BURMA: FOUR UNREPORTED BIA DECISIONS 2021

By David L. Cleveland

EOIR, in response to a FOIA request, recently released 4 unpublished BIA decisions about Burma.

BIA DECISION DATED JANUARY 7, 2021

 Respondent was found guilty of simple robbery in Minnesota. The IJ found this was a “particularly serious crime,” therefore, no asylum.

Respondent was Karen ethnic and a Christian, who left Burma when he was one month old. He had not suffered any torture in Burma. Nonetheless, the IJ granted him deferral of removal under the Convention Against Torture [“CAT”], due to these findings:

-”there were high tensions between the military and ethnic minority populations, including the Karen, particularly in areas with a large military presence;”

-there were reports of “killings, beatings, torture, forced labor, forced relocations, and rapes of members of ethnic groups by government soldiers.”

-since 2018, “there was an escalation of hostilities between the Karen National Union and [the military, resulting in ] the displacement of Karen civilians…civilian injuries..and targeted shelling of Karen villages.”

-”it would be unreasonable to expect Respondent to relocate in a non-Karen area of Burma.”

Held: IJ decision granting relief under the CAT is affirmed.

= = =

BIA DECISION DATED JANUARY 28, 2021

Respondent was a “persecutor,” hence, he was denied asylum. But, he was granted relief under the CAT in an IJ decision dated May 25, 2017.

Respondent had suffered multiple detentions, interrogations, and beatings by the military, in part because of his affiliation with the NLD in 2015. He suffered permanent damage to his eye; therefore, his harm “rises to the level of torture.”

The government “has been to his home and asked his wife for his whereabouts.

The evidence shows that “human rights abuses by the military continue in Burma.”

Held: IJ decision granting relief under the CAT is affirmed.

BIA DECISION DATED APRIL 9, 2021

Respondent was denied all relief by the IJ on October 9, 2020. But, the BIA reversed and remanded the decision, allowing Respondent to testify again. The IJ was faulted for failing to

fully consider:

 -the harm Respondent had suffered at age 12 and 13;

-evidence “that Christians and Chin minorities are targeted for violent attacks, sexual violence, and torture by the governmental authorities.’

However, the IJ properly rejected a letter from a purported expert, because that person had not submitted a curriculum vitae.

## About the Author

David L. Cleveland was the Chair of the AILA Asylum Committee [2004-05] and has secured asylum or withholding for persons from 48 countries. Based in Washington DC, he is available at <louise.trauma.ltc@gmail.com>