai authorities must be intensified. In term of equal justice, migrants are undoubtedly to entitled less privileged assistance compared to Thai national, whereas, in other group migrants face exploitation from employer, since employee were not aware of their right and no serious measurement has been taken against employer. They should be primarily educated that abuse or exploitation can be reported at provincial labour department. Vulnerability and deprivation of humanitarian assistance is represented in figure 2 below ;

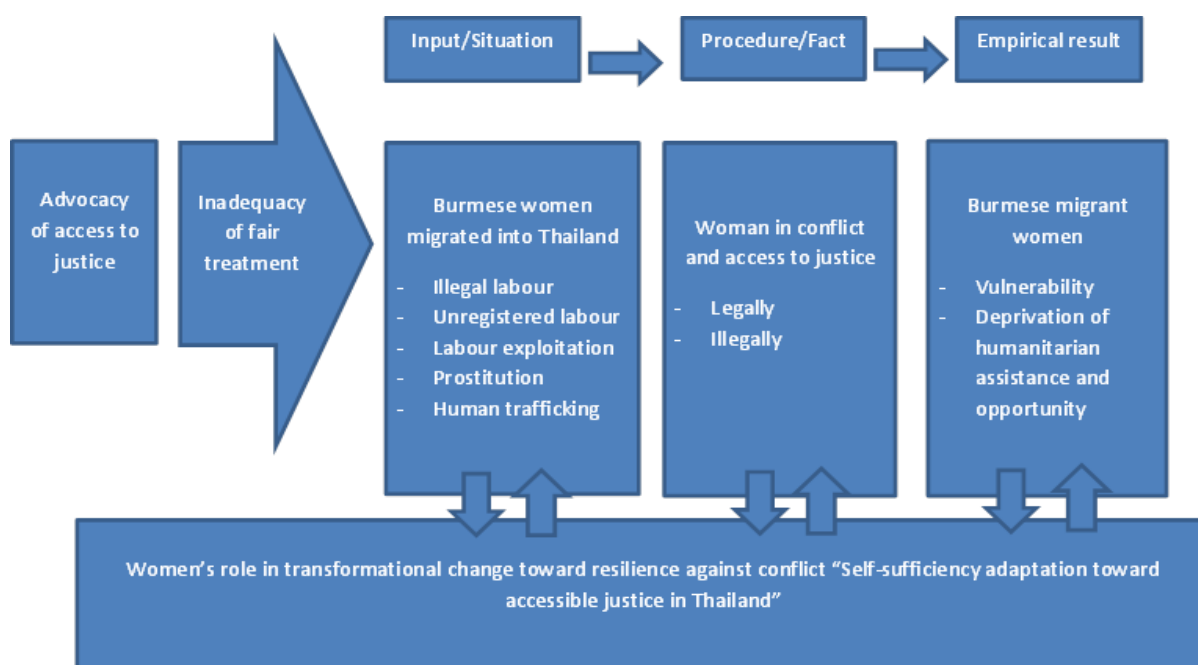


Figure 2 Role of Women in Transformation Change toward Resilience against Conflict: Self-sufficiency adaption regarding justice accessibility in Thailand

Justice was inaccessible to most Burmese migrant women. Their right or equity to justice was non-existent. The constraint of illegal employment, extortion, prostitution or human trafficking coercion, contributed to insecurity of facing prosecution with their illegal status, along with barrier in communication and identity verification issue. In light of vulnerability, lack of human right and opportunity, cooperation between Thai and Burmese government is

solicited to resolve the issues and support “self-sufficiency toward accessible justice in Thailand”.

Recommendation

In accordance with the study, based on research findings and pragmatic logical approach, researcher proposes integrated policy and practical recommendation as following detail;

Policy recommendation

It is well-advised for the government to establish a central committee. A working group is comprised of Ministry of Social Development and Human Security, Department of Labour, Ministry of Public Health, Ministry of Interior and Royal Thai Police in order to initiate concrete policy and strategy for Burmese migrant women in Thailand. Also, policy on preparing and demand of labour in Thailand toward the AEC, policy on legalization of illegal or unregistered Burmese migrant women, implementation of model policy and guideline in labour administration is recommended. Guideline from other institution and discussion in international level for solution to minimize illegal migration labour database system should be established. Cooperation between Ministry of interior and Royal Thai Police is needed to establish effective immigrant tracking system, especially the area border pass is allowed.

In order to inclusively elevate life expectancy and develop social welfare, Department of Labour and Royal Thai Police should develop standard measure and practice of field survey from community level throughout.

Most important is collaboration between Thai government and international organizations in establishment of migrated assistance centre that focus on women and children from conflict effect. Department of Justice should set up legal aid clinic in Thai-Myanmar border area with ethnic languages such as Kayin and Tai to facilitate concrete assistance.

Practical recommendation

Border area should be personnel-equipped with qualified translator to accommodate effective communication, legal experts for proper legal advice and counselling, police officers and provincial administration officers, including female personnel for counselling of gender-sensitive issues. In light of creditability and adequate understanding, assistance associated with access to justice should be specifically in ethnic languages. Gender-supported community should be introduced to empower and encourage women to address their right.

References

- Bunyaratanasuntorn, J. 2012. **Full Report on Policy toward Protection of Human rights on Thai-Burmese Border: case study on war and migration**. Bangkok: Pimluck Printing.
- Chaiyanon, M. 2009. **The Creation of Experimental Filmed Based on the Post-Feminist Perspective**. Master of Arts Thesis, Chiang Mai University.
- Denzin, N. and Lincoln, Y. 1994. **Handbook of Qualitative Research**. London: Sage.
- International Labour Organization. 2015. **Sustainable Development Goal Summit**. Geneva: International Labour Organization.
- Payutto, P. 2013. **A Companion to Buddhist Philosophy**. Retrieved from www.ahandfulofleaves.org/documents/A%20Companion%20to%20Buddhist%20Philosophy_Emanuel.pdf.
- Saisin, A. 2000. **Political History in Myanmar**. Retrieved from www.baanjommyut.com/library_2/asean_community/myanmar/02.html.
- Tanyasiri, P. 2012. **Process of Justice and Administration in Thailand**. Bangkok: The Office of Permanent Secretary of Justice, Ministry of Justice.

- Tassawat Bunyawat & Co. 2008. **Illegal Migration of Burmese Labour in Tak Province.** Bangkok: Immigration Office, Royal Thai Police.
- Thailand Institute of Justice. 2015. **Summary of Academic Conference toward Access to Justice.** Bangkok: Thailand Institute of Justice.
- The Thai National Legislative Assembly. 2015. **General Information: Republic of the Union of Myanmar.** Retrieved from www.senate.go.th/w3c/senate/pictures/content/file_1434343520.pdf.