

# Term Paper for Module B 2005

## ***Why listening to women's experiences and chronicling them is particularly relevant for understanding refugee situations in South Asia.***

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According to a recent UN report, about 90 million women currently reside outside their countries of origin, representing about half of the world's international migrants.<sup>[1]</sup> While a majority of female migrants move voluntarily – a smaller number are forced to migrate (although the distinction between forced and voluntary migration is blurred to some extent, and there is a severe lack of research on the way immigration has become tangled with the flow of refugees). A significant number of forced migrants have fled conflict, persecution, environmental degradation, natural disasters and other situations that affect their habitat, livelihood and security. This article deals with both voluntary and involuntary movement, the state response to women's voluntary migration in the South Asian context and the tensions in refugee policies with regard to gender.

'Migration is often seen as gender neutral because it deals with the process of the movement of persons, however it is in fact gender related because migration impacts differently on men and women and on different groups of men and women in their process of movement.'<sup>[2]</sup>

Whether the movement is forced or voluntary, immigrant women function within the larger patriarchal structure of the state. There has been little attempt made to incorporate gender into theories of international migration, and therefore, traditional theories and state policies failed to adequately address gender specific migration experiences. As Paula Banerjee has observed, 'State policies refuse to accept that the displaced population is largely a feminine population and so often rehabilitation programmes are couched in gender neutral terms thereby creating greater problems for women.'<sup>[3]</sup> Although the women's movement has increasingly questioned the invisibility of gender in studies of migration, the point I wish to make in this article is that state government responses to voluntary migration in South Asia and the international refugee law have become essentially protective, intrusive and judgemental with regard to women. By and large, 'in the political discourse, women are still assumed to be and posed essentially as dependent migrants which implies not only a denial of their economic and other contributions, but also ignores their individual agency. State structured policies based on such notions, instead of protecting and empowering women while ensuring them greater autonomy, thwart their chances and opportunities for advancement...'<sup>[4]</sup> They are as such because they have been formulated on patriarchal assumptions, without having listened to and taken into account women's experiences.

### **Gender and Refugees**

'State policies refuse to accept that the displaced population is largely a feminine population and so often rehabilitation programmes are couched in gender-neutral terms thereby creating greater problems for women.'<sup>[5]</sup> Therefore, for example, following the genocide attacks in Gujarat in 2002, a team from the National Commission for Women reported that the camps organized by the government had no representation of women in the organizing committee.<sup>[6]</sup> The security arrangements for women and children were inadequate and there were no special provisions for pregnant women, and no efforts were made to make women aware of the compensations that were promised to them.<sup>[7]</sup>

Further, dominant assumptions view women refugees as victims affected by war and conflict, unable to exercise their own agency. In Sri Lanka, for example, restrictions on entrance into and exit from camps affect those women who work outside of the camps.<sup>[8]</sup> Similarly, in the case of women displaced as a result of the construction of the Sardar Sarovar Dam in India, it was pointed out that relief programmes tended to deliver assistance directly to male heads of households, whether it is food, seeds, tools or training, and this has reduced women's influence over areas previously controlled by them.<sup>[9]</sup> Women lost their source of livelihood and the government had no programmes to provide them with economic independence.<sup>[10]</sup>

According to a guide called 'Essentials of Migration Management' by the International Organization for Migration (IOM),

'Special measures should be taken to ensure the participation of internally displaced women in such consultations and in any formal decision making structures. Typically, women and their dependent children constitute the overwhelming majority of internally displaced persons in any given situation. Yet too often it is the men who despite being a small minority, speak on behalf of internally displaced communities. As the primary care providers for their families, displaced women have the best sense of what is needed to ensure their own and their families' welfare and security as well how best to respond to these needs, making women's participation all the more essential to effective programme design. In particular, women's input should be sought with regard to food distribution and the contents of the food basket, the design and layout of camp facilities or other shelter, and water and firewood collection or distribution. Decision on these particular issues, it has been pointed out, are important not only for the delivery of these services but also the physical security of the women and children who receive them.'<sup>[11]</sup>

The views expressed in the IOM guide are limited because 'women organize a lot more than their family life.'<sup>[12]</sup> It attempts to limit women's participation in decision making to domestic matters, whereas women actually participate actively in demonstrations against the state. For example, in the Narmada Bachao Andolan (NBA) women protested against state action even when they faced severe human rights abuse and reprisals. Similarly, following the Gujarat riots, women actively organized peace rallies.

Examples of superimposing victim status on women can also be seen in the international context with regard to gender and policies that give women eligibility for refugee status. Therefore, for example, rape and other forms of sexual violence,

female genital surgery and family violence by and large determine gender specific abuses, which in turn grants refugee status to a woman.

'While refugee law may be formally non intrusive and non judgemental, it does make a determination of a state's willingness and ability to protect a particular citizen or resident, and in so doing lays claim to an international human rights standard. When the legalized refugee regime consists almost exclusively of states in the North determining refugee claims from the South, these purportedly international human rights based judgements seem or are one-sided, patronizing, and hypocritical. This discrepancy is especially pronounced in gender persecution cases, since violence against women (including intra family violence) is prevalent throughout the world.'<sup>[13]</sup>

While the focus on violence against women has positive consequences, an *exclusive* reliance on the victim status of a woman leads to cultural essentialism (stereotypical representations of a culture), and bad policies.

In this context, Christine Delphy gives an example in France, when in 2002 some women from the ghettos wrote books about the practice of collective rapes.<sup>[14]</sup> The media lapped it up, but,

'...the only thing that was lacking was the acknowledgement that collective rape and rape in general is endemic in France as in any patriarchal society, and was not introduced by North African immigrants...Thus these stories served again the goal of pretending such things did not exist in society at large, and confirming the view of young Arab men as barbaric, and, since rape did not happen in France, un-French.'<sup>[15]</sup>

My point is that women from developing countries are immediately characterized as victims of oppression, and as a result immigrant women are punished in the name of women's rights. Therefore, for example, in March 2004, the French Parliament ratified a law banning the wearing of conspicuous religious symbols in public schools. The centre of the national controversy was the Islamic veil or *hijab*. According to Delphy, in the colonial imagery of the French, North Africans treated women as slaves and '...the status of women in Arab, and more widely in Moslem countries, became a kind of litmus test, differentiating the valid cultures from the basically flawed ones; and *continues to be so*, in French political life as well as in everyday racism'<sup>[16]</sup> (my emphasis.) Similarly, one of the justifications for American interference in Afghanistan was that Afghan women needed to be saved by the Taliban and Islamic barbarism. 'Saving women from *pardah* has been propounded as a reason for bombardment, even while, ironically, the epidemic of hate violence in the United States has led to the seclusion of many women identified as "Middle Eastern, Arab, or Muslim" who otherwise face harassment and violence when they venture outside of their homes.'<sup>[17]</sup> Women wearing headscarves in the United States following the events of 9/11 have been beaten, pushed off buses and spat upon<sup>[18]</sup> - and clearly it is not women's empowerment that is the issue, but rather the intention is to develop in the mind of the general public a negative view of Islam, that is to say, a religion which is oppressive, backwards and violates the rights of women.

Therefore clearly the state, with regard to displaced persons - whether in South Asia or in the developed refugee receiving countries - does not incorporate women's concerns. On the other hand it may manipulate and victimize women's issues to suit its own ends. As a result, greater research is required based on the real life experiences of migrant women. Documenting and chronicling women's experiences, and responding to them, is vital for generating better, more effective state policies.

### **Gender and Voluntary Migration**

Policies in countries where migrants originate have an impact on their ability to migrate and affect men and women differently. In the South Asian context, existing legal provisions and government policies governing emigration of women are prohibitive. Almost all the countries in South Asia, with the exception of Sri Lanka, have imposed restrictions on the movement of women. For instance:

- In Burma, a 1997 order enacted by the regional army command in eastern Shan state, prohibited women aged 16 to 25 from travelling without a legal guardian.<sup>[19]</sup>
- In Bangladesh, since the early 1980's successive governments have either completely banned migration of all categories of female workers, except the professionals, or imposed restrictions on migration of unskilled or semi skilled women workers.<sup>[20]</sup> Although the ban was relaxed in 1988, it was re imposed again in 1997, and this time even some categories of professional women were not allowed to work overseas.<sup>[21]</sup> However, the government has been recently working towards easing these restrictions.<sup>[22]</sup>
- In Nepal, under section 12 of the Foreign Employment (Second Amendment) Act, there are restrictions on providing foreign employment to children and women without the consent of their guardians.<sup>[23]</sup>
- In India, the Ministry of Labour demands that any person seeking emigration clearance (not through a recruiting agency) needs to produce an affidavit, a copy of which is provided on the web site of the Ministry of Labour.<sup>[24]</sup> A recruiting agency also has to provide an affidavit, which includes the point that the female worker will not be deployed as maid servant/ domestic worker (point number 8.)<sup>[25]</sup> As a number of migrant receiving countries have imposed strict restrictions on immigration following the events of 9/11, the role of recruitment agencies has increased. Therefore restrictions imposed on recruitment agencies from hiring women as maids, severely handicaps a woman who wishes to go abroad.

Clearly, the governments view women migrants as potential victims who need to be protected from the consequences of migration – most likely, trafficking into the sex industry. The policies are based on assumptions that view women as passive victims who lack independent agency. These policies are initiated with the intention of benefiting women but in reality have a detrimental effect. They ultimately push female migration underground and encourage irregular or illegal migration of female workers, and consequently increase the vulnerability of the workers in the receiving states. The UN Expert Group had concluded that based on the documentation of migration flows, the degree of control over female migrants exercised by the governments “had no effect on the extent of clandestine outflows experienced by the different countries of origin.”<sup>[26]</sup> Similarly, a study of Burmese women migrants, based on interviews of women, also showed that Burmese regulations do not stop women from travelling; rather they make the process more expensive, as additional bribes must be paid to cross intermediate and border checkpoints.<sup>[27]</sup>

Although the impact of migration is different for each woman, increased mobility offers new opportunities and can lead to financial independence. Migration can have an empowering impact on women through the financial independence it generates. Migration can also force traditional gender roles, where men are the providers and women are dependent, to change and therefore, associating migrant women solely with poverty, vulnerability and victim hood reflects an incomplete understanding.

Curtailing movement perpetuates the exploitation of women. As the women are forced to migrate illegally, they are ‘left to the whims and fancies of the middlemen in transit and employers on arrival.’<sup>[28]</sup> Globalisation has produced employment opportunities for women, particularly in the service sector. ‘Women mostly migrate to work as domestic workers, sex workers or entertainers, in unskilled informal and domestic spheres.’<sup>[29]</sup> But state emigration policies based on an exclusive focus on protecting women, coupled with stringent immigration policies without acknowledging the demand for cheap, migrant labour in the receiving states, leads to policies, which restrict emigration and consequently increase the vulnerability of women.

## **Conclusion**

Specific immigrant or asylum seeking women appear rarely in government texts, and when they do they are portrayed as vulnerable non-agents.

According to an IOM publication,

‘Today, women migrants are recognized not only as dependents, or part of the family reunification process, or as forced migrants in displacement situations, but also as independent agents and family supporters or strategists. Today, women account for almost half of the migrant population globally. However, migration related policies and regulations in countries of origin and/or destination have generally not adjusted to this trend. Despite growing evidence about the gender related nature of migration, most migration related policies and regulations are not influenced by gender. More often than not, they underestimate or neglect the gendered nature of migration with unforeseen consequences for women’<sup>[30]</sup>

In receiving states, following the events of 9/11, the male migrant subject is increasingly being viewed as a threat, while the persona of the female migrant is essentially characterised, as Ratna Kapur has put it, that of a victim ‘in need of rescue from the conniving, manipulative, culturally primitive subaltern family...Her complex subjectivity remains unaddressed in the legal and policy approaches being pursued at the national and international levels.’<sup>[31]</sup> Similarly, Irene Gedalof, discussing migrant women in UK immigration policy remarks -

‘She is a problem defined by her linguistic isolation and limited awareness of cultural difference, her entanglement in the ‘backward practices’ of arranged marriage and gender subordination. In a move that feminist thinkers have long identified in the workings of both colonial and ‘imperial-feminist’ discourses..., a ‘gender aware’ discourse, is appropriated to produce her as a kind of victim, and to use her victim status as the measure against which a ‘progressive’ British identity and citizenship is established.’<sup>[32]</sup>

In the sending states, protective legislation prevents women from migrating legally, and as such increases their vulnerability. Illegal female migrants have to face detention and deportation. The fear of being discovered makes them accept abuse from their employers, and they agree to work for low wages in sub standard work conditions.

Further research is required to more substantially assess the impact of immigration and emigration policies in South Asia and the receiving states on women. Also, the distinction between voluntary and forced migration needs to be emphasised so that effective and different policies can be made. Greater research is needed to understand the blurring between the two concepts.

Movement of persons and the laws and policies to be framed with regard to them is a complex task. Humane policies are formed when the migrant subject, and in keeping with the focus of this essay, the female migrant subject, is the centre of attention and when her experiences have been documented.