

The Plight of Myanmar Refugee Detainees in India: A Situation Report for the Peoples of India and Myanmar

September 2024



India for Myanmar

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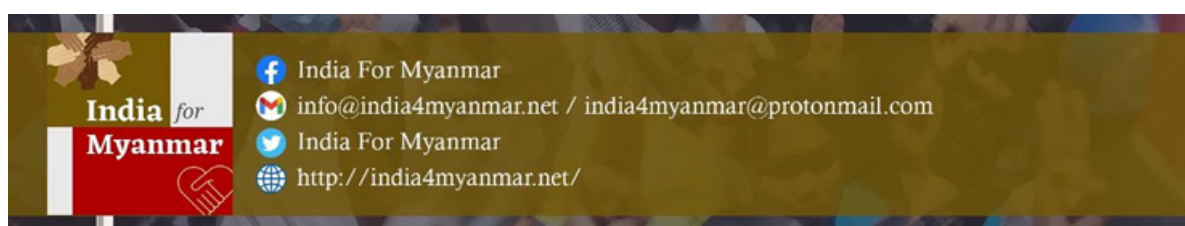


1. About India for Myanmar

India for Myanmar (#India4Myanmar) is an independent grassroots people's action movement working to advance peace and federal democracy in Myanmar. It is a movement where democracy and human rights activists, experts and professionals, and other individuals as well as members of different organizations from Myanmar and India come to work together for collective action. This action movement was launched on 15, October, 2021 under the slogan "Solidarity from the people of India is key to Myanmar democracy movement".

The primary objective of this movement is to keep the people of India informed about situations in Myanmar so that they are aware of the wrongful position of the Government of India and take action in solidarity with the people of Myanmar. Through the actions of this movement, we also aim to bring the people, civil society organizations and political parties of India on board to stand with the people of Myanmar, so that India as a whole can take actions for Myanmar and provide necessary aids and assistances as a good democracy neighbor and champion the cause of federal democracy movement in Myanmar.

For the past three years, Indian for Myanmar managed to distribute hundreds of thousands of pamphlets primarily to university students. The campaign pamphlets contain updates about situation in Myanmar and information about Indian government's engagement with terrorist Myanmar military junta. We also published a cartoon booklet highlighting the relation between India's central government and Myanmar junta, as well as a joint analytical report on India's approach toward Myanmar 30 months after 2021 coup with our partner organization, Burma Affairs and Conflict Study. Through these actions, India for Myanmar have consistently called for solidarity for Myanmar federal democracy movement and actions against any kind of support to the terrorist Myanmar military junta. India for Myanmar also distributed open letters and public statements condemning India's continued engagement with Myanmar junta. India for Myanmar is currently conducting research and documentation of human abuses against Myanmar refugees in India to strengthen its actions and campaign for their release.



2. Objectives of the Report

This situation report was prepared by India for Myanmar for the following purposes.

- a. To document the actions of the government of India as world biggest democracy and neighbor of Myanmar, and how it treats Myanmar civilians who have fled into India for safety amidst the biggest crisis Myanmar has faced in decades.
- b. To inform the people and government of India as well as international organizations about the challenges, suffering and physical and mental condition of detained Myanmar refugees and the lack of recognition and solution for their future, so that they can take appropriate actions to protect and help the refugees.
- c. To advocate the government of India to adopt and implement humanitarian policies and action plans so as to put an end to the suffering of Myanmar refugees in India and ensure their rights are protected in line with international norms and humanitarian principles including the principle of non-refoulement.
- d. To advocate for the immediate release of detained Myanmar refugees and prevent future detention of Myanmar refugees.
- e. To promote greater supports and actions by UNHCR and other international organizations for the rights of Myanmar refugees in India.

3. Method of Research

This report used a combination of first-hand information and desk research. Desk research involves examination of news reports, articles, analysis, official information released by the Indian government and statements released by Myanmar military junta and first-hand data collection is based on testimonies from refugees who were detained and later deported back to Myanmar as well as testimonies from family members and lawyers of currently detained refugees. This process is further aided by India for Myanmar's firsthand experiences of directly engaging with Indian authorities for the release of detained Myanmar refugees and consultations with other actors that are involved in the process of helping refugee detainees, as well as the foundational information that we have collected over the past three years of our work. Follow up interviews with respective stakeholders were also conducted for additional verification and information. This report examines the situation of Myanmar refugees who were arrested and detained in Indian prisons, and it does so by making assessment of each group of detainees based on their vulnerabilities and unique challenges.

4. Overview of Current Situation in Myanmar

Myanmar gained independence from British colonial rule on February 4, 1948 and have since experienced political instability in the country in varying degrees and forms. Following February, 2021 unlawful military coup, armed resistance against the junta that quickly transformed into a full-blown civil war have raged through every part of Myanmar leaving the country in the worst humanitarian crisis it has seen since independence. Since the day of the unlawful seizure of power on February 1, 2021, Myanmar military junta have consistently committed grave human rights violations including numerous counts of serious violations of international crimes. The crimes that the junta has committed include detention of dozens of Myanmar's democratically elected leaders including President U Win Myint and State Counsellor Daw Aung San Suu Kyi, detention and imprisonment of over 26,800 innocent civilians¹, burning of over 88,000 houses and structures², at least 115 counts of mass killing³ of more than 5 people, forced recruitment of over 9,000 young people⁴ under the illegal conscription law, the consistent use of targeted shelling and bombing against internally displaced people camps and civilian structures as a war tactic and the use of violence against women, including sexual violence against pregnant women, as a weapon of war. This situation has forced over 3.4 million people⁵ to flee their homes in an attempt to escape the atrocities of the terrorist military junta and over 1.2 million people⁶ have crossed into neighboring countries in search of safety with nearly 70,000 Myanmar refugees taking shelter in India. Moreover, more than 18.6 million people⁷ (one third of the population) are in need of humanitarian assistance. Currently, Myanmar is ranked second in ACLED's conflict index⁸, a worldwide conflict mapping project.



Destruction of key town in Chin State by Myanmar junta (Chin Human Rights Organization)

5. Overview of position of India government on situation in Myanmar

Starting from March 2021, central government of India introduced an approach that pushed its states governments along Myanmar border to reject inflow of Myanmar refugees⁹. And based on the accusations that Myanmar refugees are involved in communal conflicts¹⁰ that broke out in Manipur State on May 3, 2021, there have also been deliberate attempts to directly threaten the safety and security of Myanmar refugees who have fled their homes to escape the growing civil war in the country and sought safety in India. Manipur and Assam states begun detaining Myanmar refugees and have maintained central government's policy of forcibly returning refugees since early days of 2021 Myanmar military coup. Although there have been positive actions, such as those from the people and government of Myanmar's neighboring Mizoram State who have shown sympathy toward Myanmar people rejecting the pressure from the central government to push refugees back and providing them with helps and assistances, the overall situation and approach of India remain very challenging. Indian authorities have imprisoned as many as 250 Myanmar refugees including newborn babies and returned some of them to the hands of Myanmar junta with no regards for the life-threatening risks they would face in the hand of a terrorist military junta.

The central government of India, through various means, have also been helping the terrorist Myanmar military junta prolong its grip on power. It has helped Myanmar junta by supplying arms through the continued sale of various types of small and large weapons¹¹ and supporting continued inclusion of terrorist junta as legitimate representatives of Myanmar in BIMSTEC meetings undermining actions to exclude Myanmar junta by other international actors such as the UN and ASEAN who have barred Myanmar junta from taking part in high profile regional and international meetings in bid to pressure them to restore peace and democracy in Myanmar.

While other international actors have imposed various types of sanctions on the terrorist Myanmar military junta to pressure them to end violence and atrocities, Indian central government continues to finance the junta through its investment projects and have sought to further increase economic collaboration. In a latest move to streamline bilateral trade process, India have implemented Kyat-Rupee direct trade settlement mechanism¹² which can ease the pressure and restrictions on Myanmar junta coming from economic sanctions by other countries. Furthermore, apart from China and Russia which have been long-term allies of Myanmar junta, other democratic countries have opposed the 2021 military coup and avoided diplomatic engagement with the junta to deny them legitimacy, yet India central government have maintained high level diplomatic engagement with the junta and have pledged to support and assist the sham election planned for 2025 by the junta against the will of the people.



6. Different Situations of Myanmar refugees seeking safety in India



Most of the Myanmar refugees who have crossed into India in search of safety after February 1, 2021 military coup are from Chin State, Sagaing Region, and Magway Region of Myanmar with a small number coming from Rakhine and Kachin states. There are estimated early 70,000 Myanmar refugees taking shelter in India: 50,000 in Mizoram¹³, 10,000 in Manipur¹⁴, 10,000 in New Delhi¹⁵ and additional 1,000 in Arunachal and Nagaland states¹⁶. However, refugees are forced to live in informal settlements as the Indian government consider them 'illegal immigrants' and have refused to register and provide shelters for them. This refusal to acknowledge the refugees has also caused a major challenge to properly estimate the number of refugees.

Myanmar refugees seeking safety in different states of India are facing different challenges depending on the policies of the particular state and the views of the host communities. States like Mizoram, Nagaland and Arunachal have been sympathetic and supportive of Myanmar refugees. Main challenges faced by refugees in those states include lack of humanitarian supports and livelihood opportunities for long-term survival. As for refugees in Manipur, the situation is far more challenging. Due to the lack of humanitarian assistances and protection, refugees are living under immense pressures and risks as they struggle to fulfill daily needs including food and shelter. As for refugees in New Delhi, a degree of protection from the UNHCR means their security and safety situation is somewhat positive although they too are facing significant challenges due to minimum access to humanitarian assistances including food and shelters and limited opportunities to generate income for their survival. Besides, despite recognition issued by the UNHCR, these refugees are still subject to exploitation and abuses in workplace, due to their undocumented status under Indian laws.

7. Arrest and Detention of Myanmar refugees in Manipur

Myanmar refugees in Manipur have been detained by local authorities in different ways. While a small number of those who have been arrested are immigrants who have been living in the Manipur for many years, most of them were refugees who have fled their homes to escape the worsening civil war and dire humanitarian situation in Myanmar following February 2021 military coup. The post-coup refugees have been a clear target of systematic crackdown by Manipur government¹⁷. Manipur authorities have deployed various tactics including search and deport operations in the villages and communities, tightened security on travel routes and arrest of Myanmar refugees who attempts to travel to New Delhi without proper documents in search of greater protection such as that of from the UNHCR. Almost all of the refugee detainees were tried at the local courts and many were not aware of the charges they were facing while other have been detained for years without a trial or a conviction simply on the ground of being what authorities claims ‘illegal immigrants’ from Myanmar.

It is also very concerning that to this day, Chief Minister of Manipur Biren Singh continues to pick on Myanmar refugees labeling them illegal immigrants under his own political narrative and to his own political advantages. He also continues to instigate fear among local Manipur people putting the Myanmar refugees at significant risk of being targeted and wrongly retaliated. In reality, Indian authorities have already collected biometric data of all Myanmar refugee detainees and their family members and while this posed significant risks about data security and targeted abuses, in one way, it should have eliminated the safety and security concerns regarding ‘the spread of illegal settlers’, a view that the central government and some of the state governments and actors have endorsed.

8. Arrest and Detention of Myanmar refugees in Assam

Many refugees were arrested and detained in Assam State on their way to New Delhi to register with the Delhi-based UNHCR. Of those who were arrested, 27 of refugees were detained in Guwahati prison on September 12, 2021 and five other refugees were arrested on October 10, 2021 and still held in detention in Silchar prison since. We received information about condition of currently detained refugees in Silchar prison through their families and friends but we haven’t been able to make direct contact with them to learn in detail about their situation. We were informed that all the refugees who are arrested in Assam State were tried and cleared of all charges already.

9. Different Situations of Myanmar refugee Detainees

India for Myanmar have documented arrests of a total of 250 Myanmar refugees, 146 males and 104 females in Manipur and Assam states including 7 Myanmar nationals who were arrested before February 2021 coup. As of the writing of this report, 77 of them (26 males and 52 females) were deported and handed over to Myanmar junta authorities on two separate occasions, first time on May 2, 2024 and a second time on June 11, 2024. Currently, 173 Myanmar refugee, including the 7 Myanmar nationals who were arrested before February 2021 coup, continue to be held in Manipur and Assam jails to this day under harsh conditions as they continue to face ill-treatments and harsh prison conditions behind bars.

In this report, we have categorized and assess the situation of refugee detainees based on their unique challenges and vulnerabilities in order to better reflect their unique struggles. This include 26 children under the age of 15 including 7 toddlers born to detainee parents while in detention, 67 children and youths aged between 15-27, 109 people aged between 28-50 who have the responsibility of leading their households, 28 people over the age of 50 and 20 more people that we have not been able verify their personal information due to limited access and communication challenges. We have also looked at the challenges of women and mother detainees separately. Most of these refugees were arrested in groups along with their family members and there are a total of 60 families who are currently detained separately without any information about their potential release date putting them at risk being detained indefinitely. As for refugees detained in Shichar prison, we haven't been able to verify whether they were arrested in group of families. Therefore, the total number of families could be higher than 60.

Since all the detainees already served their sentences and are cleared of charges, they should have been freed unconditionally already. However, since the arbitrary nature of their detention at the hand of the local authorities hold no legal limit, they are at risk of being held in detention centers indefinitely with infants and elderly alike living under strict prison rules and harsh conditions which is particularly concerning considering the vulnerability of these groups and their exposure to violence, abuse, mental distress and health problems.

Refugees in detention have been experiencing different kinds of restrictions and ill-treatments including denial of vaccination for babies born during detention, lack of access to clean water, restriction on showering time of detainees to once to two times per week, lack of protection from abuses from other criminal prison inmates, restrictions on communication with family members, lack of access to healthy food, lack of access to medical treatment except for emergency situations.

Detainees and their families have also been carrying heavy financial burden as prison authorities are also using different tactics to extort money from the Myanmar refugee detainees. For example, they demand fees for making phone calls to family members. They also pledged the

soonest release of 21 prisoners in exchange for a fine of 50,000 rupees (around 600 US dollars) per person, but never fulfilled their promise nor return the money. Each refugee detainee has spent at least 100,000 rupees or each family have spent at least 1,000,000 rupees to cover the costs of basic necessities and lawyer fees, excluding extortions from prison authorities while they are in detention.

Refugee detainees are also facing significant health risks. Among the detainees, there are 12 refugees who are suffering from Tuberculosis and other chronic disease, yet they have been restricted from receiving treatment. There are also 15 patients who need regular medical attention due to major medical operations they have had before, yet they are also being restricted. This arbitrary restriction on access to healthcare has resulted in the death of a 32 years old refugee and there have been no reparation arrangements from the Manipur authorities for the family. We also received accounts of the incidents of two Myanmar detainees who died in detention due to Covid-19 infection before February 2021 coup which show patterns of ill-treatment by prison authorities with no regard and consideration even for detainees in critical conditions.

In addition to all the challenges they are facing as mentioned above, there is another serious threat these refugee detainees are facing which is that even after overcoming all the abuses and ill-treatment in prisons and even when they are finally released by the Indian authorities, they are still at risk of being return to the hands Myanmar junta authorities where they could face extrajudicial killings, torture or lengthy prison terms all over again.

This state of helplessness and the struggles they are facing under these horrible conditions have forced the refugees to take risks and staged multiple hunger strikes in prison to demand for their overdue release. Refugee detainees in Manipur have staged hunger strikes four times already: for the first time from 16 to 20, December, 2023; a second time from 16 June to 3 July, 2024; a third time from 20 to 24 July, 2024 and a fourth time from 26 to 30 August.



Flood in an informal refugee camp in Manipur (CJ)

A. Situation of child refugee detainees

Among the detainees, there were a total of 26 refugee children under the age of 15 who were arrested and detained. Some of them reached the age of 18 while in detention. These young children have committed no crime and even if they have committed any offence by any chance, they should be pardoned, or in the case of any serious crimes, they should be sent to separate juvenile detention facilities or correctional centers until they reach the age of 18. Yet, the state authorities sentenced these refugee children to prison potentially putting them through years of physical and psychological harms that will have a life-long impact on them.

For those children older than 10, they have been kept in the same facilities with adult men or women depending on their sex and only children under the age of 10 are allowed to stay with their mothers. Moreover, there have been no dedicated arrangements or specific considerations for women in labor, children born in detention, or children under the age of 10 who the prison authority themselves consider to be 'children under the care of mother'. This means they have to live in the same harsh prison conditions and follow all the same strict prison rules and regulations meant for regular adult criminals exposing them to violence, abuses and other severe physical and psychological harms. Prison authorities have also denied the children, including those born in detention, of vaccination exposing them to all kinds of communicable diseases and other serious diseases and this is particularly concerning considering the prison conditions and lack of access to healthcare.

The fact that these children have no chance to play, study, move or think freely while in detention have also had severe impact on their psychosocial development. Those who were released have reported that those children under the age of 10 who served lengthy detention time are struggling with everything after their release. They are suffering from severe trauma and often isolate themselves. They are struggling to socialize with other children and have displayed anxiety issues when they come in contact with adults which could be a result of the trauma living in detention with adult inmates. They have also completely lost interest in studying and school due to the condition of their physical and mental wellbeing. Besides, their parents are constantly concerned about their exposure to infectious disease since they did not receive vaccination while in detention.

B. Situation of child and youth refugee detainees

We consider school age children and youths detainees to be aged between 15-27 at the time of their arrests since this age group represent children and youth who are still in formal education typically in middle and high school or in tertiary education according to local education context. We have documented cases of arrest and detention of up to 67 children and youth detainees that falls under this age group and the number could be higher since there are 20 more detainees who we have not been able to verify their personal information. This means the Indian authorities are outright ruining the future of at least 26 children and 67 youths. Most of these children had their education disrupted since 2019-20 school year due to Covid-19 and later due to the escalation of armed conflicts in Myanmar. One parent explained in despair that the Indian authorities have crushed the one hope they have held when seeking safety in India which is the potential schooling of their children whose school days has been repeatedly interrupted by pandemic and civil war, and that instead of showing these children care and empathy and giving them access to education and all the rights they deserve, Indian authorities have thrown them into prisons forcing them to experience one of the most severe forms of punishment children can receive.



Indian authorities handing over refugees to Myanmar junta

C. Situation of women refugee detainees

A total of 104 women refugees were arrested and detained. 51 of them were handed over to Myanmar junta authorities and 53 remains in jail including 7 women who appear to be arrested prior to February Myanmar 2021 military coup. We are still trying to verify their information. There is also a case of a Myanmar ethnic woman with Norwegian citizenship who still remain in prison.

Six women gave birth in prison, five in Manipur prison and one in Assam prisons. There are a total 26 refugee children under the age of 15 and only those under 10 are allowed to stay with their mothers. One of challenges that mother of children under 10 in detention face include the fact that children do not understand the prison environment and cannot be taught to be disciplined leaving their mothers to be concerned about negative responses from other prison inmates who at times would shout insults at them out of frustration over their children. They also explained that they had to force their children to eat whatever is given to them by the prison authorities since they have no other options. This situation of lack of help and support and the inability to buy food and basic necessities for their children makes it extremely challenging for them to take care of them.

One woman who spent her time in detention with her baby recounted her experiences that while some prison inmates show understanding when her baby cried, others are intolerant of baby crying sounds. She confessed that she broke down in tears in prison and cried many times along with her baby. Family members of currently detained women also explained to us that those mother of young children in detentions are losing hopes and desire to live as they put the blames and pressure on themselves for all the suffering of their innocent children in prison. With all the emotional distress, they often struggle to describe the challenges and ill-treatment they face in detention. These women said to their family members that they don't know how to describe the extremely hard prison conditions and the struggle they are going through.

Another mental distress troubling these women are the guilt they feel for their families. Some women blame themselves for the arrest of their family members while others are worried about family members who have been dependent on them before their detention. They are distressed due to both their own suffering in detention and the struggle of dependent family members who now have to find a way to survive without them. According to their family members we

interviewed, those women struggle to recount the hardship and trauma they face in prison, and instead often expressed suicidal thoughts when they speak to their family members. They often cried to their family members to try in every way they could for their soonest release. And when these women in their misery ultimately decided to stage hunger strike in desperation¹⁸, they were responded with violent crackdown by prison authorities. There have been four hunger strikes so far.

D. Situation of detainees over the age of 50

There were at least 28 over 50 years old refugees who were arrested and detained in Indian jails. Many of them were arrested in group along with other family members and they feel guilty about their family members' detentions as well. Moreover, these elderly people faced many challenges in following the strict prison rules while in detention. Among refugee detainees, they are the easiest target for impatient prison authorities who hurled abuse and insults at them. Moreover, this age group include the highest numbers of refugees suffering from chronic diseases and since they are restricted access to healthcare and often left untreated, they often suffer serious illness leading to critical conditions. These elderly people are suffering from the lack of access to healthy food and clean drinking water, lack of healthcare and exposure to extreme heat or cold. This have had significant impacts on their physical and psychological wellbeing. A prolong period of detention under these extreme conditions could be fatal for them. It is distressing to learn that they are the primary target of verbal abuses and mistreatments by prisons authorities who should but show no sign of implementing dedicated arrangements or special considerations for their age and health conditions. The only care and attentions these elderly people with chronic diseases have received so far are that of from other sympathetic prison inmates.



An elderly refugee women in an informal camp (Greeshma Kuthar)

E. Situation of refugee detainees who are main providers in their families

Among the refugees who were arrested and detained, there were at least 109 refugees who have dependent family members. They are 27-50 years old primary earners in their families and used to lead and provide for dependent members in their families. This group tend to be the most resilient among the refugee detainees. They display the ability to endure and overcome the harsh prison conditions and even help other refugee detainees address their problems. Moreover, they also provided valuable helps and supports to other refugees during peaceful hunger strikes.

However, they too experience significant psychological issues which comes mainly from hearing news about the daily struggle of their family members who used to be dependent on them. The fact that their family members are not able to generate income and can no longer afford to send their children to school in their absence constantly trouble them mentally. They also have no access to humanitarian assistances and as a result, their children were forced to quit school as they struggle even for daily nutrition need, and become heavily reliant on supports from community members for survival. The cost of legal fees is another challenge for them. Some of them could not afford lawyers because their families could not cover the costs for them. Their family members explained to us that since the household leaders and breadwinners are in detentions, they are left helpless with no job or income to cover lawyer fees. This situation has left these detainees with no choice but to take actions in any way they can including by participating in hunger strikes for their immediate release as this have become their only way out of all the challenges and sufferings they are facing in prison.

F. Situation of family members of refugee detainees

It is important to highlight the situation of families of detainees who are struggling to bare the burden of having a family's main earner in prison. There are 46 of such families with a total of 280 people currently living in Manipur on India-Burma border with many difficulties. There are also 5 families living in Mizoram. Although some of those refugees who have managed to take shelter in Mizoram can enjoy a sense of improved safety, they too are struggling to meet ends need since primary earners in the family are in prison.

The rest of the refugee families lives in areas inside Myanmar where there are intense fighting and they have been moving back and forth between their homes and Internally Displaced People (IDP) camps. Some of the families pawned their houses and farmland to cover the costs associated with the detainees and over time have lost their homes and lands. Moreover, they have to fear for their lives when Myanmar junta forces launch military operations in those areas.

All the detained refugees and their families came to India in order to escape civil war in Myanmar, yet with the war and destruction in Myanmar showing no sign of slowing down and the mounting challenges they are facing again in India, they feel like they are suffering twice as much as others. The most distressful thing for those family members is talking to the detainees in prison on the phone listening to and learning about their struggles and how they could be detained indefinitely with no one to come and save them. As family members are not able to personally visit the detainees in prison and give the encouragement in person, they rely primarily on communicating with them on the phone. However, detainees are only allowed to make brief phone calls and they often have to cut their conversations with family members short. Some of the family members explained to us that they spend most of those times crying to each other on the phone helplessly.

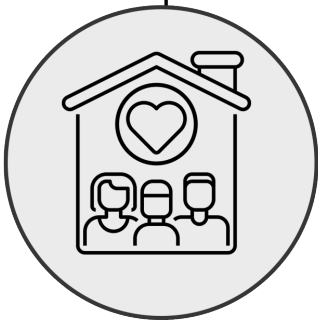
Arrests and detention of Myanmar refugees in Number

**26**

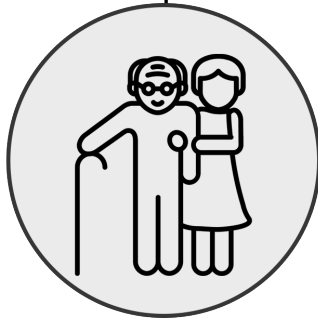
detainees under 15 years
old including 7 children
born in jail

**67**

15-27 years old children
and youths around the age
for high school and tertiary
education

**109**

28-50 years old household
leaders or main earners in
their families

**28**

over 50 years old detainees
with significant health
problems



10. Myanmar refugees' struggle for release and responses from Indian authorities



Refugee detainees have repeatedly called to be immediately released and to be released at the same place they were arrested so that they can return to Myanmar with their own arrangements when it is safe, instead of being handed over to Myanmar junta authorities. However, the response from Manipur prison authorities was that the state government do not have the mandate to fulfill such request. Prison authorities claimed that they could only arrange the release of the Myanmar refugees if they contacted and cooperated with embassy of the terrorist Myanmar junta in New Delhi. Based on this claim from the prison authorities, some of the detainees who were arrested before the February 2021 coup requested to get in touch with Myanmar junta embassy since it was less risky for them compared to those who were arrested after 2021 coup. However, prison authorities later refused to proceed with this option as well citing 'safety reasons' and no one was released under this arrangement.

Refugees later questioned this safety claims for transportation from prison authorities since authorities do send back other regular prisoners to different areas that they came from which are the same places Myanmar refugee requested to be released and sent back to. Refugees sought other options and requested the prison authorities to be released on bail or transferred to separate detention facilities, yet again the excuse from the authorities was that Myanmar refugees are foreigners and that it is challenging for them to arrange their release and transportation although there is in fact no such distinctions between local and foreigners when it comes to bailing out detainees. Some of the pro bono Indian lawyers who are helping the refugees pointed out that current Myanmar refugee detainees have the rights to be protected and can be released on bail under certain Indian constitutional provisions and laws and that the continued detention of these refugees including children is in a way an act to take advantage of them for political gains. Authorities also cited the procedure under India's Foreigner Act that they can only release detainees when their respective government can officially receive them or they would need to keep them in detention until such governmental arrangement can be made. This position to only return refugee detainees to Myanmar junta according to also is, in another way, a reinforcement to the legitimacy of terrorist Myanmar military junta.

11. Actions taken UNHCR regarding the situation of Myanmar refugee detainees



Refugee detainees sent a letter to the UNHCR on March 26, 2024 requesting them to help facilitate their release since these refugees and their families face many challenges as a result of prolong detentions in prisons and some of them were in fact arrested on their way from border areas to New Delhi where they hoped to get some form of protection from the UNHCR. Moreover, on May 8, 2024, refugees who were detained in Assam also sent letters to UNHCR to help them to be released. India for Myanmar also sent a letter to the UNHCR requesting them (1) to send lawyers to respective prisons and jails to assist with the immediate release of Myanmar refugees who have already served their sentences and to issues refugee identification cards to the detainees, and (2) to provide temporary shelters for refugees until they can return safely to Myanmar with their own arrangement.

India for Myanmar sent at least five letters to UNHCR and held meetings with them at least five times requesting them to take actions to protect Myanmar refugee detainees. We also regularly provide them with information we collected on a timely manner. Moreover, India for Myanmar and other partner organizations have consistently called on the UNHCR both in writing and in person to take more concrete actions to protect Myanmar refugee detainees. The usual response from the UNHCR is that the Indian government is not a signatory to the Refugee Convention, therefore they themselves, being based in India, could not act beyond the policies of the Indian government. However, we learned that the UNHCR in India do reach out to other foreigners in prison and provide them with refugee identification cards. However, the fact that UNHCR continue to ignore the rights of Myanmar refugees, who were arrested on their way to New Delhi in search of protection from the UNHCR itself, have left them feel highly unjust about treatment from UNHCR. Moreover, it is very sad that the UNHCR has not taken concrete actions despite the repeated calls on them to make dedicated efforts to convince the Indian government to shift their policies and approach regarding Myanmar refugees. We believe the scale of war and severity of humanitarian crisis in Myanmar merit dedicated measures and solutions, not the general routine from the UNHCR and generic policy approach from Indian government that treat the refugees as illegal immigrants. Afterall, Myanmar is a country with second most extreme level of conflicts in the world only behind Palestine, according to conflict index of Armed Conflict Location & Event Data Project (ACLED)¹⁹.

12. Recommendations

A. To the Government of India

1. Immediately and unconditionally release all Myanmar refugee detainees and cease all the plan to transfer them to the hand of Myanmar military junta and allow them to take refuge in India in accordance with the principle of non-refoulement.
2. Review current policy that treat Myanmar refugees as ‘illegal immigrant and adopt a new policy or approach that regard and help them as legitimate refugees.
3. Collaborate with Myanmar civil society organizations in India and other international organization including the UNHCR to implement proper registration of the refugees and ensure delivery of humanitarian assistances to them.
4. Ensure the safety of Myanmar refugees in India and identify and stop anti-refugee sentiments and incitements of hate against Myanmar refugees so as to to ease security concerns by the host communities and in doing so, corporate with Myanmar Civil Society Organizations (CSOs) in India as necessary.
5. Allow international organizations access to Myanmar refugees taking shelter in India so that they can provide humanitarian assistances to them.
6. Stop giving the terrorist military junta political, military and financial supports.
7. Cooperate with other democratic countries which has imposed various sanctions on Myanmar military junta to implement effective measures to advance peace and federal democracy in Myanmar.

B. To the UNHCR and other international organizations

1. Implement dedicated efforts to advocate on behalf of Myanmar refugees to the government of India to review its policy toward Myanmar refugees and adopt a new policy or approach that recognize them as legitimate refugees rather than ‘illegal immigrants’.
2. Cooperate with Indian government and Myanmar CSOs in India to ensure proper recognition and registration of Myanmar refugees and delivery of humanitarian assistances for them.
3. Take dedicated measures to prevent forced return of refugees to the hand of Myanmar military junta and advocate to Indian government to respect the principle of non-refoulement and allow Myanmar refugees to take shelter in India until a safe and voluntary return can be implemented.
4. Consult with relevant authorities of Myanmar’s neighboring countries including India to identify and implement the most effective way for delivery of humanitarian assistances to people inside Myanmar.
5. For international organizations, especially the UNHCR offices based in Myanmar’s neighboring countries including India: advocate relevant host country authorities to help ease targeted restrictions and controls placed on Myanmar refugees.
6. Monitor the situation around collection of biometric data of Myanmar refugees to prevent abuse of the data by Indian authorities.
7. Address the issue of exclusive nature of UNHCR’s third-country resettlement programs to ensure equal access for all refugees.

C. To Myanmar revolutionary forces

1. To the National Unity Government: develop and declare clear policies toward all neighboring countries similar to the NUG position statement on China and start engaging and advocating them on the issue of Myanmar refugees in their respective countries.
2. Strengthen cooperation among NUCC, NUG and other leading bodies of Myanmar federal units along India border to identify appropriate ways to engage with India government and authorities to promote and protect the rights of Myanmar refugees in India.
3. Cooperate with India's state governments who are sympathetic of Myanmar refugees to advocate Indian's central government to review and revise its wrongful policies toward Myanmar refugees and identify ways to address the negative impacts these policies are having on the people of Myanmar and India alike.

References

- 1 <https://www.facebook.com/burmapoliticalprisoners/posts/pfbid0WCbqegEu13koaQzih151kK4dCCihnedD65AXBRcVGz6tKMDnMNFjefPKBF7DvH2ul>
- 2 <https://www.facebook.com/data4myanmar/posts/pfbid0kVqKHXwe7Scv5RkqfkgQQr1BmeDkkgVApi8nhUHF9o77gPG5AfF4FGRqrNKMkSul>
- 3 <https://www.facebook.com/nldparty/posts/pfbid02N5MnpBJKVgYG4BuBPWXwWKKNKmnbDJEEMwjsjZBjSMgDyboo1mhsFncpKnUQYgwTl>
- 4 <https://www.facebook.com/bacs.mm/posts/pfbid02ng5aLbWwsjWFF3xLL4bodKvNrhwMNWejErdrNAPjp1yECZxsqNgk5CUsPyaG9rS9l>
- 5 <https://data.unhcr.org/en/documents/details/110449>
- 6 <https://data.unhcr.org/en/documents/details/109668>
- 7 <https://myanmar.un.org/en/276716-myanmar-humanitarian-update-no-40>
- 8 <https://acleddata.com/conflict-index/index-july-2024/>
- 9 [https://www.usnews.com/news/world/articles/2024-05-02/india-deports-myanmar-refugees-who-fled-2021-coup#:~:text=GUWAHATI%2C%20India%20\(Reuters\)%20%2D,forces%20and%20the%20ruling%20junta](https://www.usnews.com/news/world/articles/2024-05-02/india-deports-myanmar-refugees-who-fled-2021-coup#:~:text=GUWAHATI%2C%20India%20(Reuters)%20%2D,forces%20and%20the%20ruling%20junta)
- 10 <https://www.usip.org/publications/2023/06/understanding-indias-manipur-conflict-and-its-geopolitical-implications>
- 11 <https://india4myanmar.net/category/research/>
- 12 <https://economictimes.indiatimes.com/news/economy/foreign-trade/myanmar-wants-rupee-kyat-trade-arrangement-by-june-end/articleshow/100938474.cms?from=mdr>
- 13 https://www.youtube.com/watch?v=3YwrlL3OL_M
- 14 <https://www.thehindu.com/news/national/over-5000-refugees-sheltering-in-manipurs-naga-district-fearing-aerial-bombardment-attacks-in-myanmar-assam-rifles-dg/article68313232.ece>
- 15 Estimated by Chin Refugee Committee, no other estimate available from other organizations or UNHCR
- 16 Estimated by our own local focal persons based in the areas, no other estimate available from other organizations or UNHCR
- 17 <https://thediplomat.com/2022/08/government-cracks-down-on-myanmar-refugees-in-indian-border-state/>
- 18 <https://eng.mizzima.com/2024/06/21/11032>
- 19 <https://acleddata.com/conflict-index/index-july-2024/>