



Access to Justice for Rohingya and Host Community in Cox's Bazar

February 2019



Supported By:



pennyappeal

Acknowledgement:

This report was authored by Emily Krehm (IRC) and Dr. Asif Shahan (dRi). The authors would like to thank the dedicated support of the IRC Bangladesh Country Program, as well as Mr. Shariar Sadat, Academic Coordinator Centre for Peace and Justice & Advocate in the Supreme Court of Bangladesh for his valuable comments. The authors are grateful for the time and support for this assessment by the Rohingya and host communities without none of this would be possible. This report was reviewed by IRC's Senior Management Team and the Violence Prevention and Response Technical Unit. Primary data collection and support with analysis was undertaken by dRi. Responsibility for all errors or omissions rests with the authors.

This document covers humanitarian aid activities implemented with the financial assistance of the European Union. The views expressed herein should not be taken, in any way, to reflect the official opinion of the European Union, and the European Commission is not responsible for any use that may be made of the information it contains.

The research was co- funded by Penny Appeal.

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dRI: Development Research Initiative (dRi) is a leading independent consultancy, research and evaluation center of Bangladesh. dRi conducts dynamic research and analysis on a wide range of issues related to development, international aid, NGOs, markets and the state. Since its inception in 2008, dRi has completed a wide array of research projects, building its reputation for generating high-quality evidence of what works in development practice.

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Glossary:

Kazi - A magistrate or judge of a Sharia court.

Kyat - Monetary unit of Myanmar

Jahannam - Islamic hell

Majhi - Rohingya community leader in refugee camps

Muajjin - The Muslim official of a mosque who summons the faithful to prayer from a minaret five times a day.

Masjid committee - The masjid committee is a group of community leaders that interpret Islamic teachings.

Purdah - The practice in certain Muslim and Hindu societies of secluding women from men or strangers.

Salish - informal mediation system

Upazila - Sub district

Union Parishad (UP) -The local government body

Upazila Nirbahi Officer (UNO) - A cadre of Bangladesh government who is the administrative chief of an Upazila

Yaba - A form of methamphetamine predominant in South East Asia

Acronym list:

A2J - Access to Justice

ARSA - Arakan Rohingya Salvation Army

BRIS - Birth Registration Information System

BDT - Bangladeshi Taka

CEDAW - Convention for the Elimination of Discrimination Against Women

CiC - Camp in-charge

CSD - Civil Status Documentation

CRC - Convention of the Rights of the Child

CP - Child Protection

dRi - Development Research Initiative

FGD - Focus Group Discussion

FDMN - Forcibly Displaced Myanmar Nationals

GBV - Gender Based Violence

GoB - Government of Bangladesh

GoM - Government of Myanmar

HC - Host Community

IASC - Inter-Agency Standing Committee

ICC - International Criminal Court

IOM - International Organization for Migration

IRC - International Rescue Committee

IPV -Intimate Partner Violence

KI - Key Informant

NFI - Non-Food Item

NGO - Non-Government Organization

MoHA - Ministry of Home Affairs

RC - Registered Camp

UN - United Nations

UNHCR - United Nations High Commissioner for Refugees

UNDP - United Nations Development Programme

UMN -Undocumented Myanmar Nationals

UNO - Upazila Nirbahi Officer

RRRC - Refugee Relief and Repatriation Commission

WFP - World Food Program

UP - Union Parishad

VC - Village Court

1. Executive Summary

Since 2017 over 900,000 Rohingya have arrived in Bangladesh as they flee violence and persecution in Myanmar. This influx of refugees has transformed Cox's Bazar district for both the Bangladeshi host community and the smaller population of registered refugees (i.e. those who predate the current influx and therefore were able to register with UNHCR). IRC commissioned an assessment to improve the understanding of key factors affecting the new arrivals as well as the established refugee community and the host community to access justice systems:

- The common types and causes of conflict;
- The primary conflict resolution mechanisms, and;
- How the respective groups access formal and informal justice mechanisms.

The overall aim of this report is to inform protection rule of law programming for IRC.

As the largest stateless population globally the Rohingya refugees have historically limited access to identity and civil status documentation. Registered refugees in Bangladesh were previously able to access birth and marriage registration through the CiCs (Camp in Charge, the senior official administering governance within a camp). However, birth registration for the entire district of Cox's Bazar has now been frozen by the GoB. This inhibits the Rohingya from legitimising their presence in Bangladesh. For their part, the refugees do not place an emphasis on obtaining birth registration as it is not linked to access to humanitarian assistance. Marriage registration is accessible to registered refugees through the CiC, however practice varies across the camps for newly arrived refugees. If they return and their marriages are not recognized by the GoM there is the prospect of severe restrictions being placed on the rights of any children that might arise from the marriage, including the serious risk of statelessness. The UN has

agreed with the GoB to begin systematic registration of vital life events, but to date this has yet to begin.

The types and causes of intra-community conflicts are considered separately from those of inter-community conflicts. Common intra-community conflicts include: domestic violence; theft; rape; general violence; social vices such as drugs; conflict over business and debts; conflict over resources; conflict between youth; conflict between children escalating to their families; and conflict surrounding the trafficking of drugs. The primary causes include: patriarchal social norms; the displacement and crisis in Myanmar; a rise in polygamy and unsanctioned relationships; lack of education and livelihood opportunities as well as and reliance on humanitarian assistance. Common inter-community conflicts include: conflict over land and access to markets; inter-community relationships; rape; and kidnapping and human trafficking. The key causes of inter-community tensions are: competition over resources;

the perception of the "other"; and a sense of impunity, perceived or real, among the host community.

The access to justice mechanisms for Rohingya refugees closely follow the humanitarian governance structures. In the informal mechanism, the local Majhi functions as an interlocutor who may work to resolve conflicts or escalate them to higher authorities. If the Majhi cannot resolve the dispute the CiC will be called upon to support. The informal justice mechanism follows a conciliation model where community leaders attempt to resolve conflicts. However there are key challenges such as: the quality of justice not aligning with women's interests; lack of female representation; and the risk of corruption. Rohingya face significant restrictions on accessing the formal justice system. However, they do access it with the support of NGOs and when sanctioned by the CiC.

The key findings are as follows:

- Reliance on and preference for informal justice is clear for both Rohingya and host community.
- Very limited access to formal justice for Rohingya refugees living in the camps.
- Both Rohingya and the host communities feel there is minimal shared recourse and by extension no effective solution available for inter-community conflicts.
- Inter-partner violence is incredibly pervasive within the Rohingya community.
- Refugees who arrived after 2016 have weaker links to the formal governance mechanisms and are less aware of how to access formal justice than UNHCR-registered refugees.
- Current informal justice mechanisms are reinforcing harmful gender power dynamics affecting both communities; refugees and host community.
- Humanitarian actors have significant influence on the Rohingya refugees' ability to access justice.

2. Introduction

The International Rescue Committee (IRC) commissioned this paper to develop an in-depth understanding of refugee interand intra community dynamics, including the types and causes of conflicts or grievances, and an overview of the networked structure through which justice is being accessed. It aims to provide a critical analysis of the existing access to justice (A2J) framework, taking into account intersectionality between specific needs based on age, gender or other diversity factors contributing to a persons or groups vulnerability.

The paper outlines the current context, the existing legal framework of the Rohingya in Bangladesh and key actors with influencing access to justice mechanisms. The paper then outlines the current processes in which civil status documentation is obtained before defining common grievances, the drivers of such conflicts and how they are addressed through the formal and informal systems. Finally, the paper examines the barriers and challenges to accessing justice and potential ways forward.

3. Methodology and data sources

The primary research was undertaken in Cox's Bazar District in Bangladesh from November 2018 to January 2019. This assessment focused on Ukhia and Teknaf upazilas (sub districts) and covered both camps and off-camp populations (host community).¹ The assessment drew on existing secondary sources in order to obtain an understanding of the context, using existing evidence and research that is currently available.²

Qualitative data was collected through in-depth Key Informant (KI) interviews and Focus Group

Discussions (FGD). The FGDs sought to obtain diversity across three key variables: age, gender and population groups.³ Participants were identified through IRC programming and the pre-existing networks of local research partners Development Research Initiative (dRi). The findings were then triangulated by key IRC staff, and local experts and through a validation workshop which included relevant humanitarian actors including relevant (I) NGOs and UN bodies whose work intersects with A2J.

Due to the lack of expertise and time constraints children were not interviewed and limited the ability to reflect on their engagement with the justice sector.

¹ Ukhia: camp 6, 19, Kutapalong RC, Court Bazar, Ukhia; Teknaf: camp 22, 24, Nayapara RC, Waykong.

² The secondary data sources include academic and programmatic research, policy briefs, internal and external International Non-Government Organizations (INGO) assessments, inter-agency coordination documents, human rights reporting and the media.

³ A total of 18 FGDs took place, nine with men and nine with women, and six with members of the HC. There were a total of 144 participants, of which 76 were women and 68 men. There were 31 members of the host community and 113 Rohingya refugees.

■ Limitations and Mitigation Measures

Constraints affecting the assessment include the limited timeframe for gathering data and conducting analysis, the linguistic and cultural barriers as well as the reluctance of the responders to provide information due to the sensitive nature of the assessment subject matter.

Unlike those living in camps, refugees living in the host communities in Cox's Bazar were not part of the Focus Group Discussions. This has significant impact on the ability to analyse how Rohingya in these communities access justice and interact with Bangladeshi governance structures.

■ Ethical Considerations

At every stage - including design, data collection, storage and usage - every effort was made to ensure that this assessment upholds strict ethical standards in line with IRC's Code of Conduct and international best practice. The assessment ensures a do no harm approach is employed. As a result the following ethical safeguards are

respected: Prior to obtaining consent to participate, all respondents were informed that participation in this study is not linked to accessing services or payment in any kind and participation in the research was undertaken on a voluntary basis. Names of the FGD participants were not recorded and KIs have been anonymised.

4. Context: Rohingya Refugee Crisis in Bangladesh

■ History of Violence in Myanmar and Displacement into Bangladesh

Recognised under colonial rule and present in Burma long before, Rohingya have lived in Rakhine state in Myanmar, and for generations successive Myanmar governments continued to consider the Rohingya as foreigners and Bengali immigrants. In the past fifty years there have been three large-scale population movements in response to targeted violence and systematic discrimination perpetrated by the Government of Myanmar (GoM.)

The first wave of refugees into Bangladesh, in recent history was in 1977-1978, when the GoM launched a military operation, in Rakhine state. The military undertook a violent campaign using forcible eviction, killing, and systematic rape to displace thousands.ⁱ In total around 250,000 refugees fled to Bangladesh,

the majority of which were returned to Myanmar in 1979 when international pressure facilitated a repatriation deal between the two countries.

The second mass influx of Rohingya refugees occurred in 1991 and 1992 following an election in Myanmar. An estimated 250,000 refugees fled the widespread violence.ⁱⁱ Over the subsequent five years (1993-1997) almost 230,000 refugees were returned to Myanmar via a UNHCR endorsed repatriation program. An estimated 32,000 Rohingya stemming from those who arrived in 1991 and 1992 remained in two registered camps in Bangladesh (Kutapalong and Nayapara).

■ Iris Ebert/The IRC

■ Current Crisis and living conditions of Rohingya communities in Bangladesh

In August 2017 an armed group claiming to represent the interests of the Rohingya in Myanmar, the Arakan Rohingya Salvation Army (ARSA), attacked a military outpost. Myanmar's army retaliated in a violent campaign, burning entire settlements, forcibly driving entire communities over the border to Bangladesh and executing men, women and children.ⁱⁱⁱ The brutality and systemic nature of these attacks has led the UN fact-finding mission and human rights organizations to categorise these actions as crimes against humanity and

genocide.^{iv} In August 2017, 720,000 Rohingya fled to Bangladesh. By November 2018 a total of over 800,000 new arrivals came to settle in Bangladesh.^v

Currently, the Rohingya are living in one of the largest and densest refugee settlements globally. The population density is as high as 8m² per person in stark contrast to the minimum standard according to international best practice of 45m.^{vi} As Rohingya Crisis Joint Response Plan summarizes "congestion is the core humanitarian and protection challenge."^{vii}

The lack of privacy, limited space, inadequate lighting and poor access to essential services for women and girls exacerbates pre-existing protection concerns and unequal power dynamics, and there are reports of high rates of intimate partner violence and

domestic violence.^{viii} Adolescent girls are at particular risk of forced early marriage, sexual violence and trafficking.^{xi} Tensions with the host community over access to resources and land are a protection concern.

Government of Bangladesh's Humanitarian Response

The GoB has not considered access for refugees to a range of durable solution options, other than returns to Myanmar. The GoB has not legally recognized any Rohingya who arrived after 1991 - 1992 violence as refugees. Instead, they are referred to as "Forcibly Displaced Myanmar Nationals" (FDMN). In addition, a law enacted in 2014 prohibits marriage between Rohingya and Bangladeshi nationals; this is an additional barrier for Rohingya populations to access durable solutions such as integration.^x Rohingya are unable to access formal schooling and the informal schooling undertaken in the camps is done so in Rohingya or English. The government has also limited Rohingya's

freedom of movement within the camps.

Decreasing the quality of asylum only deters the likelihood of achieving durable solutions. Restrictions alone will not prompt return to Myanmar. In Myanmar the Rohingya continue to lack basic safety, access to fundamental rights, inclusive of their right to obtain citizenship. According to one survey 97.5% of the Rohingya population would in theory consider returning to Myanmar. However, almost all of these (99%) reported they would only return under suitably improved conditions, including guarantees of citizenship, freedom of movement, and freedom of religion.^{xi}

Legal status of Rohingya in Bangladesh

Bangladesh is not a signatory to the 1951 Refugee Convention and its 1967 protocol nor have they signed on to the 1954 Convention Relating to the Status of Stateless Person or the 1961 Convention Relating to the Reduction of Stateless Persons. However, the fundamental principles outlined in these treaties including non-refoulement is considered customary international law and is applicable regardless of the status of the ratification of the treaty. There is no specific provision in the national legislation pertaining to refugees, however there are significant protections for all persons on the territory in the constitution. Article 11 of the constitution clearly states that "fundamental human rights and freedom and respect for the dignity and worth of the human person shall be guaranteed". Due to the lack of any specific legal framework pertaining to refugees or stateless persons the Rohingya practically fall under the legal provisions for all non-citizens or foreigners governed by the 1946 Foreigners Act.^{xii} While the Act grants the GoB the power to decide on the scope of the act's application there are provisions outlined under the Foreigners Act which give the GoB the authority to restrict a

number of rights including freedom of movement.

After the 2017 influx, the international community considers the Rohingya as refugees; UNHCR recognizes them, again, prima facie. However, the GoB has been particularly reticent to recognize them as such and refers to them as Forcibly Displaced Myanmar Nationals (FDMN).^{xiii}

On 21 June 2018, UNHCR and the GoB began a new verification process aiming to combine the functions of the MoHA and RRRC cards in a new smart card. This process at the time of the report was ongoing. This process of new and comprehensive registration and documentation is considered of particular importance due to the general lack of citizenship, or civil documentation available to the Rohingya population. For many this is the only document that captures their identity, provides the necessary access to services and protects against refoulement.⁵ Community leaders have repeatedly requested that the Rohingya nationality should be explicitly mentioned on the card as a way to validate and recognize their ethnic

identity. However, as per global standards, UNHCR registration cards cannot reference a person's ethnicity, for concern that it could perpetuate persecution. The card however includes a record of place of origin, which could be used as documented proof where they came from but is considered, at least by some in the refugee communities, as insufficient. This in addition to concerns raised by the

Rohingya population and the humanitarian community around data protection and data sharing has created resistance at least among some of the refugees. UNHCR has confirmed that information of refugees will be shared with the GoM only for the purpose of repatriation when safe and appropriate and upon consent of the registered refugees.



■ Iris Ebert/The IRC

5. Governance and Legal Framework of Bangladesh

■ Access to Justice in Bangladesh

Bangladeshi Legal System

Bangladesh's independence in 1971 and their constitution that was adopted in 1972 guaranteed the citizenry a range of fundamental rights, rooted in democracy, non-discrimination and equality. The Bangladesh judicial system based on a combination of the Indo-Mughal and colonial English legal and governance systems.^{xiv} The parties' respective religious tenets govern personal and family laws.^{xv} Legal pluralism is a fact of life in Bangladesh. The justice sector can be divided into three systems: formal, semi-formal and informal. The formal system includes the court administration of Bangladesh,

magistracy, police, prosecution, i.e. legal structures established through the constitution and various acts and laws. The semi-formal structure, the village court, is backed by legislation and formally governed by regulation but it remains a community led tool.^{xvi} The informal system includes the traditional and NGO-supported Salish (informal mediation system - see table of Informal/Semi-Formal Justice Sector Actors and Institutions in Section 4 below) which has been the principal forum of dispute resolution within rural communities for centuries.

⁵ Defined as the forcible return of refugees or asylum seekers to a country where they are liable to be subjected to persecution.

Formal Justice System

The formal system, vested with judicial authority, can be divided into two primary types of courts: the Supreme Court, and the Subordinate courts. The highest court of the country, the Supreme Court consists of the High Court Division and the Appellate Division. The Subordinate branch includes the Civil and the Criminal courts.

In the judicial system, there are specific legal protections for women and children. Elements related to the protection of women and children can be found under articles 19, 27, 28 & 31 of the constitution. As per the Women and Children Repression Prevention Act (2000) the Government of Bangladesh has established Women and Children Repression Prevention Tribunals. This court's remit is meant to focus solely on GBV faced by women and children including rape, sexual harassment, dowry, women and child trafficking and kidnapping.

Furthermore, there are key provisions and legal

framework to protect children. The 1974 act established juvenile courts, which has the exclusive jurisdiction to deal with children in conflict or contact with the law and are meant to have child-friendly procedures; currently there are only three nationally. The Children's Rights Act, 2013, expanded the protection for children, and outlined a number of legally mandated protections for children, the execution of which is decidedly poor. It has expanded the role of probation officers to support any child throughout the legal process from the initial intake at the police station to the court. It established the framework for a "Child Affairs Desk" at each police station to ensure a designated officer is responsible for the welfare of the child and will perform such tasks such as notifying their legal guardian, referring them to services as necessary and to inform the probation officer.^{xvii} However, the minimum age of criminal responsibility continues to be nine years of age, which is below the internationally accepted minimum age of 12 years.

The following table shows the key actors of the formal justice system:

Formal Justice System Actors	Capacity, Interest and Role in the Justice Sector
Ministry of Law, Justice and Parliamentary Affairs	<p>The Ministry is responsible for legislation and the courts. Important to note that the Ministry has two divisions: The Legislative and Parliamentary Division, which drafts and vets laws acts and rules; and The Law and Justice Division, which focuses on managing the personnel matters of the Supreme Court and Lower Judiciary.</p>
Supreme Court	<p>The Supreme Court (SC) of Bangladesh is the apex court of the country is comprised of two divisions- the High Court Division and the Appellate Division. The SC has the authority to interpret the constitution. The Appellate Division has the jurisdiction to hear and determine appeals from judgments of the High Court and to regulate the procedure of the courts. The High Court has both appellate (i.e. hears appeals from judgments of the subordinate courts) and original jurisdiction. in particular cases such as on interpretation of the constitution. All judges on the Supreme Court are appointed by the President after a mandatory consultation with the Prime Minister.</p>

⁶ The power to hear a case for the first time

Subordinate Courts

As per, Article 114 of the constitution the subordinate courts can then be divided into two groups- Civil Courts and Criminal Courts. Following the British tradition, Section 3 of the Civil Courts Act, 1887 there are five types of Civil Courts. As per the section 6 of the Code of criminal procedure in 1898 (amended in 2007), criminal courts are divided in two classes- Courts of Sessions and Magistrate Courts. The judges in the subordinate courts are appointed by the Supreme court based on an annual exam conducted by the Judicial Commission under the supervision on the Ministry of Law, Justice and Parliamentary affairs.

Women and Children Repression Prevention Tribunals.

The government as per the mandate of the Prevention of Women and Children Repression Act, 2000, has established a tribunal in each district to address violence against women and children. These tribunals were established in part to address the significant delay in seeking justice for these cases.^{xviii} As of December 2017, these tribunals were processing over 165,000 cases. There are certain provisions outlined in the act that ensures a rapid response, and the women's interest and/or best interest of children is prioritized.^{xix}

Children's Court

The government has recently established Children's Courts in every district and metropolitan areas, as outlined in the Children's Act, 2013. These courts have jurisdiction over cases where a child is in contact or in conflict with the law. These courts have child friendly mechanisms and prioritize provisions to ensure children can participate in the trial, possibility for reduced sentencing and broadly to ensure the best interest of the child.^{xx}

National Legal Aid Services Organization (NLASO) and District Legal Aid Committees (DLAC)

The National Legal Aid Services Organization, established by the Legal Aid Services Act, 2000 aims to provide legal services to the poor. The work of NLASO is carried out by District Legal Aid Committees (DLAC) directed by the District Judge (or delegated to an Assistant Judge or a Senior Assistant Judge.) The DLAC maintains a legal aid for those unable to afford legal fees. The need in Bangladesh greatly outstrips the DLAC's resources.

Ministry of Home Affairs

Responsible for security in Bangladesh as a whole. They manage the police, border guards, coast guards, and auxiliary paramilitary forces.

The Police

The police play a key role in the criminal justice system. In case of any crime, they have the power and authority to investigate and frame the charge-sheet. Court cases are filed based on the charge-sheet.

Legal Profession in Bangladesh: The Bar Council, The Attorney General and the Public Prosecutors

In Bangladesh, different activities related with the legal profession including but not limited to enrolment and professional misconduct are regulated by a statutory autonomous body called Bangladesh Bar Council, which is headed by the Attorney General of Bangladesh. There is a district board association in each of the 64 districts of Bangladesh. The Office of the Attorney General represents the government in the Supreme Court and the Office of Public Prosecutor represents the government in the subordinate courts.

Ministry of Local Government, Rural Development and Cooperatives

The Local Government Division is responsible for the management and the strengthening of local government institutions and for the implementation of social, economic and infrastructure development activities. As we will explain below, in the local government system in Bangladesh the Union Parishad (see table of Informal/Semi-Formal Justice Sector Actors and Institutions in Section 4 below) plays an important role in delivering justice through the Village Court system. The members of the UP, the local governance mechanism, constitute the Local Government Division has an important role to play in this arena, especially in terms of building the capacity of the elected representatives of the Union Parishad.

Challenges Accessing Formal Justice

Numerous studies have indicated that the formal justice system is generally inaccessible for many, but particularly to Bangladesh's rural poor.^{xxi}

The structural weaknesses in the Bangladeshi court system are pervasive. Excessive case backlog creates lengthy delays. The Ministry of Law, Justice and Parliamentary Affairs reported that there are more than 3.3 million cases currently pending nationwide. The courts are understaffed and generally under resourced.^{xxii} The Women and Children Repression Prevention Tribunals face similar issues. As of 2017, there were 54 such tribunals all over the country. However, according to one estimate, more than 150,000 cases were pending before these courts. Another study reviewed found that from 2011-18, of the 20,228 filed, only 19 cases ended in a conviction.^{xxiii} In criminal cases the police can take months to submit an investigation report due, also a result of limited resources and capacity.^{xxiv} The cost of

court fees, processing fees, solicitor's fees, transportation etc. is generally prohibitively expensive. Lastly, there are significant allegations of corruption and mismanagement by the police. Bribes are commonly accepted if offenders can pay the police.^{xxv}

Socio-cultural dynamics influence the preference for informal justice. According to formal processes to ensure a fair trial, the judge should not know either party. However, members of the rural communities believe it is impossible to give a fair verdict based only on the narratives of the incident and without knowing the parties involved (World Bank 2007). Formal justice distances itself from members of the community who do not relate to the procedures and

processes of the court. This, coupled with the problems of language, settings and even simply the distance required to travel leads many Bangladeshis to engage less and less with the formal systems.

Women face particular challenges when accessing the formal justice system. They risk harassment, disbelief and discrimination at every stage. There are laws and judicial procedures including evidence procedures that negatively impact female survivors of violence.^{xxvi} The additional protections outlined in the Children’s Act are largely inaccessible for the majority

of children. There is a lack of knowledge about the concept of juvenile justice and the rights of children who come into conflict with the law by the police, judiciary, social welfare officers and probation officers.^{xxvii} Arrest, detention and sentencing are often arbitrary and at times even illegal. Physical abuse and force are sometimes applied during arrest and interrogation. Children are frequently sexually abused. Detained children can be below the age of criminal responsibility and kept with adult prisoners, exposing them to violence.^{xxviii}

Informal and Semi-Formal Justice System

Bangladesh has a long history of informal justice mechanisms particularly in rural communities where relationships “are based on past and future economic and social dependence.”^{xxix} Historically rural communities used the Salish, a form of mediation (see below table Informal/Semi Formal Justice Sector Actors and Institutions for more details) but

informal justice was only officially endorsed by the state under the Village Courts Ordinance of 1976 which developed a semi-formal institution – the Village Courts - based on the practices of the Salish. This created a semi-formal mode of justice which now sits alongside the Salish/informal system. Currently both models are used in rural communities.

The following table shows the primary actors in the informal and semi-formal justice system of Bangladesh:

Informal/ Semi-Formal Justice Sector Actors and Institutions

Actors

Capacity, Interest and Role in the Justice Sector

Village Courts

The village courts are quasi-judicial bodies, formally under the remit of the Union Parishad (UP). They were established by the Village Courts Ordinance 1976 that has been subsequently repealed and reformed under the Village Court Ordinance, 2006 and the 2013 revision. The courts remit includes both civil and criminal cases, yet they are legally required to follow an informal procedure of dispute settlement. As per the Village Court Act 2013 the potential jurisdiction of cases is up to 75,000 BDT. The panel of village courts consists of five members: the chair, which is always the UP chairman, and two members selected by each disputant, one of whom must be a UP member. The legitimacy and efficacy of these courts

Village Courts

depend heavily on this chair.^{xxx} On a whole these courts are widely considered to be a success. They are affordable, located in or close to the community and the cases are generally processed within a month.^{xxxii}

Union Parishad (UP)

The UP is the local rural governance and administration of Bangladesh. Members are elected every five years. The UP consists of a chairman and twelve members including three members exclusively reserved for women. Union Parishads mandate is established under the Local Government (Union Parishads) Act, 2009. The UP responsibilities are broad and include ensuring law and order, implementation of development programming, administration functions, and providing welfare services.

Arbitration Councils (AC)

The arbitration councils (AC) operate pursuant to the Muslim family law ordinance. They have jurisdiction to hear and determine various family law matters. AC panels are comprised of three persons: the UP chairman together with two other panellists, one chosen by each party. As with the village court, judgments are determined by a majority of the panel. There is no statutory financial limit specified for awards or compensation or maintenance.

Salish

The Salish is an informal mediation system and is the most common form of justice available in Bangladesh. While the Salish does not have formal legal authority nor is there a uniform terms of reference, it is considered a legitimate actor in Bangladesh's justice system. A Salish is established as and when the need for arbitration arises due to a grievance or a conflict in the community. The Salish commonly addresses civil disputes, petty criminal matters, and domestic violence.

The individuals leading the Salish proceedings are called Salishkar (adjudicator). Usually the Salishkars are male. There are no fixed criteria for selecting Salishkars, they are usually male and will include local elders, religious leaders, elected representatives or other influential community members. Parties can engage in alternative dispute resolution mechanisms - mediation or arbitration^{xxxii} - to reach a solution,

Salish

and arbitration is more common.^{xxxiii}

There are three types of Salish

1. Traditional Salish: Traditional informal mediation where community leaders will mediate between two parties to find a solution.

2. NGO Organized Salish: NGO-organized community mediations are formulated by an NGO following a complaint. NGO sends notice to the parties involved and arranges a gathering in the presence of mediators, a lawyer, a NGO mediator, and a local government representative.

3. NGO Supported Salish: NGOs provide training and support to community leaders on Bangladeshi legal system and dispute resolution techniques.

Challenges Accessing Informal Justice

While informal justice is considerably more accessible and often preferential in Bangladesh, it is subject to little oversight, is not representative, and may be inconsistent both with international justice standards and with the protections outlined in the laws of Bangladesh. According to the formal legal system, all citizens are equal, but in the context of informal justice social status, political influence and wealth plays an important role and is taken into account when delivering a verdict. Members of the community that do not have access to such status face particular challenges when seeking a fair resolution. In addition, decisions made value community cohesion and are often not prioritizing women's interests, or her preferences to the same degree they would a man. Informal justice practices across the country tend to reinforce patriarchal norms and values, with women rarely attending even their own hearings and very rarely participating as arbitrators. A UNDP study

indicated that while there has been an increase in recent years, only 16% of village courts include a woman representative when reaching a verdict.^{xxxiv} This increase, albeit modest, has been facilitated by an increase in the number of women elected to the UPs as a result of introduction of the Local Government (Union Parishad) Amendment Act of 1997. This law stipulated that in each Union Parishad three women members would have to be directly elected from three reserved seats. It also increased the number of standing committees of the UPs to 13 and directed that women members would head 25% of these committees.^{xxxv} NGOs have been working with the Salish's and Village Courts in an effort to promote this with some success, but it will be a significant undertaking to ensure justice is accessible to its citizens. The challenges outlined above for both the formal and the informal sectors will be further compounded for the Rohingya refugee community.

Mapping of Humanitarian Governance Structures

The governance of the Rohingya camps is a hierarchical intersection of GoB (RRRC, CIC, Police Army), humanitarian actors (INGOs, UN etc.), and local community leaders (Majhis, camp/block committees, ARSA, respected elders). The various actors have direct implications for the administration of justice, as they are a **“patchwork of power-holders all engaged in policing or dispute resolution activities in various ways.”**^{xxxvi}

The actors that make up the governance structure of the camps are briefly noted below:

Rohingya Refugee Camp Governance Structures

Stakeholders

Mandate

Government of Bangladesh

The Ministry of Disaster Management and Relief (MoDMR)

MoDMR is responsible for disaster relief and subsequently the refugee response including the governance of the Rohingya camps and settlements. The MoDMR manages the RRRC.

Refugee Relief and Repatriation Commission (RRRC)

The RRRC is the government body responsible for the refugee population. Prior to the 2017 influx the RRRC was responsible solely for the registered refugee population, but since the influx their mandate has been expanded to include all refugees. The RRRC is responsible for the management and appointment of CiCs, and is the primary interlocutor with the UN agencies. RRRC assigns CiCs on a rotational basis for all of the camps.

Army of Bangladesh

The army takes a leadership role in many aspects of disaster management in Bangladesh and does so for the response to Rohingya crisis. The army has been in charge of major infrastructure works including road construction and have operationalized the biometric registration exercise run jointly by the Ministry of Home Affairs on the behalf of GoB and UNHCR. Prior to the appointments of CiCs the army would lead on the day-to-day administration of the camp^{xxxvii}. Since the onset of the crisis the army was primarily responsible for safety and security in the camps, however at the time of this report the responsibility was shifting to the police. The army has an authoritative reputation in the community. They are seen as less corruptible than the police. The army is seen as being well trained and a more professional institution.

Camp-in-Charge (CiC)

The CiCs are the government representative responsible for the administration and coordination of services in the camps. The CiC belong to the administration cadre of the Bangladeshi Government and are Executive Magistrates. They coordinate services; liaise with governments and UN bodies. They are the front line decision maker and have influence over every actor present in the camps. The CiC is accountable to the RRRC.

Rohingya Community

Majhis

The Majhi, directly translated as “boat person” is a Rohingya community representative, primarily responsible for information dissemination, coordination of distributions, estimating population numbers, and linking the needs of Rohingya to humanitarian aid. The Army, as a way of organizing humanitarian assistance, established the Majhi system at the time of the last major refugee influx in the 1990s. By 2015 this system was replaced with elected camp/block committees due to allegations of abuse. The Majhi system was revived however during the recent influx due to sheer numbers of newcomers. Each Majhi represents 50 to 200 households or a “block”. The majority, but not all, of Majhis are male. Generally Majhis had higher social status when in Myanmar; either they owned a small business, had access to higher education, or were generally well respected in the community. In each organisational unit there is a head Majhi who directly reports to the CiC and manages the block Majhi, who manages the sub-block Majhi. Technically only a head Majhi interacts with the CiC, but in practice communication channels are not strictly adhered to and CiCs will often directly interact with the lower level Majhi. They are appointed by the CiC and are not directly elected or accountable to the community. The army, the CiCs and the humanitarian community have relied on Majhis as the sole community representative, which has resulted in a disproportionate level of influence and power within the community. 87% of Rohingya in an assessment identified the Majhi as the primary trusted source of information.^{xxxviii} This has resulted in information gaps as the Majhis reportedly control content.^{xxxix} The CiCs have made efforts to address these allegations. However the rules are not codified and oversight can be somewhat arbitrary. This lack of accountability and disproportionate power has resulted in widespread allegations of corruption. There have been sustained allegations of misuse of power by Majhis, including siphoning aid, inflation of distribution lists, excluding persons from access to aid, or using access to humanitarian assistance for their own ends.^{xl} The protection sector expressed concerns that indirect engagement with the community has limited the humanitarian

Majhis

sector's ability to identify protection risks.^{xi} There have been allegations of sexual abuse and exploitation. This system still is active in the majority of the camps, however the below section outlines the new process that will eventually replace the Majhi system.

Camp and Block Committees

Camp and Block Committees are camp-level governance structures, established in the registered camps after the Majhi governance system was dismantled in 2007 in the midst of allegations of corruption and mismanagement.^{xiii} In July 2018 the site management sector initiated a governance task force to endorse guidelines for the new block and camp committees. Currently the guidelines are awaiting endorsement by the RRRC. The aim of these committees is to provide an accountable and representative governance mechanism. In contrast to the Majhi system, the camp and block committees have defined roles and responsibilities and operate within the confines of an agreed upon structure. The camp and block committees are broadly responsible for mobilizing and engaging with the community to facilitate humanitarian assistance. They are responsible for participating in identifying the needs of the community, and supporting with referrals. Mediation of disputes is not within their ToR, and while there is opportunity to engage with them as influential actors, allowing for different actors allows for a diffusion of power. All block and camp representatives serve on these committees for six months; with a possibility of an extension to 12 months if extenuating circumstances apply. No camp or block representatives are compensated; all positions are purely voluntary. Decisions are made by consensus or by majority vote. If a block or a committee member is found to violate the code of conduct or fails to carry out their responsibilities they can be suspended or expelled upon an investigation by the Site Management Support (SMS) agency and the CiC. The election process and defined ToR aims to reduce the corruption of unchecked power and authority.^{xiii} The shift away from the Majhi system was contested by the Majhis themselves. There were reports of Majhis actively attempting to disrupt the process, including spreading rumours, threatening and harassing community members if they endorsed this new system. There was one instance of a Majhi even kidnapping a candidate for a few hours. Despite this, where the electoral system has been rolled out only 15% of the existing Majhis were nominated as block leaders and only 10% were eventually elected to the block or camp committees.^{xiv}

Volunteers

The CiC and NGOs engage these individuals to support the humanitarian assistance provided in the camps. They receive BDT 50 BDT/hour for their service. In some camps, these volunteers work as watchmen for the overall security. Volunteers are sometimes nominated by Majhis and/or CiCs, but some organizations will undertake an informal recruitment process.

Senior or Respected Community Leader

Respected members of the community whose influence in the community is known. Generally they would be someone with access to an education, typically an Imam of a mosque or a teacher.

Masjid Committee

In the Rohingya camps, mosques have been set up in each block, with Masjid Committee (Mosque Committee) established to maintain these mosques. The Members of the Masjid Committee includes Imam, Muajjin, local elites and influential people. They gain influence due to their knowledge of the tenets of Islam. While learned women can be a part of these committees, the majority of them are male. The committee will convene to make decisions around Islamic law, particularly around inter-family conflicts. They can influence Majhi's however their remit remains rooted in interpreting Islamic law and they have greater influence over household matters.

Family

The fundamental building block of power structures is the family unit of which a male is the head of household (Uji). The head of household would often try to resolve conflict within the household or between head of households influencing the outcomes of any inter or intra familiar dispute is the inherent unequal power dynamics between men and women. Men are deemed the ultimate decision maker.

Humanitarian Actors

(I)NGOs

The Rohingya crisis has resulted in a large influx of local and international humanitarian actors with varying degrees of experience working with the Rohingya population in Cox's Bazar. They are primary interlocutors with the refugee community and are providing the full spectrum of humanitarian assistance, from site management, GBV case management, WASH etc.

Site Management Sector

Provides overarching leadership to the humanitarian site management programming. They are responsible to ensure the site management response is coordinated and to ensure quality of the response. The sector is co lead by the RRRC and IOM. In response to the concerns raised by the protection sector the site management convened a Governance Task Force in July 2018 to develop guidelines for a standardized community representation module that is accountable to the population. The module is largely based on the UNHCR guidelines developed and piloted in two camps in 2018. The final guidelines have yet to be approved by the RRRC, again the delay is attributed to the December 2017 elections. The expectation is that these guidelines will be approved shortly and rolled out to the rest of the camps.

United Nations

The following UN agencies are responding to the Rohingya crisis in Bangladesh. International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme (WFP), UNICEF, the United Nations Population Fund (UNFPA), UN Women, the Food and Agriculture Organization (FAO), and the United Nations Development Programme (UNDP). The mandate of UNHCR typically means it has the lead in a refugee response but the GoB selected IOM to take the lead. For site management UNHCR and IOM have split the camps in half.

Armed Groups

Arakan Rohingya Salvation Army (ARSA):

ARSA is a Rohingya insurgent militant group in Rakhine, also known as **Harakat al-Yaqeen, or "Faith Movement" emerged in October 2016**. ARSA is responsible for organizing targeted violence in Myanmar. Although the purported aims of the organization are secular, citizenship and equal rights in Myanmar, it seeks to gain legitimacy through Islam.^{xlvi} The leadership of this group is reportedly **Rohingya emigrants largely based in Saudi Arabia**.^{xlvii} It is unclear the current level of influence the ARSA military group continues to exert among the community in Bangladesh. While their influence in Myanmar was considerably greater, the lack of a common enemy, dispersal of communities and the immediate focus on accessing basic services reduces their ability to exert influence in Bangladesh. In addition the catastrophic response by the GoM triggered by ARSA's military campaign will further reduce significant political sway. Another opportunity for ARSA to exert its influence is through its members or supporters volunteering as night watchmen. International Crisis Group asserts that some religious leaders in the camps were ARSA community mobilisers and leaders in Myanmar and continue to exert authority in the camps.^{xlviii} It was reported that they can target female leaders or Majhis and undermine their authority.

6. Conflict impacting the Rohingya Refugee and Host Community

The following section outlines the drivers and sources of the two categories of conflict that was researched: conflict with other members of the community, including within and between households (intra-community conflict) conflict with the surrounding host communities (inter-community conflict). The following sections provide an overview of the types of conflicts and the underlying drivers.

Intra-community Conflicts

*Gender Based Violence
Intimate Partner Violence (IPV) and
Domestic Violence.*⁷

One of the KIs working with an NGO providing legal assistance explained that despite its frequency domestic violence is rarely escalated to third parties:



This is probably the most common type of conflict that takes place within the camps and this is also probably the most under-reported one. They ask for advice and not for any legal solution or mediation.



Women avoid reporting instances of violence against them due to cultural reasons and religious belief. In addition, according to women interviewed, interventions as a result of reporting violence only served to escalate the problem, or the results of the mediation were unsatisfactory.

⁷ IPV describes physical, sexual, or psychological harm by a current or former partner or spouse while domestic violence is a broader category and includes other family members.

⁸ Eve teasing is a euphemism, used throughout South Asia, for public sexual harassment or sexual assault of women by men.

Rape in the Rohingya camps is an existing phenomenon. When women experience such violence the incident often remains unreported. "They are ha-

arrassed; abduction-rape attempts

happen. Even some of those

attempts are successful. But the

woman never speaks about it. She

knows that she will not get justice.

Moreover, she will lose her dignity

and social status." However, this is not

always the case. Women who do not have a male

guardian are more likely to seek legal redress

following rape. The fact that they are not risking

divorce if discovered could be a factor for coming

forward and seeking legal redress.

Sexual Harassment and Eve Teasing⁸

Almost all of our respondents reported that sexual harassment and eve teasing was a common occurrence in the camps and a considerable security concern for women and adolescent girls. It includes shouts, insults, threats and harassment of a sexual nature by men toward women and girls. Avoiding harassment can be used as a further justification to remain at home or force women and girls in the household to remain in the home. Young girls faced particular risks of sexual harassment and stalking by men in the community

Social Vices

Social vices such as gambling and using drugs were also sources of conflict across both communities.

The Rohingya community cited that drugs are widely available in the camps and addiction is a concern.

Gambling was cited as a common source of entertainment for Rohingya men, which resulted in intra-family disputes over resources and inter-family conflicts over debts accrued. Male youth were also engaging in this anti-social behaviour.

Drug use has a negative impact on marital relations.

The women in the FGDs reported that there is a correlation between men addicted to yaba and marital rape.



The yaba addicted males, after coming back home in the evening or night, forced their wives to have sexual intercourse with them. If the wife refuses, the addicted person beats her, calls bad names and accuses her for cheating. Addiction is affecting the intensity of violence



Furthermore, Rohingya and host community men are becoming involved with the illegal drug trade; endemic to the region and as reported is particularly common in the camp. There are reports from the local Majhis that teenagers, particularly girls were being recruited into the drug trade, as they were less likely to be searched by the police or the army.

Theft

Theft is not particularly common in the camps, but as in all communities, it does occur. Money and precious items brought from are the most common items stolen. The relatively wealthy households such as those that were able to bring assets with them from Myanmar or those with relatives who send remittances are primarily targeted.

Inter-Household Disputes

A particularly common type of conflict are disputes between two households that creates tension in the community. These disputes do not necessarily escalate into violence. There are a number of drivers including, tensions over humanitarian assistance, unsanctioned relationships, overcrowding etc. These are outlined in detail below.

It is common for disputes between children to escalate into disputes between families. Children and teenagers will argue, or physically fight, and this will escalate to conflict at the parental level. Youth commonly will get into arguments over sports or over relationships.

General Violence

While less common, serious incidents of violence were present within the community, including murder and physical violence. If disputes cannot be resolved sometimes they can escalate to physical injury. According to our interviewees, the incidents of physical injury due to conflict, particularly over resources, are on the rise.

Causes of Intra-community

Patriarchal Society and Societal Expectations

The entrenched patriarchal values in the both host and refugee community is the primary underlying cause for violence against women in its many forms. The displacement and lack of access to livelihoods have disrupted traditional social norms that create expectations for the male head of household to provide for his family. When men are unable to fulfil

this role, men are more likely to exert authority over women in his family through violence. Furthermore, it is believed to be a husband's responsibility and prerogative to discipline a woman who transgresses against gendered religious and social norms. These norms have negatively clearly defined the roles and lives of women. In general, the Rohingya women are expected to stay at home under purdah. Women

working outside of the confines of the home can be seen negatively by some members of the community. Violence can also be seen as a manifestation of masculinity. Men are expected to hold power and control over wives and IPV is therefore seen as necessary to maintain the status quo of power over and ownership of women and girls.

Polygamy

The rise of polygamy has sparked a rise in intra-familial conflicts in the Rohingya community. The conflict arises when the subsequent marriages take place without the consent of the first wife, if she is abandoned, or if any of the wives are supported by different standards. This becomes less a choice and more a protective measure to avoid abuse by the community at large. However, as discussed earlier she is a risk of facing violence at home as well. A common response is to divorce the first wife if the husband cannot or is unwilling to support her or if there is a conflict. This is particularly concerning for women and children who then face social stigma as a divorced woman or as children without a father, increasing their vulnerabilities and subsequently putting them at greater risk.

Case Study

Tosnim was 22 years old and pregnant when she went to visit her family in another part of Rakhine state. When the Myanmar army started targeting nearby villages she was unable to return to her husband and she fled to Bangladesh with her family. After a few days, she found out that her husband also fled to Bangladesh. He had been persuaded to re marry and had received a dowry of 100,000 Kyat . The second marriage is not registered. But she did not try to divorce him, even if she would be able to receive her dower of 50,000 Kyat. She says, **“If I complain, my husband will be punished, will be fined. But I won’t be able to bear that. Allah will also not forgive me. I will go to Jahannam (hell). My social status will be harmed; I will be hated. So instead of complaining, I will wait for him. One day he will surely come back.”**

Unsanctioned relationships

Respondents reported that the number of relationships outside of the confines of marriage were on the rise. Single headed households, divorced women and widows were more likely to enter into these relationships, either by choice or they were taken advantage of by men from both Rohingya and host communities. Often it was perceived to be because of their vulnerability.

However young teenagers entering into unsanctioned relationships also creates tensions between the youth themselves and between their families. These relationships might fall into the earlier category and are exploitative or alternatively could be consensual relationships that are not accepted by their families or communities. These relationships were seen as the cause of conflicts within the household as well as a social ill in of itself.

Crisis in Myanmar and Displacement to Bangladesh

The crisis and subsequent displacement has brought about changes in family and community dynamics and is another key underlying factor exuberating conflicts. The trauma experienced in Myanmar by many creates psychological distress, which in turn can cause increased tension within and between families. Women feel less safe in the camps than they did in their homes in Myanmar⁹. The new environment only serves to create insecurity. The insecurity of living in the camp and the increased pressure on women to avail themselves of the protective mechanisms of a male head of household has facilitated the rise in these marriages. The displacement to Bangladesh has resulted in an increase in polygamy. The shifting governance structures have also led to the rise of polygamy. In Myanmar, the Rohingya faced restrictive controls on marriages and were unable to officially enter into polygamous marriages, but as in Bangladesh these restrictions no longer apply.



■ Jessica Wanless/The IRC

Lack of Opportunity for Education

Rohingya refugee children are not allowed to access formal education with the exception of registered refugee children who can access formal education curricula provided under NGOs program activities in the camps. Informal educational activities are available in the camps through education and CP

actors. Children, and particularly teenagers do not have sufficient access to school and work opportunities are limited. Even recreational activities are limited. Such boredom drives anti-social behaviour.

⁹ Most homes in northern Myanmar had fences around them while at the same time more land was available. That afforded females in a HH much greater freedom within the confines of Purdah. This practical consideration shows what a marked difference their current arrangements are and the gendered implications of this including feelings of safety.

As one male participant stated:

Access to Humanitarian Assistance

While the humanitarian community provides assistance, too often it is not enough. Access to WASH facilities, overcrowding in the camp, competition over resources and corruption are all found to be common drivers of conflict. Distributions can be the source of conflict if there is perceived corruption or unequal distribution of goods. Homes are directly adjacent to each other and there is often very little space between them giving rise to tension and contributing to disputes.

Although this is less common than the aforementioned categories, corruption of authority most commonly by the volunteers will create tension within the community. While instances of the Majhi using his authority to access more humanitarian resources is a latent issue, it is less likely to be escalated within the community for further mediation.

Inter-community Conflict: Rohingya Refuges and Bangladeshi Host Community

Land Related Disputes

The most pervasive types of conflict between the two communities is relate to contested use of land. Rohingya and the host community rely on the forests surrounding the camps for firewood. Several of the respondents from the host communities informed us that tension was caused not necessarily by the foraging of wood itself but because neither the Rohingya nor the government has consulted them. While use of the land for firewood or displacement are the most common type of dispute, the Rohingya also mentioned that their children would play in areas outside of the camps that would create tensions between the two communities. According to the respondents Rohingya children have been banned from playing in some areas outside of the camp.

Gender Based Violence including Rape and Sexual Assault, and Sexual Slavery

Rohingya women are also at risk of being assaulted by male members of the host community. As one female FGD respondent said: “Whenever we go near



The children have no educational opportunities beyond class eight. There is no space for them to play games. As such they become idle. An idle brain is the devils’ workshop. So they become involved in anti-social activities ”

Lack of Livelihoods

Women reported that the rate of violence has increased since living in the camps, in part due to the lack of livelihood opportunities for men. The inability to act to fulfil their role as the household provider has eroded men’s capacity to manage their anger. The stress they feel has lowered the threshold at which they resort to violence. Children, and particularly teenagers do not have sufficient access to school and work opportunities. Even recreational activities are limited. Such boredom drives anti-social behaviour. Furthermore, respondents acknowledged that drugs are widely available in the camps and addiction is a concern leading to intra-community conflict (sometimes resulting in physical injury and grave injury) and family feuds.

Overcrowding

The extreme overcrowding in the camps is a driver of conflict. The increased number of persons is found to create more opportunity for crime. The lack of privacy within the household also drives conflict within families.

the Bengali villages (to collect water), they call us bad names. However, if we are lucky, then things stop there. In some cases, they attack us and rape us. Sometime, they keep us in their homes or villages for 2 to 3 days and we have to suffer from sexual assaults throughout the whole time. Our misery does not end when they set them free. Quite obviously, everybody hears about these incidents and when it happens, the victims have no future. No one agrees to marry her. It was also reported that women are attacked when they go to the forests to collect firewood.

Human Trafficking

It was found that Rohingya are vulnerable to being trafficked. Women and girls are trafficked into commercialized sexual exploitation and children for cheap labour. A common scam is for young women and girls to be sent to Cox's Bazaar as maids where they are then forced into commercial sexual exploitation. One respondent noted that even if the parents or the family members decide to report these incidents, it becomes extremely difficult, if not impossible, to find the missing persons.

Inter-Community Marriages and Relationships

Both the Rohingya and the host community have noted that conflicts arise due to inter-marriage between the two communities. While marriage between the communities are strictly prohibited and as per law marriage can result in a jail sentence for up to six years, marriages still take place and these often become a major source of conflict. The further power imbalance between the two communities creates further challenges for women who sometimes end up being abused by their husbands or other members of the husbands family away from their own families and communities.

Security and Crime

The host community and the police reported a rise in crime in the area since the influx of refugees. The drug trafficking and human trafficking networks, long established in the Cox's Bazar area, have taken advantage of the influx and have been able to expand. The host communities fear to send their children to schools due to security concern.

Kidnapping

Kidnapping Rohingya with financial means for ransom is reportedly on the rise. Recent arrivals blame the host community but also the registered refugees who are seen to have more established ties to the host community. A critical concern is, in most cases, that law enforcement agencies fail to reprehend the culprits or the missing persons.

Causes of Inter-Community Conflict:

Access to Resources

Competition over resources is reportedly a significant source of tension. The host community is already a marginalized community in Bangladesh and relies on the use of land to meet their basic needs. Access to resources is often at the core of conflict between registered refugees and newcomers that arrived after October 2016. This is only exacerbated by the humanitarian assistance made available to the Rohingya, both directly because of the deflationary impact on Bangladeshi traders' prices of the Rohingya reselling items in the market, and indirectly with the sense that the Rohingya receive more support than the host community and registered refugees. The registered refugees have seen their quality of life rapidly decrease over the past two years due to extreme crowding and believe they are now at risk of being sent back to Myanmar along with the newcomers. The refugees reported that the registered refugees will sometimes start conflicts because of this.

Perception of the "Other"

Both groups reported they had a negative perception of the other group. The Rohingya feel that the local community do not see them positively and often consider them "culprits". A Rohingya expressed: "The Bengalis (locals) do not see us as good ones. When we ride any vehicle with them we hear them saying, 'the Rohingya are all over the country. They are very painful. Due to them, we cannot say anything, go anywhere'. They do not consider us as good human beings. There is a perception that the Rohingya community, has a different and regressive interpretation of Islam. This divide between the two communities can create tension when there are instances of integration; inter-marriage being the most salient example of this. This is echoed and

reinforced by GoB policy as seen by setting restrictions on freedom of movement, not allowing Rohingya children to access education taught in the local language etc.

Perceptions of Impunity

The host community is able to exert overt force on the refugee community through trafficking, kidnapping, sexual assault and more subtly when in relationships. The host community justice mechanisms consist of formal justice (**i.e. the police and criminal justice systems**) or informal justice (**i.e. the village courts**). As will be discussed in the sections below, host community informal justice mechanisms are in practice inaccessible to the Rohingya community and there are significant barriers to accessing formal justice, meaning that the Rohingya can find themselves reliant on the CiCs and the police for legal redress.

7. Rohingya Access to Justice in Bangladesh

The camp protective environment renders the Rohingya populations, and particularly women and girls, especially vulnerable to protection risks and human rights violations. As outlined, the extreme overcrowdedness, the lack of access to education and livelihood opportunities or freedom of movement and the resulting poverty leads to further and compounding vulnerabilities. Due to restrictions on rights as well as structural, social and cultural barriers, both the Forcibly Displaced Myanmar Nationals (FDMN) and the registered refugees are limited their ability to access GoB formal or informal justice mechanisms. The GoB has had minimal capacity to govern the camps and has preferred to support needs-based activities over more politically contentious rights-based support.

■ Iris Ebert/The IRC

Despite the overarching challenges faced by the Rohingya refugees in the establishment of a protective environment, there are three potential avenues for access to justice for the Rohingya in Bangladesh: The formal justice system; informal justice in host communities; and the local justice system found in the camps

Identification of Key Stakeholders in Access to Justice

The following section outlines the different stakeholders and their role in controlling or facilitating access to justice.

Camp in Charge (CiCs):

The CiC has been identified as the actor with the greatest authority and influence over the justice process. The CiC is an executive magistrate and as one Rohingya refugee observed, “the CiC’s authority is identified by the government and this is the source of his power”. In almost all cases the CiC’s decision is the final one. His role as an executive magistrate, under the Mobile Court Act, grants limited judicial authority that can be used to address grievances in the camps. As such CiCs can imprison and fine a person involved with criminal activities (which include but are not limited to sexual harassment). The police require the CiC’s approval to proceed with any investigation in the camps, and the victim/survivor require the CiC’s approval to leave the camp to access specialized services or to access the court. The CiC will also mediate between two parties if escalated, and they are often called upon to approve mediation decisions. The CiCs are also responsible for dispensing punishments and detaining individuals, some of which include public beatings/floggings, shaming etc.^{xlix}

Armed Forces:

Both the Rohingya and the host community acknowledge the role of the armed forces, despite the fact that technically enforcement of security in the camps is under the police’s remit . Since the onset of the crisis the army was initially responsible for safety and security in the camps. The army has no formal link to access to justice, however for the first year of the crisis, as the primary security service in the camps they were often called in to resolve disputes. Both the communities usually accept their decisions, even when they are not necessarily satisfied with the process or outcome.

The Police:

The police, the primary internal law enforcement agency, investigate, make arrests, and file charge sheets. The CiC directly forwards the ‘quick response issues’ to the police. But the police can investigate

only the cases or complaints forwarded to them by the CiC. There are documented challenges when engaging with the police: they are underfunded, under resourced and have fewer relationships with the Rohingya community making investigating crime even more challenging.

Majhis:

Majhis play a central role in addressing and escalating conflicts. Commonly the complaints and information are passed to CiC by the Majhis who are often the gatekeepers to the CiC. A male refugee stated:

“If the complaint is made to the CiC, he calls in the Majhis and collects information about the cases. Here the Chairman, members or Majhis play vital roles. The actions and verdicts by the CiCs are highly dependent on the information they get through the Majhis”

In effect, our study shows that in the case of disputes, Majhis are the first persons to be contacted. Only if a case is identified as ‘unresolvable’ by the Majhis is it forwarded to the CiCs. This reliance on the Majhis is particularly concerning given the accusations of corruption and allegations of misuse of authority.



■ Timothy Nesmith/The IRC

NGO Volunteers:

The Volunteers or individuals that are directly linked with humanitarian organizations gain authority. They usually have connections with the CiC and the Majhis. It is claimed by respondents that this gives them opportunities to abuse their power against their community.

A Rohingya male said:

“The volunteers have connections with the CiC and also maintain good relationship with the Majhis...if anyone becomes their enemies; they can make their lives miserable”

NGOs/INGOs:

Protection NGOs are powerful actors involved in the justice process. Local NGOs have been engaged with informal dispute mediation and directly supporting and facilitating the transfer of compoundable cases to the formal legal system for years. This began with the registered refugee population and has continued after the recent influx. NGOs are largely partners with either UNHCR or IOM. The structure of the mediation of disputes varies between arbitration, where the NGO teams are the final decision maker, to systems that rely more heavily on mediation. Still, all of dispute resolution structures require engagement with existing power structures including the Majhis and, if required, escalation to the CiC. Some NGOs require the CiCs sign off for any decision made during mediation.

Masjid Committee:

The Masjid Committee is a group of community leaders that interpret Islamic teachings. There is a Masjid Committee in almost every block in the camps and it is usually comprised of five members. Typically, the residents of a block sit together and elect the members of the committee among themselves. As

such, “the refugees from the blocks themselves are the source of the committees’ power”. The members are chosen based on who has knowledge of Islamic law and are well respected. The masjid committee usually deals with complaints such as multiple marriages, divorce etc.

Elites/Community leaders:

Powerful members of the Rohingya community who used to play an important role back in Myanmar are also considered as significant actors in the justice system. Due to either reputation or monetary power, they have access to the justice system and are called upon to mediate between parties.

ARSA:

According to one KI, ARSA plays a limited role but will exert influence if necessary by supporting Majhis that are loyal to them. However, it remains an open question as to whether the group intervenes, directly or indirectly, in the justice process.

The Family:

The fundamental building block of power structures is the family unit of which a male is the head of household (Uji). The head of household would often try to resolve conflict within the household or between households. Men are deemed the ultimate decision maker, and it is common for a woman to remain in the home, in order to maintain her Purdah.

Process of Accessing Informal Justice

For the Rohingya living in the camps the overwhelming preference is to seek justice within the camp. The process for doing so is as follows. If a conflict cannot be addressed within the family or between the two families (other than non-compoundable crimes), the first point of call is to contact the block Majhi for support. The block Majhi arranges a gathering of community leaders (or masjid committee members for marital issues...etc.).

After listening to both sides, this group delivers a decision. If the verdict is not acceptable to any of the parties or the group fails to reach a verdict, the complaint will be forwarded to the Head Majhi. The Head Majhi again arranges another group drawing from the larger community. If the verdict is again not satisfactory the dissatisfied party can approach the CiC. If an NGO is present a lawyer may support in the mediation of the case. If the mediation fails to reach an acceptable verdict, the CiC, given that he is an executive magistrate, will deliver the final verdict that has to be accepted by everyone. If the aggrieved are still not satisfied, they have no other option but to contact the local police station or the army or request the CiC to file a formal complaint. However, escalation to the police or arm for these disputes is exceptional. The CiCs are more likely to become directly involved if there are broader issues or more serious issues that are higher profile.

For conflicts involving personal law, including IPV, Masjid committees play a key role. Both the parties involved in the complaint expect their presence. In those cases, the Majhis accompanied by the masjid committee deliver verdicts. The decisions from these groups carry great weight in the community and if a party is unhappy with the decision they can escalate to leaders of greater importance and influence, though this is unusual. The possibility of punishment via fines and imprisonment starts to increase as the Rohingya access more powerful formal actors within the camp governance structure. For decisions made by the CiC, punishment is commonly in the form of a fine or imprisonment. The form of punishment can vary depending on the nature of the alleged crime or conflict. The following table shows the means of enforcement based on the actor and the conflict.

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Intra-community Conflicts: Rohingya Refugees (Compoundable Crimes)

Crime/Conflicts	Actors	Possible Punishment	Comments
Sexual Harassment/ Eve-Teasing (verbal)	Community Leaders/ Masjid Committee	Not usually covered	N/A
Sexual Harassment/ Eve-teasing (verbal)	CiC	Has the authority to imprison individuals. In general a strong warning is issued	N/A
Unsanctioned Relationship	Masjid Committee	Warning, divorce	
Unsanctioned Relationship	CiC	Warning, divorce, fine, physical punishment	
Theft	Majhi	Fine, return of item	Culprit is seldom caught
Theft	CiC	Larger fine, return of item.	
Domestic Violence	Majhi, Masjid Committee	Warning, Fine, Divorce (last resort, very rare)	
Domestic Violence	CiC	Fine, physical violence, imprisonment (even though imprisonment is rarely used)	Can be up to BDT 70,000
Domestic Violence	NGO-Mediation	Mediation, reconciliation, divorce, referral to CiC	N/A
Drug Use	CiC	Warning	
Debts	CiC	Fine	Majhi's are responsible for collecting fines set by CiC
Conflicts over Humanitarian Assistance	CiC	Warning	
Physical Injury	Community Leaders, Majhi	Mediation, reconciliation, fine	N/A
Physical Injury	CiC	Fine, imprisonment	Can be as low as BDT 500 and can be as high as 10,000

Challenges Accessing Informal Justice

The informal system often fails to provide adequate justice due to several factors. Corruption is the most commonly cited challenge in adequately accessing the informal justice-seeking process. Abuse of power by the Majhis is rampant. Several respondents reported that the Majhis are easily corruptible. According to one respondent:



Those who get selected as Majhis become powerful because he can deliver verdicts, control the distribution of relief tokens, and has connections with the CiC. ”



Timothy Nesmith/The IRC

It is common practice for the Majhis to demand payment to process the case or to provide a favourable verdict. The community leaders or elites are also known to sometimes take bribes as well. This practice was not uncommon in Myanmar where paying bribes to different levels for necessary papers or to achieve a favourable outcome in a dispute was the norm. The aggrieved are then often left without any recourse; if they escalate the issue to a more senior Majhi or to the CiC there is a risk of consequences.

There is little to no female representation within the informal justice mechanism. While humanitarian actors have prioritized female participation in the camp governance, including female Majhis, they rarely participate in the mediation process. For instance, during an interview with a KI who was a female Majhi, she reported that her participation in the informal justice system is extremely limited. In some cases, when the Rohingya women hesitate to go to the male Majhi, they reach out to her or other female Majhis. But after the female Majhi informs the male Majhi about the incident, she will not have a role in the mediation process.

The KI stated:

“In GBV cases, it is very rare that women get justice. Males have power and money. With these they can buy the justice system”

One male respondent verbalized the patriarchal belief that women should not be part of the justice system:

“In our society, the women do not step outside their respective homes. They are not considered capable of running a camp and so they are not selected as Majhis. And so, the distressed women do not go to the Majhi for justice because they can’t share all the things with him. Women seeking justice is also seen negatively in our society.”

Lack of female representation is affecting verdicts and favours male parties.

The patriarchal society and its norms continue to create barriers for women to access justice. For women just raising these concerns is a challenge and poses the risk of societal isolation. Women and youth will rely on the male head of household to interact with the Majhi or the CiC, limiting their ability to directly access decision makers and to advocate for themselves. Young people and children have no voice to participate to access justice systems. The system is adult oriented, and do not look into specific needs and approaches to address children's needs. Societies and families consider intimate partner violence as an acceptable part of marriage and do not think that the women should seek justice or escalate this to other members of the community.

The informal justice mechanisms are generally only able to address intra-community conflicts. According to the primary data collected, Rohingya do not participate in any of the village courts or the traditional Salishs found in the host community .

It is within the remit of the CiC to raise issues to the army, police or directly to the Union Parishad (UP) if there are tensions between the two communities.

The host community, they report they are unable to access justice and have tried to avoid any conflicts:



Now we ignore the Rohingyas. Because there is nothing else to do. If we go to the army with complaints, they reject us and ask us to go to the police. The police cannot solve our problems... We have accepted that we cannot do anything of the problems we facing due to the Rohingyas



The host community reported that they faced challenges accessing the informal justice mechanisms, the Village Court and the Union Parishad are not available to listen to them or address their issues as they are occupied with dealing with Rohingya's matters. This only serves to further the host communities' frustration with the current crisis and escalate inter-communal tensions.

The Village Courts are largely inaccessible to the Rohingya community. While there could be opportunity for inter-community conflicts to be resolved through this mechanism to date this is not happening. There is nothing prohibiting the Rohingya from accessing these courts in the Village Court Act, 2006. However, to make an application to the village court the parties should provide a national ID number. A document the Rohingya do not have access to. Additionally, each party must appoint an elected official from the UP to represent their interests. As Rohingya do not participate in electing any UPs as they are not citizens it is unlikely that they will be able to find an elected UP to represent their interests particularly if they are facing a dispute with a member of the host community.

Process of Accessing Formal Justice

Formal justice is only accessible if there is a serious or compoundable crime, i.e. kidnapping, human or drug trafficking, murder, rape, or assault. While domestic violence is considered under Bangladeshi law as a compoundable crime as per the penal code it is not treated as such and is only ever dealt with in informal ways.

The complaint is first escalated to the CiC, by Majhis or through NGOs. If a Majhi escalates this directly to the CiC the NGO will then be asked to support. Once they have approved the case it will be forwarded to police. The police will then investigate and submit charge sheets to the courts. Then the case will be referred to the Chief Judicial Magistrate Court and this institution, based on the legal merit of the case, will transfer it to either the District Sessions Court and to Women and Children Repression Prevention Tribunal. NGOs support the victim of crime with resources and actually completing the paperwork and legal documentation required on behalf of the prosecution office. The prosecution's

office is generally facing a backlog of cases and it is found generally not willing to invest time in a criminal case on behalf of a Rohingya victim.

Challenges Accessing Formal Justice

Many of the barriers faced by Rohingya in accessing the formal justice system are common to all populations' access as a whole. The formal system is generally overburdened and prohibitively expensive although it should be noted NGOs currently cover the legal fees for their clients. In addition to the above-mentioned challenges the Rohingya face, unique challenges do exist due to their lack of legal status. The CiCs are the ultimate gatekeeper and sometimes can prefer to address cases within the scope of the camps, rather than escalating through formal channels. While IPV is assault, and technically

a non-compoundable crime and thus under the purview of formal legislation, in practice it is not considered as such and is addressed within the remit of the informal mechanism. The CiC's approval is required to refer cases to the police and to receive permission to leave the camps to reach the courts. Despite this, married women face pressure not to report cases or GBV, as seeking help for what happened would bring shame to their family. Of cases of rape reported, the police noted that the majority were female-headed household. While the number of reported cases is low, there are additional challenges of language barriers hindering investigations as well as a lack of trust resulting in investigations often continue for months.

Similar to the host community, there is a lack of knowledge and understanding of how to access the formal system, including confusion over whether Rohingya actually have legal rights to access the court system. It is not surprising that there is insufficient information on how to access the formal system considering how rare these occurrences are. There is also a general lack of awareness on how they can engage with the informal system, and a

stark lack of information on how NGOs can provide support through the informal process. There are a number of NGOs working on this, but their capacity is limited and the areas of coverage in terms of population is high. Registered refugees are much more likely to understand how to seek support outside of their immediate community leaders and Majhis. In summary, formal justice remains largely inaccessible for the majority of Rohingya refugees. Due to structural/political, social and cultural barriers, there are practical limitations on refugees accessing their legal rights through justice mechanisms. Additionally, refugees who had recently arrived are found to be unaware of their legal rights in Bangladesh and about the availability of NGO mediation, requiring more targeted awareness raising on legal rights, availability of legal assistance and informal and formal processes to improve access to justice systems and legal redress.

■ Iris Ebert/The IRC

8. Key Findings¹²

Reliance on and preference for informal justice is clear:

In both the host and Rohingya communities there is an overall high level of reliance on community dispute resolution. The formal court procedures are considered to be incredibly time consuming, prohibitively expensive, and producing very few successful verdicts.

Very limited access to formal justice for Rohingya:

The current formal justice system is plagued by structural issues, lengthy wait times, prohibitive expense, corruption and socio-cultural barriers.

Both Rohingya and the host communities feel there is minimal shared recourse and by extension no effective solution available for inter-community conflicts:

The host community is unable or unwilling to enter into mediation processes with the Rohingya. The local governance institutions (i.e. the village council and the UPs) are unable

¹¹ The village courts are quasi-judicial bodies, formally under the remit of the Union Parishad (UP). They are affordable, located in or close to the community and the cases are generally processed within a month.

The Salish is an informal mediation system and is the most common form of justice available in Bangladesh. While the Salish does not have formal legal authority nor is there a uniform terms of reference, it is considered a legitimate actor in Bangladesh's justice system. The Salish commonly addresses civil disputes, petty criminal matters, and domestic violence. Both Village courts and Salish are accessible and broadly used by the host community.

to exert authority over the Rohingya. On the other side, the Rohingya community can rarely and practically access formal justice, particularly in the case of inter-community conflicts. The only possible opportunity for resolution rests with the CiC and law enforcement agencies, the only structures that intersect with both communities. office is generally facing a backlog of cases and it is found generally not willing to invest time in a criminal case on behalf of a Rohingya victim.

Violence Against Women including Intimate Partner Violence is pervasive type of conflict identified within the Rohingya Community:

The rates of IPV are incredibly high among Rohingya women. This is driven by the patriarchal power imbalance, increase in violence as a result of the displacement, stress over access to resources and lack of recourse. Women are not likely to escalate this violence unless they need to seek medical attention. Even if the case is escalated the mediation process is rarely satisfactory.

Refugees who arrived after 2016 have weaker links to the formal governance mechanisms and are less aware of how to access formal justice than UNHCR-registered refugees:

Registered refugees have developed stronger relationships with the camp governance structures and have greater awareness of how to access formal justice mechanisms. This is in part due to having long term relationships with NGOs from their work in the camps, and also partly to deeper relationships with governance mechanisms.

The informal justice mechanism follows a conciliation model where community leaders try and resolve conflicts. However there are key challenges such as:

the quality of justice not aligning with basic human rights and principles, women's interests not represented, lack of female representation in informal justice bodies; risk of corruption and power abuse.

Current informal justice mechanisms are reinforcing harmful gender power dynamics:

The verdicts reflect existing social norms and proximity to power, which has a

disproportionate impact on women. This is reflected in the extent to which women are impacted by conflict, IPV, domestic disputes, eve teasing, sexual harassment, assault etc. Women are pressured not to escalate such disputes at the expensive of their status in the community. If they do escalate, they are unable to access a representative dispute resolution process where women are part of the decision-making process.

Humanitarian actors have significant influence on the Rohingya refugees' ability to access justice:

NGOs have traditionally been perceived in Bangladesh as powerful local actors, facilitating their ability to engage with informal justice on a national scale, including as an active role as a mediator. This intersects with the almost total reliance of the Rohingya on the humanitarian actors to meet basic needs. Therefore proximity to humanitarian actors, as seen with the Majhis and volunteers, generates influence. That influence extends to authority in conflict resolution. This is also seen in the process of accessing justice, which broadly follows the camp governance structures; with power concentrated in the CiCs and local community leaders.

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¹² This section does not contain any findings on the enablers or barriers for children and young person to access effective justice mechanisms. This is due to limitations related to the scope and timeframe of the assessment. IRC recommends for additional assessment with a specific focus on barriers for children and youth to access justice systems in the context of displacement in Cox's Bazaar.

Recommendations:

Recommendations for (I)NGOs and Sector Coordination Bodies

- 1 Protection sector to advocate with the Government of Bangladesh to recognize the legal status of refugees in Bangladesh:**

A rights-based approach is key for Rohingya refugees to claim their rights and access justice.
- 2 Protection Sector to lead engagement strategy with CiC and camp level governance structures to**

develop stronger relationships and their familiarity with protection, GBV and CP principles including survivors centered and child friendly approaches on issues related to access to justice.
- 3 Protection and GBV Sub- Sector to recognize the risk of harm that can occur when undertaking IPV mediation and to ensure this practice does not continue.**

It is necessary to recognize the inherent power imbalance between men and women when there is IPV in the relationship, and as mediation requires there to be two parties with similar power this process is harmful to women.
- 4 GBV Sub- Sector to develop a survivor centred information protocol:**

This is important in the wider humanitarian response but will ensure informal mediation and the escalation of from NGOs to CiCs and Majhi, or Camp/Block committees, will be done so where the safety of the survivor is prioritized.
- 5 CP actors in coordination with Protection NGOs to undertake additional research to examine how children experience justice and conflict resolution:**

Insufficient information was collected during primary data collection. However, it is safe to say that there is a scope for A2J programming focused on child protection.
- 6 Protection actors in coordination with the PWG to undertake additional research on the impact of Rohingya's legal status as stateless, unrecognised refugees in Bangladesh and the challenges for accessing durable solutions.**
- 7 Protection sector to develop a set of standards for organizations undertaking informal mediation:**

The various types of informal mediation supported by NGOs should agree to a set of standards guided by protection principles. Based on that, protection actors can build the capacity of community based justice mechanisms.
- 8 Protection, GBV and CP Sectors to advocate with the Government of Bangladesh to recognize the legal status of refugees in Bangladesh:**

A rights-based approach is key for Rohingya refugees to claim their rights including access to justice.
- 9 Protection actors to work closely with the government in order to build and strengthen the capacity of the government agencies, civil society organizations, and academic institutes**

on restorative justice system in to refugee camps including working with MOWCA & Ministry of Law, Justice and Parliamentary Affairs on equality legislation for formal institutions.
- 10 Protection actors to engage in quality awareness raising on legal rights and avenues for justice for the Rohingya in Bangladesh:**

This will include information sharing and awareness raising on rights and entitlements as well as guidance on how refugees may access formal and informal justice mechanisms.
- 11 Site Management Sector in coordination with the protection cluster to develop guidelines for camp and block committees' engagement with informal justice.**

Should address if the newly formed camp committees and block committees should engage with informal justice. Considering the significant issues arising from the monopoly of power held by the Maji and the potential for the decentralisation of power / roles to other community leaders who can be supported to engage with informal mediation processes!

11 Block Committees and representatives, to receive capacity building on legislation, legal procedures, protection principles as well as international standards.

Community representatives to be empowered and capacitated in working closely with the CICs and the other camp level authorities to facilitate access to informal justice mechanisms for refugees. Establish **capacity building sessions and trainings for camp representatives** (Camp Committees) to build their knowledge **on national legal procedures, protection principles and international standards**. Targeted trainings on GBV core concepts and child protection principles to be made available for the purpose of further engagement and skills building.

Recommendations for Donors

1 Fund programs that critically engage with governance structures:

Donors that fund A2J programming must not only understand who the gatekeepers of power are, but also whether they are accountable to the community. Donors should ensure the programming they fund does not just engage with those in power but also seeks to ensure quality justice that is in line with key protection considerations.

2 Commit to long-term programming and financing:

Donors should commit to financing a longer-term donor approach to supporting improved access to justice services is key to building trust and buy-in from the community, and from key national governance and justice actors. The proposed programming outlined above sits at the intersection of relief and development assistance and therefore will require a longer timeframe of implementation to see results, and to manage and address potential backlashes against social change.

3 Develop meaningful monitoring and evaluation frameworks:

The performance of all programmes should use indicators that measure meaningful A2J including positive impact on people's lives as well as the effectiveness of awareness-raising components in displacement settings.

4 Support gender sensitive and transformative programming:

Programming needs to create an enabling environment for women to challenge a wide range of damaging gender norms in their communities. To help address these power imbalances, fund and otherwise work with progressive organizations that are committed to gender equality such as have female staff in key roles and ensure all programming applies a gender empowerment approach. NGOs play indispensable roles in working with informal justice systems and have a large impact, donors can have a significant influence over the type and quality of programming that is implemented.

5 Donors to stand critically against organizations undertaking Informal Mediation for women experiencing IPV.

Ensure any programming is in line with a do harm approach as well as global/inter-agency GBV principles and minimum standards

6 Advocate with the Government of Bangladesh to recognize the legal status of refugees in Bangladesh:

A rights-based approach is key for Rohingya refugees to claim their rights and access justice.

7 Advocate with the Government of Bangladesh to ensure access to education for Rohingya refugees:

denial of access to education violates fundamental rights protected by the Convention on the rights of the child signed by the GoB as well as the Bangladeshi Constitution and prevents children from building on the development and resilience. Instead it creates an environment where children and youth found themselves in an ongoing cycle of violence and abuse.

8 Advocate with the Government of Bangladesh to allow for livelihoods and vocational programming for Rohingya refugees:

Mitigating total reliance on humanitarian assistance and giving opportunities for employment will reduce intra-community conflict. Risk analysis should be undertaken to ensure it does not increase conflict with the host community.

Recommendations for Bangladesh Government

1 Government of Bangladesh to continue to work closely with the humanitarian community and ensure that rights of all people are respected protected and fulfilled.

2 Recognize the legal status of refugees in Bangladesh, and reinforce standards for quality of asylum:

A rights-based approach is key for Rohingya refugees to claim their rights and access to formal and informal justice systems.

3 Work with humanitarian actors who have experience in A2J programming to identify common objectives, develop collective responses and share knowledge:

Humanitarian support can facilitate improved A2J for Rohingya and members of the host community.

4 Strengthening oversight and accountability to the camp-level governance bodies:

As we are shifting to a protracted crisis, there is a need for stronger support and accountability systems at all level of response and in particular access to justice systems for Rohingya and host community. As the lynch pin in access to formal and informal justice, the CiCs need strong oversight and accountability. The RRRC should be empowered to hold the CiC's accountable. Capacity building on magistrate duties and provision of justice should be mandatory for all CiCs.

5 Develop key guidelines and capacity building for camp-level governance bodies:

This in cooperation with key humanitarian sectors (Protection Sector, GBV SS and CP SS) on how they can support a survivor-centred and a best interest of the child approach to justice. Considerations include informed consent, confidentiality, survivor-centered approach, safety, non-discrimination, do no harm, etc. Trainings on best interest of the child approach should also target police and key government officers involved in justice mechanisms for children in conflict with the law.

6 GOB to consider increasing female participation in all aspect of the access to justice mechanism. Increased number of women in all different governance and access to justice bodies in the camps and in the host community will create a safer environment for women to raise complains. Increased role of women in the informal justice mechanisms including participation in the decision making process. Female police officers as well as female CiCs to be assigned in the camps.

7 Continue to invest in local development and economic growth for host and refugee populations:

A key to mitigate tensions between the two communities is to ensure they are able to meet their basic needs and have opportunity to access livelihoods. Provide opportunities for Rohingya refugees to access the formal and semi-formal job market based on market assessments.

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THE IRC IN BANGLADESH

The IRC started operating in Bangladesh in October 2017 in response to the large influx of Rohingya refugees from Myanmar in August 2017. The IRC has recognized there are longer term needs both in relation to the Rohingya crisis and in the wider context of Bangladesh and as such an IRC Bangladesh country office has been established. Official government registration to operate in Bangladesh was given in March 2018. Currently The IRC providing assistance to Rohingya via local and international partners focusing on essential health and reproductive health care, protection of vulnerable children, prevention & response to GBV and a range of services for women and girls.

Headquarter:

International Rescue Committee 122 East 42nd
Street New York, NY | 10168-1289 +1 212 551
3000

IRC in Bangladesh:

Dhaka Office:

International Rescue Committee

Apartment A4, 4th Floor, Navana Miru, House: 4B,
Road: 96, Gulshan-2, Dhaka-1212.

Cox's Bazar Office

1st floor, Sayeman Heritage Residence, Hotel
Sayeman Road, Baharchara, Cox's Bazar-4700.