

ISSUES CONCERNING REFUGEE WOMEN DETAINED IN IMMIGRATION DETENTION CENTERS: A CASE STUDY OF THE SADAO IMMIGRATION DETENTION CENTER, SONGKHLA PROVINCE

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ABSTRACT

The research aims to study the challenges in protecting refugee women at the Sadao Immigration Detention Center (IDC), Songkhla, evaluating compliance with international legal standards. Employing a qualitative research design, the study utilizes secondary data analysis from international and state reports, alongside in-depth interviews with experts and NGOs. The findings reveal three critical issues as follows: 1) Substandard living conditions, characterized by severe overcrowding, lack of privacy, and insufficient gender-specific amenities; 2) A heightened risk of Gender-Based Violence resulting from inadequate gender segregation and surveillance mechanisms; and 3) The absence of access to legal aid and systematic screening, leading to the classification of refugees strictly as "illegal immigrants." These conditions underscore significant gaps in fulfilling international obligations, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the principle of non-refoulement. This research has a suggestion as follows: policy level, as a National Screening Mechanism amends to the Immigration Act; and operational level, focusing on improving living conditions, Gender-Based Violence prevention, and staff training.

Keywords: Refugee Women, Immigration Detention Centers, Human Right, International Law

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INTRODUCTION

Refugee women are recognized as one of the most vulnerable cohorts in the context of global displacement (Sumullika Dowsuwan et al., 2023). Beyond the displacement itself, these women frequently endure complex Gender-Based Persecution, which often serves as the precipitating factor for their exodus (Hathaway, 2005). Upon entering a Host State without clear legal status, refugee women are often subjected to confinement in Immigration Detention Centers. This detention exposes them to compounded risks, wherein the 'Trauma of Flight—encompassing the severance of social networks, loss of legal personality, and psychological distress—is exacerbated by the 'Trauma of Detention.' Such conditions heighten their susceptibility to sexual harassment, exploitation, and a systematic lack of access to gender-specific health services (Sumullika Dowsuwan et al., 2023), including reproductive healthcare, pre- and post-natal care, and essential hygiene necessities.

Although Thailand is not a State Party to the 1951 Convention Relating to the Status of Refugees (hereinafter 1951 Convention) and its 1967 Protocol, the country remains bound by obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter CEDAW), to which it is a State Party, and the principles of the Universal Declaration of Human Rights (hereinafter UDHR). Consequently, Thailand is mandated to uphold the fundamental rights of all individuals within its territory without discrimination (Kanoknits Tunkunrat & Suthep Jan-arpun, 2017). The Sadao Immigration Detention Center in Songkhla Province serves as a primary facility for detaining refugees of diverse nationalities. While general detention conditions have been documented by various organizations, a critical 'research gap' remains regarding the analysis of these issues through a 'Gender Lens.' Adopting this perspective entails more than merely quantifying the female population; it requires an examination of how the seemingly 'gender-neutral'—or facially neutral—structures, regulations, and operational practices of the detention center result in a disproportionate and adverse impact on women. The failure to integrate this perspective into policy design creates a significant protection gap. Therefore, this study aims to analyze the specific challenges faced by refugee women in detention at this center to address the aforementioned lacuna and to propose effective protection frameworks consistent with international standards."

LITERATURE REVIEWS

Substandard living conditions within detention facilities do not constitute an isolated phenomenon; rather, extensive legal and academic literature has identified systemic deficiencies and scrutinized the role of regional organizations in human rights governance. These studies underscore that detention centers often represent spaces where fundamental rights are most vulnerable to abrogation, particularly within jurisdictions lacking a robust domestic legal framework for refugee protection (Sarkin Niyomsilp, 2009).

In the specific context of Thailand, research regarding human rights protection along the Thai-Myanmar border indicates that refugees in temporary shelters—characterized by their quasi-detention status—endure severe overcrowding and a critical deficit of essential resources. Such conditions directly compromise their physical integrity and human dignity. Furthermore, a 2017 report by Amnesty International criticized Thai policy, asserting that the prioritization of national security over humanitarian protection results in violations of the principle of non-refoulement and fosters an environment conducive to rights abuses within detention settings (Jaturong Boonyarattanasoontorn et al., 2012).

Crucially, Thailand has the "Protracted Refugee Situations," essentially transforming detention from a provisional administrative measure into a state of indefinite confinement. (Sarkin Niyomsilp, 2009) This indefinite status significantly exacerbates attendant human rights violations. Concurrently, it offers a sociological perspective, arguing that the "misconception" and "stigmatization" prevalent in Thai society—framing refugees as "threats" or "security

risks"—constitute major impediments to the formulation of humanitarian-centric policies. Consequently, the literature corroborates that the issues manifesting at the Sadao Immigration Detention Center (hereinafter IDC) are symptomatic of broader structural challenges inherent in the national policy architecture, deeply embedded in both the legal infrastructure and societal perception (Sarkin Niyomsilp, 2009).

According to the legal framework, the assessment of the circumstances at the Sadao IDC is undertaken pursuant to five core international human rights legal frameworks as follows:

The Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter CEDAW), it serves as the principal instrument for safeguarding women's rights. State Parties bear the obligation to eradicate all forms of discrimination, ensuring that refugee women enjoy equitable access to basic amenities, healthcare, and justice (Kanoknits Tunkunrat & Suthep Jan-arpun, 2017). The failure to address gender-specific needs—such as the provision of menstrual hygiene products or reproductive healthcare—constitutes "de facto discrimination" (Pachonwit Saendee, 2014). This legal concept dictates that even where a policy is facially neutral or free from "de jure" discrimination, if the outcome of its application (e.g., uniform allocation of resources without regard for biological necessities) imposes a disproportionate burden upon women, it infringes upon their fundamental rights and inherent dignity. (Krischaroen, 2010)

Prevention of Gender-Based Violence encompasses any act resulting in physical, psychological, or sexual harm rooted in gender inequality (Goodwin-Gill & McAdam, 2007). Within detention facilities, overcrowding and the absence of gender-segregated infrastructure function as critical "risk multipliers" for abuse and sexual aggression (Amnesty International, 2017; Jaturong Bunyarattanasoontorn et al., 2012). According to international law, the State is obligated to exercise "due diligence" through proactive measures to avert such violations. A purely "reactive" approach—contingent upon the filing of complaints—is demonstrably inefficacious in a detention milieu where women face linguistic barriers, fear of reprisal, and significant power imbalances vis-à-vis custodial staff.

Therefore, proactive measures, including physically secure premises, the deployment of female personnel, and the establishment of confidential reporting mechanisms are imperative.

Recognition of Gender-Based Persecution In accordance with international refugee law, an effective Refugee Status Determination procedure must recognize gender-based persecution—including systemic domestic violence, forced marriage, human trafficking, or Female Genital Mutilation—as legitimate grounds for seeking asylum under the nexus of "Membership in a Particular Social Group" (Hathaway, 2005). The failure to acknowledge this dimension during screening processes constitutes a formidable barrier to protection. Consequently, women fleeing gender-based violence may face wrongful denial of status and subsequent refolement to hazardous conditions in their countries of origin.

Principle of Family Unity, it is a foundational right enshrined in universal human rights law (Hathaway, 2005). In the context of the IDC, detention practices often effectuate the forcible separation of family members, such as the segregation of spouses or the placement of adolescent sons in adult male sections. This familial fragmentation disproportionately affects refugee women, who frequently assume the role of primary caregiver. Such conditions induce significant psychological strain, erode natural coping mechanisms, and render women without family protection more susceptible to harassment and exploitation (Pachonwit Saendee, 2014).

Freedom of Movement and Prohibition of Arbitrary Detention While detention intrinsically restricts freedom of movement, international law stipulates that immigration detention must be adopted strictly as a "Measure of Last Resort" and must not amount to "Arbitrary Detention" (Kanoknits Tunkunrat & Suthep Jan-arpun, 2017). Arbitrary detention denotes confinement that is unwarranted, disproportionate, or devoid of a clear temporal limit. For refugee women, indefinite detention in restricted confines not only contravenes this right but also profoundly

impacts mental health and compromises the capacity to access essential external services, including specialized medical treatment and legal counsel.

RESEARCH METHODOLOGY

Adopting a qualitative evaluative framework, this study assesses the gap between de jure principles and their de facto implementation. Moreover, this research has a methodology as follows: researcher interviews with five key local stakeholders, including the District Chief Administrator (or Permanent Secretary), two Community Development Officers, the District Public Health Officer, representatives from human rights organizations, representatives from Non-Governmental Organizations (NGOs) operating in Southern Thailand and experts from human rights organizations by in-depth interview method. These interviews aimed to uncover the latent issues observed by frontline practitioners and to understand the operational challenges faced by civil society organizations in providing humanitarian assistance. To focus group interviews and brainstorm the sessions with eight participants, comprising five academics and three government officials specializing in international law and human rights. Additionally, the researcher team brainstorms the sessions with eight human rights experts and local officials to validate the feasibility of proposed solutions.

However, the execution of this plan faced significant constraints regarding access to the field site. As the Sadao Immigration Detention Center (IDC) is classified as a high-security restricted area, obtaining primary data—specifically through interviews with detained refugee women and on-site officials—was not possible. Consequently, the full implementation of the original Action Research design was rendered unfeasible.

Furthermore, all collected data were analyzed using inductive analysis, a bottom-up approach to interpretation. The researchers systematically processed raw data (including document contents and interview transcripts) to identify recurring themes—such as overcrowding, lack of sanitary supplies, absence of female interpreters, and fear of authority figures. These themes were subsequently synthesized into broader conceptual categories (e.g., hygiene deficiencies, security concerns) to construct theoretical conclusions regarding the challenges faced by refugee women, grounded in empirical evidence rather than a predetermined theoretical framework.

RESEARCH RESULTS

Based on an analysis of secondary data and expert interviews, this study identifies the critical challenges facing refugee women detained at the Sadao Immigration Detention Center (IDC). These challenges are categorized into three primary dimensions:

Substandard Living Conditions and Gender-Specific Hygiene Deprivation

Research findings indicate that the Sadao IDC operates under conditions of severe overcrowding, with reports confirming that hundreds of detainees are confined in highly restricted spaces. This environment has a direct and disproportionate impact on refugee women regarding hygiene and privacy.

Menstrual Hygiene Management: Civil society representatives report that many refugee women lack adequate access to essential hygiene products, specifically sanitary napkins. Reliance on inconsistent donations forces women to use unhygienic substitutes. This scarcity is not merely an inconvenience but constitutes a daily erosion of human dignity, triggering a serious chain of consequences.

- **Physical Health:** The use of unhygienic rags or substitute materials significantly increases the risk of urogenital and reproductive tract infections.

- **Psychological Impact:** Women endure chronic anxiety, shame, and a loss of self-confidence, often leading to self-isolation.

- Dignity and Autonomy: The necessity of petitioning officials (predominantly male) for these intimate basic necessities constitutes a diminution of human worth.

Furthermore, overcrowding results in a lack of private space for resting, breastfeeding (a highly sensitive issue), and observing religious rites, which implicates the right to freedom of religion. These congested conditions have been flagged in human rights reports as potentially non-compliant with the standard of adequate living guaranteed by Article 25 of the Universal Declaration of Human Rights.

It is noteworthy that these conditions persist under resource constraints and an immigration law framework that may not facilitate the efficient management of a "beyond capacity" situation. Consequently, the IDC's operational burden inevitably compromises the standard of service provision across all domains.

Heightened Vulnerability to Gender-Based Violence (GBV)

A critical concern is the elevated risk of sexual abuse. Data from NGO reports and literature analysis (e.g., Sarkin, 2009) indicate that overcrowded detention centers lacking explicit gender-segregation policies significantly heighten the risk of women becoming victims of sexual violence. Women and girls are compelled to share spaces with unrelated adult males, creating a state of perpetual insecurity and chronic fear.

Power Asymmetry and Exploitation: Violence often stems from unequal power dynamics between officials—who control access to basic resources (food, water, communication)—and refugee women in states of total dependency. This creates an environment highly susceptible to Sexual Exploitation and Abuse, where women may be coerced explicitly into exchanging sexual favors for essential items or fundamental rights.

Barriers to Accessing Justice: While human rights monitors confirm receiving complaints regarding rights violations, investigation processes are often protracted. Furthermore, significant barriers to reporting exist:

- Lack of Female Interpreters: Victims are hesitant to recount details of sexual abuse through male interpreters.
- Fear of Reprisal: Refugees fear retribution from perpetrators (officials or other detainees) or punishment for "causing trouble."
- Institutional Distrust: A lack of confidence in the judicial system and fear of community stigmatization discourage reporting.

The Legal Vacuum: Lack of Access to Legal Aid and Screening Mechanisms

The fundamental structural deficiency is Thailand's non-accession to the 1951 Refugee Convention, resulting in the absence of a domestic legal mechanism for Refugee Status Determination (Kanoknits Tunkunrat & Suthep Jan-arpun, 2017). Consequently, refugee women are categorized strictly as "illegal immigrants" under the Immigration Act and subjected to indefinite detention.

This lack of legal status renders them "invisible" to the justice system, placing them in a state of "legal limbo." This indefinite detention is often more detrimental to mental health than fixed-term incarceration, as detainees face uncertainty regarding their release or deportation. The ensuing legal repercussions include:

- Inability to Challenge Detention: Detainees cannot challenge the legality of their detention before a court.
- Denial of Access to Justice: Inability to file criminal complaints for offenses committed against them.
- Exclusion from Protection: Inability to access international protection systems they are entitled to seek.

The findings reveal that the identified issues are not merely localized operational deficiencies but constitute a "systemic problem" deeply entrenched at the policy level.

A) Systemic Failure Stemming from a Legal Vacuum

Lack of legal access represents the root cause. The absence of domestic refugee law creates a "legal vacuum" (Kanoknits Tunkunrat & Suthep Jan-arpun, 2017). Without a protective legal framework, the State relies on the Immigration Act, a punitive instrument that views refugee women solely as "illegal immigrants." This systemic failure directly impacts adherence to the principle of non-refoulement (Goodwin-Gill & McAdam, 2007). Although widely recognized as customary international law, the customary international law has two elements as state practice and opinion juris (Crawford, 2012 and Shaw, 2017), the lack of a formal legal process precludes systematic risk assessment prior to repatriation. Consequently, women fleeing gender-based persecution face a severe risk of being returned to dangerous conditions.

B) De Facto Discrimination and the Convention on the Elimination of All Forms of Discrimination Against Women of Implementation Gap

Living conditions and the risk reflect a neglect of obligations under the Convention on the Elimination of All Forms of Discrimination Against Women. Although detention policies may appear "gender-neutral," they result in a disproportionate negative impact on women in practice (Shaw, 2017).

The failure to provide sanitary products is not merely a welfare issue but constitutes de facto discrimination by disregarding basic biological needs (Pachonwit Saendee, 2014).

The lack of strict gender segregation ignores the specific vulnerabilities of women. This highlights a clear "operational gap": while Thailand has ratified CEDAW internationally, these standards are not effectively operationalized at the local level (Sadao IDC), particularly for stateless or undocumented women.

C) The Vicious Cycle of Powerlessness

These three core problems operate interdependently within a vicious cycle: The "legal vacuum" assigns refugee women the status of "illegal immigrants." This status creates distorted "power dynamics," forcing dependency on officials or males for resources. These dynamics generate a "risk of gender-based violence" and create barriers to reporting. The silence resulting from these barriers ensures that substandard living conditions and harassment continue unchecked. Therefore, the policy classification of a woman as an "illegal immigrant" is the direct causal factor contributing to operational failures, such as the lack of sanitary provisions and exposure to sexual harassment.

DISCUSSION & CONCLUSION

This study elucidates the urgent and intersecting challenges confronted by refugee women detained at the Sadao Immigration Detention Center (IDC). The research identifies three primary dimensions of adversity:

- Substandard Living Conditions: The erosion of human dignity, particularly regarding the deprivation of gender-specific hygiene.
- Heightened Vulnerability to Gender-Based Violence (GBV): A risk exacerbated by the lack of spatial segregation and asymmetrical power dynamics.
- The State of Legal Limbo: The indefinite uncertainty resulting from the absence of legal status.

The most significant finding of this research is that these challenges constitute more than mere operational deficiencies at the local level; they are symptomatic of a "Systemic Problem" rooted in Thailand's absence of a national Refugee Status Determination mechanism. The categorization of protection seekers strictly as "illegal immigrants" under the Immigration Act has institutionalized a regime of indefinite detention. This creates significant compliance gaps regarding international obligations, specifically the CEDAW convention and the principle of non-refoulement.

Consequently, the establishment of a national screening mechanism is not merely a policy alternative but an "urgent imperative" to address the root causes. This structural reform must

be pursued in tandem with the enhancement of operational standards within detention centers to elevate the protection of vulnerable refugees, aligning with the international human rights standards to which Thailand is a state party.

Based on the research findings and discussion, the following recommendations are proposed for policy, practice, and future research:

Policy Recommendations (Legal Framework)

- To develop the national screening mechanism. The government should expedite the enactment of legislation or "interim regulations," in accordance with Cabinet resolutions, to establish a concrete Refugee Status Determination mechanism. This is the paramount step in addressing the systemic failure, as it effectively "confers legal status" upon these individuals, transitioning them from the framework of "illegal immigrants" to "protection seekers." This mechanism must incorporate clear protocols for Vulnerability Assessment, specifically targeting women at risk of GBV.

- Amendment of the Immigration Act: Consideration should be given to amending the Immigration Act to institutionalize the role of human rights organizations and civil society in monitoring detention centers and receiving complaints directly. A protective mechanism for complainants (whistleblower protection) must be established to ensure transparency and accountability.

- Formalization of Cooperation: The government should ratify a formal Memorandum of Understanding (MOU) with UNHCR and NGOs to collaborate on screening systems and provide legal aid to refugee women in detention, ensuring these organizations have unimpeded access to detainees.

Practical Recommendations (IDC Management)

The government should allocate a budget for the expansion of the Sadao IDC to mitigate overcrowding. Crucially, gender-responsive infrastructure must be prioritized, such as safe, well-lit, and segregated toilets equipped with functional internal locks. Sanitary products (e.g., sanitary pads) must be provided consistently as a "fundamental necessity" rather than relying on sporadic "charitable donations."

Prevention of Gender-Based Violence (GBV): Strict and secure segregation of sleeping quarters and facilities for women, children, and families from single males is imperative. Surveillance systems should be enhanced in high-risk areas (e.g., toilets and sleeping areas), alongside the recruitment of a sufficient number of female officers and female interpreters.

Capacity Building and Training: Regular training programs for IDC staff are essential, focusing on international human rights standards, Gender Sensitivity, and Trauma-Informed Care. Such training aims to shift the operational paradigm from a "Control-Based" approach (e.g., shouting, commanding) to a "Support-Based" approach (e.g., explaining procedures, maintaining a calm demeanor), thereby reducing the risk of re-traumatization.

Recommendations for Future Research

Future research should conduct comparative analyses of IDC management across different regions of Thailand or vis-à-vis neighboring countries with similar contexts (e.g., Malaysia) to identify Best Practices.

Research should specifically target refugee women with intersecting vulnerabilities, such as Rohingya women, mothers with children, or individuals with diverse sexual orientations and gender identities (LGBTIQ+), to understand their specific needs and challenges. Moreover, the study can establish cooperation with state agencies to access primary data directly from refugee women would be instrumental in corroborating these findings and providing a more comprehensive understanding of the situation.

However, the study encounters a significant limitation regarding the accessibility of primary data directly from detained refugee women. Consequently, the data utilized predominantly reflects "external perspectives" derived from organizational reports and expert interviews.

Although these sources possess high credibility, they may not fully encapsulate the "lived experiences" of the refugee women. The "voices" of these women—including their personal narratives of fear, resilience, and coping mechanisms—are mediated through the interpretive lens of experts rather than expressed directly. Furthermore, the absence of direct perspectives from Immigration Detention Center (IDC) officials (as originally stipulated in the Phase 1 research plan) precludes an in-depth analysis of the state's "operational constraints." Accordingly, the research findings predominantly emphasize structural and policy-level issues rather than a granular analysis of psychosocial impacts at the individual level.

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