

Protection Assessment for the Disadvantaged Undocumented Myanmar Nationals and Local Population in Selected Areas of Cox's Bazaar District



Children playing in the Kutupalong Makeshift Site

Photo credit: Saidur Rahman

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Report Commissioned by the Bangladesh National Women's Lawyers Association (BNWLA)

May, 2016

Acknowledgements

We are first and foremost grateful to the Bangladesh National Women's Lawyers Association (BNWLA) for trusting us with this vital study. It goes without saying that without their full cooperation we would not have been able to conduct the study in such a short amount of time. Our gratitude goes in particular to Advocate Salma Ali, Adv. Wahida Idris and Mr. Hasan for overall supervision of the study. But we are particularly indebted to the BNWLA staff at Cox's Bazaar, Ukhiya and Teknaf led by Md. Ershaduzzaman, Project Coordinator for providing us with material support and guidance to conduct our research in an efficient and comfortable way. We would like to thank the staff for making time to administer our survey questionnaire in the various fields despite their busy working hours. We hope we can repay them by providing a cohesive and comprehensive report that will help them in their future work.

We remain grateful to the resource persons we met from various sectors whose expertise and experience helped us to put things in perspective and maintain an objectivity on an issue that could so easily become fraught with emotional tension.

It will not be complete if we do not mention the many women, both Rohingya and Bangladeshi who gave us their time to come and tell us about their suffering and their challenges. We learnt so much to them. We only hope that our work would somehow help us to project their stories to millions so that their situation can be assessed in an appropriate way and steps taken to alleviate their sorrow.

Meghna Guhathakurta

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GLOSSARY OF TERMS

2 Anna gold : 1.458 grams gold

BD's: Bangladesh's

BGB: Border Guard Bangladesh or **BGB** (formerly known as the **Bangladesh Rifles**) is the oldest uniformed force in Bangladesh. It is a paramilitary force under the [Ministry of Home Affairs](#). BGB is primarily responsible for the border security of the country, in Bangladesh the force is known as "The Vigilant Sentinels of the National Frontier".

BNWLA: Bangladesh National Women Lawyers' Association

Bonder: Port

Coolies: An unskilled laborer, especially formerly in India and Bangladesh works at mostly in Railway station and other industrial areas.

CXB : Cox's Bazar district (Chittagong Division) area 2491.86 sq km, located in between 20°43' and 21°56' north latitudes and in between 91°50' and 92°23' east longitudes. It is bounded by Chittagong district on the north, Bay of Bengal on the south, Bandarban district, Myanmar and the http://en.banglapedia.org/index.php?title=Naf_River Naf river on the east, the Bay of Bengal on the west. The longest sea beach of the world belongs to Cox's Bazar. Almost half of the total area of the district represents the hilly region and the other half is the coastal islands.

Dalal: Brokers

DC: Deputy Commissioner

Denmohar: The amount of money given by husband to wife is called Denmohar. Instantaneous payment of Denmohar is compulsory for husband, although the wives can voluntarily pardon the husband from this obligation or can give permission for deferring the payment. According to Muslim law, Denmohar is a special right of wives. The fixation of Denmohar is dependent on the socio-economic status of brides and grooms. The wives can demand the money at any time and it is compulsory for the husbands to make the payment. The amount is usually divided into two parts: cash and receivable. The amount declared as cash is usually paid for the ornaments given as gift by the groom's side. The remaining part is paid later on or when the wife is separated from husband after divorce. It is a social tradition.

DTF: District Task Force

FA: Foreigners Act

FGD: Focus Group Discussion

Ghat: Jetty

HH: Household head

Hnila: An area of Cox's Bazar district.

ID cards: Identity cards

Jhamela: Trouble

KabinNama: A dowry deed in a marriage contract. A deed of dower in a Muslim marriage. The amount of dowry (Mohrana) to be given to the bride by the groom has to be mentioned in the Muslim marriage contract (known as 'Kabinnama').

KII - Key Informant Interview

Member: Member of the Union Parishad

MJF: Manusher Jonno Foundation, a non government organization in Bangladesh.

Mohila Odhidoptor: Women's Directorate

Notary Public: Notary Public is a public officer or a person publicly authorized to draw up or certify contracts, deeds, etc, to protect bills of exchange and discharge other legal duties or matters of a formal character. The executive or other appointing authority appoints Notary Public under the laws of the land. The Negotiable Instrument Act, 1881 define the law relating to promissory notes, bill of exchange and cheques which were enacted and came into force on the first day of March 1882. Section 138 of the Negotiable Instrument Act empowered the government to appoint any person by name or by virtue of his office to be a notary public under this Act.

NTF: National Task force

OCC - One-Stop Crisis Centre (OCC) is to provide all required services for a woman victim of violence in one place. The OCC provides health care, police assistance, DNA test, social services, legal assistance, psychological counseling and shelter service etc. Multi-Sectoral Programme on Violence against Women is the joint initiative of the Governments of Bangladesh and Denmark under the Ministry of Women and

Children Affairs. The general objective of the project is to address and prevent violence against women in Bangladesh through a coordinated integrated inter-ministerial approach.

The pilot project has been started from May 2000. Two OCCs have been established in Dhaka and Rajshahi Medical College Hospitals, during the pilot phase of the project. After that some new OCCs in Chittagong, Cox's Bazar, Sylhet, Barisal and Khulna Medical college Hospitals have been established within this project.

Rohingyas: The Rohingya are an ethnic group closely linked through language, culture, and religion to the dominant Bengali population of Bangladesh. Indeed, the Rohingya language is very close the variety of Bangla spoken in Chittagong. The Rohingya are concentrated in Rakhine (previously Arakan) State, Myanmar. However, under the 1982 Burmese Citizenship Law, Rohingya were denied the right to claim Burmese citizenship. The government argued that the Rohingya were illegal migrants that only settled in the country during British rule, which justified the denial of their citizenship rights. As a result of these deprivations, hundreds of thousands of Rohingya have fled to Bangladesh over the last three decades, principally in two waves in 1978 and 1991-92... Apart from that, a trickling of small numbers of Rohingyas into Bangladesh takes place every now and then. Many have been repatriated, but still a big number of them are living in Bangladesh. According to the UN Refugee Agency (UNHCR), there are more than 200,000 Rohingya in Bangladesh today, including more than 32,000 documented refugees living in two government-run camps [Kutupalong and Nayapara] within 2km of the Burmese border. They are not legally permitted to work or go outside the camps.

Salish: Arbitration. Arbitration is a proceeding in which a dispute is resolved by an impartial adjudicator whose decision the parties to the dispute have agreed, or legislation has decreed. A form of [alternative dispute resolution](#) (ADR), is a technique for the resolution of disputes outside the [courts](#). The parties to a dispute refer it to *arbitration* by one or more persons (the "arbitrators", "arbiters" or "[arbitral tribunal](#)"), and agree to be bound by the arbitration decision. A third party reviews the evidence in the case and imposes a decision that is legally binding on both sides and enforceable in the courts. https://en.wikipedia.org/wiki/Arbitration - cite_note-1

SGBV: Sexual and gender based violence

Shada-kagoje Bie: Marriage that have been recorded on cartridge paper which are also used in court but not with a price on it as in the case of non-judicial stamps.

Sharia Law: Sharia law is the body of [Islamic](#) law. The term means "way" or "path"; it is the legal framework within which the public and some private aspects of life are regulated for those living in a legal system based on [Islam](#). Sharia deals with all aspects of day-to-day life, including [politics](#), [economics](#), [banking](#), [business](#) law, contract law, [sexuality](#), and social issues.

There is not a strictly codified uniform set of laws that can be called Sharia. It is more like a system of several laws, based on the Qur'an, Hadith and centuries of debate, interpretation and [precedent](#).

Stamp Marriage: Marriages conducted through the buying of non-judicial stamp processed through the Notary, but not registered in the Kazi office as per Islamic Law and state law.

UMN: Undocumented Myanmar National

UNHCR: United Nations High Commissioner for Refugees.

UP: Union **Parishad** is the smallest rural administrative and local government units in [Bangladesh](#). Union Parishads are formed under the *Local Government (Union Parishads) Act, 2009*. Each Union is made up of nine Wards. Usually one village is designated as a Ward. There are 4,554 Unions in Bangladesh. ¹A Union Parishad consists of a Chairman and twelve members including three members exclusively reserved for women. The boundary of each Union is demarcated by the Deputy Commissioner of the District.

Upazila: Upazila formerly called Thana is a [geographical region](#) in [Bangladesh](#) used for administrative or other purposes. They function as sub-units of [districts](#). The upazilas are the second lowest tier of regional administration in Bangladesh.

WFP: World Food Program

Yabba: A combination of methamphetamine (a powerful and addictive stimulant) and caffeine. Yabba, which means crazy medicine in Thai, is produced in Southeast and East Asia. The drug is popular in Asian communities.

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Executive Summary

The broad objective of the study is to assess the protection situation for the disadvantaged groups in selected areas of Cox's Bazaar district, including (but not limited to) the undocumented Myanmar nationals.

Specifically the study will examine:

- (a) Protection needs focusing on SGBV, Child protection and Trafficking Issues, Detention as perceived by the concerned people
- (b) Record practices of local authorities concerning SCBV, Child protection, Trafficking, Detention and Civil Documentation and identify gaps
- (c) Suggest remedies for BNWLA and other relevant stakeholders

There is a body of laws that constitute an international protection regime and even in the constitution of Bangladesh the protection of the life and property of non-citizens is mentioned. In the absence of any legal or specialized statutory frame work for the protection of refugees, Bangladesh relies on certain acts, to govern the entry, stay and exit of foreigners in Bangladesh. Section 2(a) of the Foreigners Act defines a foreigner, as a person who is not a citizen of Bangladesh, thus covering all refugees within its ambit as well.

At present, Bangladesh is acting as a host country for refugees from Myanmar mostly from the Muslim Rohingya community who have been forced to flee to this country due to the repression of the community following the enactment of the 1982 Citizenships Law that virtually denied them citizenship rights in Myanmar. Although some of them have formal refugee status in Bangladesh i.e. registered refugees in camps run by GoB and UNHCR, majority have remained undocumented, i.e. those living in identified makeshift sites or among the local population. Initially the GoB had not taken cognizance of this population dismissing them as illegal migrants, but recently in a strategy declared in 2015 the GoB has given this population the name of Undocumented Myanmar Nationals (UMNs) and hence brought them under a policy regime that is still evolving. The legal protection regime of both international and national statutory laws should also in fact be relevant for this latter group as well.

Problem arises when, at times, they violate the existing laws of the country and commit different kinds of criminal activities in the host country. In such situations, the statutory laws are applicable to try them. If the basic rights of the refugees get infringed due to any internal clash or conflict between the refugees and citizens, they can go to the court and get justice.

The methodology of the study was based on both secondary and primary collection of data. The primary data was collected both through quantitative and qualitative methods. Since the secondary level data on this population was not sufficient, we had to rely mostly on our primary data for analysis. A survey was conducted on a sample population of 500 (the official number of UMNs were estimated to be between 300, 000 to 500, 000 in number) consisting of 87% UMNs and 13% Bangladeshi citizens. In total 95% were female and 5% male, but according to nationality, 95.63% UMNs were female and 4.37% male, while among Bangladeshis 90.77% were female and 9.23% males. In addition to the survey, Focus Group Discussions (FGDs) with both male and female population of concern, Key Informant Interviews (KII) with resource persons were conducted.

Stark realities of sex and gender based violence was apparent among our population of concern thus reflecting needs for protection measures. Our survey showed that a high rate of 76.01% experienced violence either on themselves or others they know. 75.60% said violence was committed by husbands. Regarding the type of violence, 63.40% said it was physical, 27.32 % said mental and 23.87% said food deprivation. The main reasons for torture cited were dowry (45.89%), husband marrying more than once (19.10%), addiction (11.94%). underage marriage (10.88%), disagreement with husband (7.43%). lack of physical beauty (3.71%). A larger proportion of Bangladeshis (62.22% of the sampled population) mentioned dowry. The reason of multiple marriage was more in case of Rohingyas 20.78% as well as addiction (13.25%). 72.03% said husbands were not addicted but 27.97% said yes. More UMN's (30.46%) said yes and more addiction was found in Ukhiya (36.25%) among the sampled population. About 70.89% denied that their husbands had more than one marriage, but 29.11% says yes. This tendency was found to be more among UMN's (30.27%). The highest was found to be among UMN's in Cox's Bazaar (47.22%).

The external context of Yabba trafficking and human trafficking has added to the insecurity of women and their vulnerabilities making them more prone to sex and gender-based violence. Legal protection has diminished with the imposition of restrictions on registering mixed marriage which has been a practice between Rohingyas and the host community. Many say the restrictions have been made to bar the further integration of Rohingyas into the Bengali mainstream so as to prevent them from accessing civil documentation such as ID cards as well as to make this area into a permanent base for Yabba and human trafficking. Detention trends implicate that Rohingyas both male and female have been used as carriers in the Narcotics trade.

Social protection of this population is mostly enabled by the fact that they have common characteristics with the local population, e.g. religion and racial and linguistic features which helps in their assimilation. But the protracted nature of their presence has also created hostility in the host population that is often manipulated by local politicians. Official policy has not proven helpful to them given certain restrictions imposed on registration of marriage and births and the general disenchantment connected with the increasing level of criminalization among the concerned population. In such a circumstance, protection measures would entail multi-layered and multi-dimensional levels of interventions from various stakeholders. Some of these measures could be the following:

Government of Bangladesh

- Establish an enhanced protection regime in the region. Protection of people's welfare needs and systems of justice need is to be considered parallel to development policy or else development of a region will only benefit a few at the cost of many. The Government of Bangladesh should therefore have a protection system in place that permeates administrative, social and justice apparatus of the state. For example a clear procedural code should be in place which allows a victim of violence whether they be from the host or refugee community to access Government services such as one step crisis center or other medical facilities.
- After enumeration of undocumented population, Government should set out a clear policy regarding the services of the state which this population can access in terms of their fundamental rights in order to stop further speculation and misinterpretation of laws and policies.

- District-based meetings of the SGBV platform led by the DC's office should ask for reports from all stakeholders and publicize them in the media.
- The signing of the 1951 UN Convention Relating to the Status of Refugees by Bangladesh will surely provide a legal framework and certain rights to the refugees in the region. However, one should be aware of the reality that, no amount of laws can give the refugees their due rights, if the administration at various level do not have the 'will' to help, one of the most disadvantaged groups in the world.
- The Foreigners Act of 1946 should be amended so that UMN's not be further harassed by arbitrary arrests and detention
- Support for psycho-social counselling for victims of violence should be provided for in government bodies such as the One Stop Crisis Center (OCC) and other related institutions.

International Development Partners

- Funds should be released for enhancing and upscaling measures to prevent, implement and advocate SGBV related issues among both host and refugee population.
- Existing programs that deal with SGBV or related needs such as psycho-social counselling of victims needs to be up-scaled by constituting a stand-alone SGBV component or wing.
- Protection-based programs needs to be holistic in nature i.e. they should look after legal, social and livelihood needs of the victim.
- Support should be given for national advocacy on protection issues

Local and National NGOs and Civil Society

- SGBV programs should have a mobilization element that engages the participation of the survivors of violence. In this way capacity building, confidence-building and leadership qualities will be enhanced through peer group pedagogy.
- Community mobilization on protection issues should engage with male members of the community and also incorporate discussions on notions of masculinity and the way they impact on social mores and behavior.
- Door to door follow up of cases of violence should be mandatory and backed up by sufficient resources, person power and training.
- Psycho-social counselling of victims of both genders needs to be introduced as part of the ongoing legal aid program.

Regional Organizations of South Asia (SAARC)

- It would be better if the South Asian countries deal with the refugee problems in a united way. Legislation of refugee sensitive laws by the respective national parliaments would be a positive step in protecting the rights of the refugees.

Chapter-1: Introduction

1.1 Context

The extreme south eastern tip of Bangladesh and the river and land border with Myanmar has shared a dual history of violent conquests and cultural exchanges from pre-colonial times, a feature which in recent times has made the region more vulnerable to population movements than other parts of Bangladesh. The recent history of exclusionary policy of citizenship and consequent military operations against the Arakanese Muslims often called “Rohingyas” have led them to flee Myanmar and take shelter in Bangladesh. Various waves have come in since the seventies, some have been documented, others not.

The legacies of a failed state-building and even weaker nation-building process in post colonial Myanmar or Burma led to intra-ethnic violence and the beginning of insurgencies between the years 1948-1958. As a consequence military rule was established between the years 1958-60 and 1962-74. As a result of frequent military operations in the border areas of Myanmar, and especially the consequent Nagamin Operations in the border area of Northern Rakhine State caused the first flow of Rohingya refugees into Bangladesh around 1978. This was exacerbated by the enactment of the 1982 Citizenship Law that focused on lineage and national races and categorized people in Burma in three categories, citizens, associate citizens and naturalized citizens. The law was denounced by many human rights activists and organizations as being race-based and hence violating fundamental principles of human rights, (<https://www.hrw.org/reports/2000/burma/burm005-02.htm>) but mostly in the case of Rohingyas, it was considered to be responsible for denying them citizenship and turning them into “resident foreigners” or as “Bengalis” who did not feature in any of the three categories mentioned in the Law. Professor Mathew Walton, currently occupying Aung San Suu Kyi Chair at Oxford University is of the opinion that the actual law did *not* “strip” citizenship from the people but that in *implementing* the law, many authorities refused to re-register “Bengalis” who submitted their documents but had white cards issued to them thereby giving them a “non-citizen” ID (Lecture at Foreign and Commonwealth Office, UK, 2016).

Whatever the case maybe it goes without saying that such a step served to alienate Rohingyas and many who were forced to flee from military operations still hesitate to return for fear of facing denial of citizenship, the horror of forced labor, and arbitrary confiscation of property and restriction of freedom to enjoy fundamental rights. This is the situation that continues to prompt new refugee flows and limit the reintegration of those who have returned.

Currently in Bangladesh there are 32,000 officially registered refugees, living in two refugee camps. There is another 50,000 who live in two makeshift settlements near the refugee camps. It is estimated that in addition to the camps and identified settlements there are anywhere between 300,000 to 500,000 Undocumented Myanmar Nationals (UMNs) living across Cox’s Bazar in concentrated settlements or within the local communities (GoB, 2015).

In order to take cognisance of the undocumented refugees, the Government of Bangladesh in September 2013, adopted a National Strategy for refugees and undocumented Myanmar Nationals (UMNs) in Bangladesh, which was presented formally to the international community in February 2014.

The Strategy acknowledges the presence of some 300,000 to 500,000 unregistered Rohingya in Bangladesh and their need of humanitarian assistance.

1.2 Legal and Social Protection of Refugees

International protection regime for refugees

The Convention Relating to the Status of Refugee 1951 and its Protocol 1967 form the core of the international legal framework for refugee protection. In addition to providing a legal definition of a refugee, the 1951 Refugee Convention has established a number of principles that have become the basis of refugee protection over the past few decades. These are:

I. Asylum-seekers and refugees should not be returned to a country where they are at risk of being persecuted (the principle of *non-refoulement*). This is the cornerstone of refugee protection and has been interpreted to mean that rejection at the border also constitutes *refoulement*.

II. Protection must be extended to all refugees without discrimination.

III. As the protection of refugees is social and humanitarian in nature, it should not become a cause of tension between States.

IV. Since the granting of asylum may place heavy burdens on certain countries, a satisfactory solution can only be achieved through international co-operation.

V. As persons escaping persecution cannot be expected to leave their country and enter another country in a regular manner, they should not be penalized for having entered the country where they seek asylum or are living there illegally.

VI. Extreme measures of expelling refugees should only be adopted in exceptional circumstances that directly affect national security or public order.

VII. States bear primary responsibility to provide protection to refugee. If the State violates the rights of refugee, UNHCR's role is to intervene on behalf of the refugee.

The office of the United Nations High Commissioner for Refugees is the principal agency concerned with refugees to provide international protection and to seek permanent solutions for the problem of refugees in 1951. The mandate of UNHCR was eventually extended to cover all other refugees worldwide, as the numbers continued to increase.

Furthermore, the Universal Declaration of Human Rights recognized that "everyone has a right to seek and enjoy in other countries asylum from persecution". Further the General Assembly of United Nations unanimously adopted a resolution in 1967 entitled a Declaration on Territorial Asylum which states that 'no one shall be subjected to measures such as rejection at the frontier, expulsion, or compulsory return to any state where he may be subjected to persecution. Asylum has two fundamental aspects, one being that, "every state has a right to grant asylum to an alien" and the other is that "every person who has a well-founded fear of being persecuted in his own country for reasons of race, religion, ethnicity, political opinion or member of a social group has a right to seek asylum in other countries". This latter right is more recognized by the international law under the universal movement for human rights On the other

hand, the right of a State to grant asylum to a person for above reasons is recognized under customary norms of international law.

Providing asylum involves giving admission to a person, allowing him to remain, not expelling him, refusing to extradite and not prosecuting or restricting his liberty. He must be protected from any internal or external source of threat to his life and property and the State should provide him assistance in procuring food and accommodation.

The principle of *non-refoulement* broadly speaks about the right of the refugees not to be returned to a country where he or she is likely to face persecution. Article 33, of the 1951 Convention states this.

Regional arrangements of refugee protection

Regional adaptations of the above protection regime has been made effective in the following instruments: the 1969 Organization of African Unity (OAU), the Convention Governing then Specific Aspects of Refugee Problems, and the 1950 European Convention, 1984 Cartagena Declaration, the 1966 Bangkok Principles (Bangladesh is a member of the latter). .

No South Asian regional declaration on the protection of refugees has come about since in the formation of the SAARC Charter it was implicated that bilateral issues will not be dealt with in the regional institution. This has prevented the refugee and asylum seekers issue to be discussed as many refugees in this region are a result of political problems between the member states.

Human rights and social protection of refugees

In addition to affirmation of the legal status of refugees in the international sphere, The 1951 Refugee Convention affirms “the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.” Article 3 of the 1951 Convention provides that state parties shall apply the provisions of the convention without discrimination as to race, religion, or country of origin of the beneficiary. Art.4 governs freedom to practice religion and religious education. Article 16, provides that a refugee shall have free access to the courts of law on the territory of all contracting states. Other rights granted to the refugees include freedom of movement in the territory of the contracting state and facilitating assimilation and naturalization. Still other provisions include freedom of association with non-political and non-profit-making associations and trade unions and free access to the courts of law and provisions of administrative assistance by the contracting state authority to allow a refugee to exercise a right under the convention and further provides that nothing in the convention shall be deemed to impair any additional rights and benefits granting by a contracting state apart from the convention.

The two other principles that are very important for providing protection for the refugees are non-discrimination and protection from persecution (i.e. denial of life, liberty and personal security). These are enshrined in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR) of 1966, the 1984 Convention against Torture and 1989 Convention on the Rights of the Child.

The international obligations of Bangladesh and the national protection regime:

Bangladesh like other South Asian countries, is neither a party to the UN convention relating to the status of refugees 1951 nor its protocol of 1967. There are no national laws, which define and regulate the status of refugees in the countries of South Asia. Bangladesh has acceded to a number of international human rights treaties, whose provisions indirectly promote the rights of refugees.

However, in reality, the international human rights are not enforceable in courts of law unless, specific provisions are incorporated into existing municipal laws or given effect through separate legislations. Even then, Bangladesh has signed some major international human rights instruments. Some of those major international instruments are:

- Universal Declaration of Human Rights (UDHR) 1948
- Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949)
- Convention Relating to the Status of Refugees (1951)
- International Covenant on Civil and Political Rights (1966)
- Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment (1948)
- Convention on the Rights of the Child (1989)

The above mentioned instruments have some provision which obligates States to provide protection to asylum seekers and refugees. Bangladesh is a member of the UNHCR's Executive Committee. Thus, the country honors the principle of *non-refoulement* and ensures protection of refugees. In addition there are certain provisions under the Constitution of Bangladesh which can be cited as being also relevant to the protection of refugees. These are:

a. The Right to Protection of Law

The refugees have constitutional right to enjoy the protection of law in this country. Article 31 of the Constitution has conferred the right to them. Article 31 states, "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law."

Protection of Right to Life and Personal Liberty

Article 32 of the Constitution provides that no person shall be deprived of life or personal liberty save in accordance with law.

b. Safeguards as to Arrest and Detention

Article 33 of the Constitution provides safeguards against arrest and detention for the citizens and non-citizens alike. It enumerates that no person who is arrested shall be detained in custody without being informed, as soon as possible, of the grounds for his arrest. Moreover, his right to consult and be defended by a legal practitioner of his choice cannot be denied. However, this right is not applicable to any person, who for the time being is an 'enemy alien'.

c. Prohibition of Forced Labor

Article 34 of the Constitution can well be used to safeguard the rights of the refugees. It says that any form of forced labor is prohibited and any contravention of this provision shall be an offence, punishable in accordance with law.

d. Enforcement of the Fundamental Rights

For the enforcement of the above mentioned rights, any refugee, like a citizen of Bangladesh, can move the Honorable High Court Division in accordance with the Article 102, of this Constitution. Moreover,

The Constitution of Bangladesh has obliged the government to support oppressed peoples' struggle against racialism in all parts of the world. Part II of our Constitution comprises the Fundamental Principles of State Policy which adheres to the principles of international law, including the principles laid down in the United Nations Charter. For the execution of the legal provisions, protecting the interest of the refugees, proper legal interpretations and proactive initiative from the government, are needed. Bangladesh, has to do lot in this regard.

e. Refugee Protection under Statutory Laws

In Bangladesh, there are some statutory laws like civil and criminal laws which provide the legal protection to refugees. Civil and criminal courts are also endowed with the task of looking into the interests of the refugees. As already mentioned, the Government of Bangladesh through the Legal Aid Act, 2000 (Act 6 of 2000), is trying to reach out to the refugees.

In addition, article 28 and 29 of the Constitution, the Prevention of Violence against Women and Children Act (last amendment 2003), Dowry Prohibition Act 1980, Cruelty to Women (Deterrent Punishment) Ordinance 1983, and some sections of the Penal Code provide procedures for the protection from violence against women. Domestic violence, however, is not a criminal offence in Bangladesh.

Bangladesh has always followed the principle of non-refoulement, without having a national law or acceding to any international instruments (Nour Mohammed, 2012).

Issues of legal redress of refugees

But there being no specific domestic law or national policy governing the protection of refugees in Bangladesh, in most of the cases, the powers to grant residential permits have been relegated to the administrator at the district and sub-district level. Under municipal laws, refugees being considered as foreigners are governed by the provisions of the Foreigners Act of 1946.⁵¹

Besides this, there are some other laws dealing with the non-nationals of Bangladesh which often impede the implementation of the principles of protection. These are as follows:

- Registration of Foreigners Act 1939
- Passport Act 1920
- Bangladesh Citizenship (Temporary Provision) Order 1972
- Extradition Act 1974
- Naturalization Act 1926 etc.

In the absence of any legal or specialized statutory frame work for the protection of refugees, Bangladesh relies on these acts, to govern the entry, stay and exit of foreigners in Bangladesh. Section 2(a) of the Foreigner Act defines a foreigner, as a person who is not a citizen of Bangladesh, thus covering all refugees within its ambit as well. Section 3 of the Foreigner Act 1946, empowers the Government to enact rules regarding the banning or controlling of the entering, staying and leaving of the foreigners in Bangladesh. Section 4 of the same Act specifically provides that any foreigners can be intervened in a limited space vide this Act.

At present, Bangladesh is acting as a host country for refugees from Myanmar. Although some of them have formal refugee status i.e. registered refugees in camps run by GoB and UNHCR, majority have remained undocumented, i.e. those living in identified makeshift sites or among the local population.

Initially the GoB had not taken cognizance of this population dismissing them as illegal migrants, but recently in a strategy declared in 2015 the GoB has given this population the name of Undocumented Myanmar Nationals (UMNs) and hence brought them under a policy regime that is still evolving. The legal protection outlined above should also in fact be relevant for this latter group as well.

Problem arises when, at times, they violate the existing laws of the country and commit different kinds of criminal activities in the host country. In such situations, the statutory laws are applicable to try them. If the basic rights of the refugees get infringed due to any internal clash or conflict between the refugees and citizens, they can go to the court and get justice. In most of the cases, refugees are not financially well placed to continue their suit. It is very difficult for them to engage a lawyer. The Government of Bangladesh passed the Legal Aid Act, 2000 (Act 6 of 2000), to help poor litigants. If the refugees are litigants in any litigation, in appropriate cases, they can take the advantages of the said Act and get justice.

Issues of social protection and humanitarian services

The legal protection regime outlines some key fundamentals of social protection for refugees whether registered or unregistered. These are the right to food, security, shelter, health and education. In so far as registered refugees in camps are concerned these basic services are delivered under the coordination of the UNHCR and the GoB with implementing partners including international and national NGOs. The World Food Program (WFP) provides support for food rations and UNFPA provides support for health and nutrition related programs inside the camps as well (Ahmed, 2014). Initially only emergency programs were allowed in makeshift sites like wash and sanitation programs as well as emergency medical services. WFP conducted some nutrition and school feeding programs in the locality for both local population and UMNs. But with the announcement of the GoB's National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals in 2015, the situation is changing.

The Strategy recognizes the need for growing humanitarian services specifically health, water sanitation hygiene and nutrition services for the Undocumented Myanmar Nationals among other activities for a long term durable solution towards the problem which included conducting a survey of UMN nationals, strengthening Myanmar Bangladesh border management.

The International Organization for Migration (IOM) office in Bangladesh has been given the mandate to provide and coordinate humanitarian services for the UMNs, mainly on health, nutrition and water-sanitation. In the process, capacity of local NGOs and government agencies will be strengthened, so that there is less dependency on international agencies. World Food Program (WFP) joins IOM in the effort to develop an information management and coordination system that helps decision makers to monitor progress. The process will be monitored by The National Task Force (NTF), chaired by the Foreign Secretary with participation from 22 Ministries and Agencies. At the district level in Cox's Bazar, a District Task Force (DTF) is monitoring and coordinating the implementation of the strategy on the ground, led by the office of the Deputy Commissioner.

Up till now the basic health water and sanitation program, are being conducted with mostly old development partners such as MSF, ACF, Solidarite but this time under the auspices of the IOM. IOM has brought in new national NGOs as new partners such as SHED, NGO Forum and BGB to implement services particularly at Ukhiya makeshift site, Leda site and Shyamlapur area of Teknaf. Together they serve a population of 63,000 in total. It is expected that informal education and SGBV programs are also being rolled out in this targeted population. (IOM internal papers). In the meantime an enumeration of

UMNs has begun in the CXB district by the GoB statistics wing BBS, the first part which has already been completed.

1.3 Research question

There is very little information available on this vulnerable group of people. Unlike the registered refugees in two official camps, the undocumented Myanmar nationals have minimal access to any form of national or international protection.

In the absence of any specific national legislation and administrative framework in Bangladesh to manage possible new refugees and asylum-seekers, the Undocumented Myanmar Nationals (UMNs) fall under the Foreigners Act (FA) of 1946 that makes them vulnerable to imprisonment for up to five years and fines. Lack of access to the basic services and formal livelihood opportunities, makes them vulnerable to severe labor abuse.

In light of this reality, Undocumented Myanmar Nationals avoid approaching law enforcement agencies even when serious human rights violations have been committed against them. This ultimately results in that serious abuse, exploitation, SGBV, trafficking, torture and even killings can be committed against this population with impunity for the perpetrators. Furthermore because specific parts of the Cox's bazaar districts constitute one of the poverty-ridden regions in Bangladesh, the local population also suffers from similar problems (WFP-UNHCR Study 2012).

The absence or near absence of protection for this population is thus one of the main reasons for the study. The research question will therefore focus on

- (a) mapping the different protection needs for population;
- (b) what the gaps are in existing mechanisms of protection;
- (c) what the strategies and remedies are for stakeholders

1.4 Objectives

The broad objective of the study is to assess the protection situation for the disadvantaged groups in selected areas of Cox's Bazar district, including (but not limited to) the undocumented Myanmar nationals.

Specifically the study will examine:

- (d) Protection needs focusing on SGBV, Child Protection and Trafficking Issues, Detention as perceived by the concerned people
- (e) Record practices of local authorities concerning SGBV, Child protection, Trafficking, Detention and Civil Documentation and identify gaps
- (f) Suggest remedies for BNWLA and other relevant stakeholders

Chapter-2: Methodology

A mixed method was followed consisting of both quantitative and qualitative data analysis:

2.1 Review of secondary sources of information:

The study team reviewed available sources of literature and statistics on the region as well as on the issue of legal and social protection relevant to the study. Very few literature was seen to be available on protection issues related to gender among the undocumented Rohingyas or Undocumented Myanmar Nationals, although various reports exist in the media and as internal reports of various organizations, the links between gender-based violence within these communities and the host population and issues of legal and social protection within the given milieu of the region is not well mapped or worked through. In fulfilling the objectives of the study we hope to fill these gaps. A detailed literature review will be attached in the Annexure.

2.2 Primary data collection through survey:

The study team developed a questionnaire and checklist for in-depth survey of 500 respondents located in BNWLA working areas of Cox's Bazar Sadar (73), Ukhiya (186) and Teknaf (241). The proportion of Bangladeshis were 65 and UMNs 435. It was targeted to have a majority of UMNs, but we left the actual figures to be worked according to availability. The data was collected through the help of BNWLA staff who were trained and given orientation by the Study Team.

2.3 In-depth case study:

A semi-structured questionnaire was developed on the basis of which four case studies were conducted among women who somehow or other had come to BNWLA for support. They were women who had fallen victims to gender-based violence in a number of ways. Two were local Bangladeshis and two were Undocumented Myanmar Nationals. These are expected to highlight the multi-dimensional aspects of protection needs and gaps. Pen names have been given to the victims for protection.

2.4 Focus Group Discussion:

2FGDs (1 women and 1 male were each conducted among in Ukhiya and Teknaf Upazilas. The FGD mainly emphasized on root causes of violence against women and children, trafficking networks and how they impact on women, awareness of the protection issues, access to protection mechanisms and the gaps that exist.

2.5 Key Informant Interview:

3 Government officers posted in Cox's Bazaar, 2 journalists, 2 NGO officials, 3 teachers, 2 women Union Parishad members, 1 Upazila Vice Chairman and 1 Union Parishad male member was interviewed using a checklist to gather their perceptions, opinions and suggestions for better accessibility of the population to protection measures. Some of the KII were members of the Protection Group of BNWLA.

2.6 Limitations of the Study

An insufficient body of secondary source data prevented us from taking help from a broad-based knowledge platform.

Since the local dialect was unknown to us, communication was hampered and it took extra time. It also took up the time to BNWLA staff who had to interpret for us.

The data collection for the survey took extra time as BNWLA staff had to do it between their regular duties.

2.7 Data analysis and presentation:

The quantitative data was analyzed through using the SPSSX program and through a mixed method analysis in combination with qualitative data through FGDs, KII and in-depth case studies it has been presented under the following heads.

Sample profile from the Survey: key findings

Data analysis of legal protection

- SGBV
- Child protection
- Human/drug Trafficking
- Civil documentation
- Detention trends

Data analysis of Social Protection

- Perception of people and community leaders
- Criminalization of the population
- Coping mechanisms

- Leadership Mechanisms

Security concerns: political dynamics and administrative red tape

Recommendations and the Way Forward

Chapter- 3: Key findings

3.1 Profile of the Sample Composition

Demography

A total of 500 people from both local Bangladeshi and Undocumented Myanmar Nationals (UMNs) were interviewed in the survey. Out of the total 500 persons surveyed, 87% were UMNs and 13% Bangladeshi citizens. In total 95% were female and 5% male, but according to nationality, 95.63% UMNs were female and 4.37% male, while among Bangladeshis 90.77% were female and 9.23% males. The survey spanned three locations, Ukhiya, Teknaf and Cox's Bazaar Sadar, mostly in neighborhoods with UMN concentration. Out of the total 500, Teknaf had the highest UMN respondents (96.68%) followed by Ukhiya (87.63%) and Cox's Bazaar. (53.42%).

The average age of total respondents were 30.78, UMNs being 30.57 while Bangladeshis were 32.14. The majority of the respondents were in the 25-30 category (36.80%) followed by 21.80% in 31-40 category and 20.80% in the 19-24 years category. 6.60% were below 18.

Among the respondents, 77.80% were wives of the Household Head (HH) and 14.60% were HHs themselves, 3.2% were mothers. For the first two categories, the trend was the same in all Upazilas. There was a dominance of nuclear family (91%) among the respondents of all categories and Upazilas. But generally speaking there were more joint families among the UMN than local Bangladeshis. 11.80% households were female headed and there were more female headed households among UMN population (12.64%) than in Bangladeshi community (6.15%).

99.8% families were Muslims and only one family was a local Buddhist.

Socio-economic profile

When asked about the years of residency in their current place, the majority respondents in all Upazilas (25%) said 10- 14 years. UMNs in this category were more than Bangladeshis. It was interesting to note Bangladeshi citizens were more recently settled in that location than Bangladeshis. A larger percentage of Bangladeshis settled there for less than 2 years ago to 9 years compared to UMNs. But this trend was more apparent for Teknaf and Cox's Bazaar Sadar than Ukhiya. In the latter case it was a mixed trend.

90.25% respondents said they moved from Burma, followed by other areas of CXB district and rest from other districts. 32.65% said they came between 2001-2005, 20.61% between 2006-2010, 18.16% said 1996 to 2000. 28.57% of BDs very old migrants came before 1990, 20.63% were recent migrants from 2010+. 16.19% respondents said they faced various problems during migration. 58.50% said they faced

no problem perhaps meaning that they did not remember the times as it was their previous generation. 3.44% in Teknaf said they were pushed back by the BGB. The reason they chose this place was for reason of work (23.03%), family members were here (22.02%) through marital relations (11.52%) and 27.88% said they were tortured in Myanmar and they came to be safe. 7.47% said they came to have a future.

Only 8.80% of households claimed that they owned Household assets while 91.20 % said no. This was common in all Upazilas. However, more UMN's declared they were without asset than Bangladeshis. Overall Bangladeshis owning asset were 41.54% of total Bangladeshis compared to UMN's owning asset (3.91%) compared to other UMN's.

The average family size for all HHs were 4.24% and it was approximately the same for all nationalities, slightly more among Bangladeshis than UMN's. In terms of educational qualifications the majority of respondents did not go to school (47.01%) and 18.10% were just literate. 15.13% studied up to Primary level. Almost 5-.19% UMN's interviewed did not go to school at all, while 26.74% Bangladeshis had never been to school.

In terms of marital status 47.19% respondents were unmarried, while 49.32% were married. 2.7% were widowed/widowers. 1.36% of UMN's were separated compared to 0.35% Bangladeshis.

In most respondent households females were marked as household help or domestic chores as their main occupation, followed by non-farm day labor (including labor in the brickfields, or earth cutting) (12.87%) and 5.56% in small trading (tea shops, groceries etc.). There was a startling amount of child labor recorded (defined as up to 16 years of age). In all Upazilas it constituted 31.07%. 7.12 % said they were students. Fishing was a seasonal activity which was an occupation among 2.69% of households. This occupation was recorded more in Teknaf and none in Ukhiya. Among Household Heads occupation, 39.60 % were recorded as non-farm labor and 17.60% in small business/trade. 10.80% were farm day labor.

The average family monthly income was recorded as 8,552.4 BDT for all Upazilas. Ukhiya had a higher average (10,146.24 BDT) and Teknaf the lowest (7,212.45 BDT). Bangladeshis had a higher average monthly income (10,135.38 BDT) than UMN's (8,315.86 BDT) in all Upazilas taken together. The disparity between Bangladeshis (12,891.30 BDT) and UMN (9,758.90 BDT) were highest in Ukhiya district but In Teknaf the average monthly income of UMN's (9243.59 BDT) were slightly more than Bangladeshis (8538.24 BDT).

Data Analysis of Legal Protection

Dimensions and nature of SGBV in the region

Our survey showed that 76.01% experienced violence either on themselves or others they know. This was a higher rate quoted than in other areas of Bangladesh. For example a similar study on SGBV violence in Hindu Community, also a marginalized community (MJF: 2012:22) cited 52.7%. Responses from Ukhiya registered a lower figure (66.67%). In general more UMN's (76.67%) said yes compared to Bangladeshis (71.43%), but in Teknaf 100% Bangladeshis admitted to seeing gender-based violence while in Cox's Bazaar, it was 81.82%.

75.60% said violence was committed by husbands. More Bangladeshis indicated husband as main perpetrator compared to UMN. 25.46% of total respondents said in-laws (parents) 8.75% said brother/sister in-laws.

Regarding the type of violence, 63.40% said it was physical, 27.32 % said mental and 23.87% said food deprivation. A larger proportion of Bangladeshis faced physical and mental torture, while larger proportion of UMN faced food deprivation.

The main reasons for torture cited were dowry (45.89%), husband marrying more than once (19.10%), addiction (11.94%). underage marriage (10.88%), disagreement with husband (7.43%). lack of physical beauty (3.71%).

A larger proportion of Bangladeshis (62.22% of the sampled population) mentioned dowry. The average dowry amount was put down as 37,250.00 for all Upazilas. The highest was recorded in Ukhiya among Bangladeshis and then among Bangladeshis in Cox's bazaar. UMN paid a lower average price than Bangladeshis (32, 384.62BDT). The reason of multiple marriage was more in case of Rohingyas 20.78% as well as addiction (13.25%). With regard to the impact on victims: 67.37% stated mental depression, 37.14% stated physical health.

72.03% said husbands were not addicted but 27.97% said yes. More UMN (30.46%) said yes and more addiction was found in Ukhiya (36.25%) among the sampled population.

About 70.89% denied that their husbands had more than one marriage, but 29.11% said yes. This tendency was found to be more among UMN (30.27%). The highest was found to be among UMN in Cox's Bazaar (47.22%).

FGDs in Teknaf and Ukhiya revealed the stark nature of SGBVs in the region. Young adolescent girls going into early marriage faced all kinds and dimensions of SGBV: abduction, beating, rape, sexual assault and harassment all in the history of one girl. The case of Tahera Begum below illustrates this. It also depicts the general milieu of the region in which women of both local and Rohingya families fall prey to the machinations of vested interests that are colored by a misogynistic value system embedded in a patriarchal structure.

Tahera Begum: “Women’s lives are not worth more than vegetables in the market”

When Tahera was 19, her would-be husband purportedly fell in love with her and asked her to go out with him. Tahera had lost her father when very young. She was the youngest one remaining with her mother along with a younger brother. The rest of her sisters were married so she did not accept it. Then the boy started to threaten her and intimidated her with the threat of forced marriage. Tahera had told this to her teacher at school. The teacher had responded assuring her that he will not do anything. If he does, only then she to report to him. The boy had threatened her several times as he lived nearby. Tahera had no knowledge of his occupation, just apprehended that he must be involved in some dubious activities. Tahera’s mother was a day laborer working in other people’s houses and fields. Even in her poverty stricken family the mother was sending Tahera to school for an education. Tahera when rejecting the offer of love, had said that she wanted to study and not get married now. One night when she was studying for her exams, the boy entered her house by forcing himself through the broken door. Grabbing her and taking her over his shoulder he whisked her away to his elder brother’s house.

Tahera had screamed when she was picked up but because it was raining hard, and her mother was working outside she could not hear her. At his elder brother’s house, the boy had brought his mother as well, but Tahera refused to get married and kept repeating that she wanted to study. She urged them to return her. The boy wanted to get married that very night. But his mother said that if the marriage was wholly forced, then the school teacher may file

a case against them. So she let her go. But when the father in law came she was again brought back from the road. The in-law's family said that since the boy had liked the girl, then the marriage should take place. Tahera started to think that after all she was from a poor family and hence was helpless. She was also confused. When she started to cry, her in-laws had fallen to her feet and pleaded with her to get married. They promised to treat her well and keep her safe and sound. In the meantime they had called Tahera's mother. She had fainted when she came to the place. She also took with her some village elders and elites. After she was revived with sprinklings of water, the boy's mother started to convince her mother to give Tahera's hand in marriage. She said that Tahera will be sent to school and that there will be nothing to worry about. The mother then gave her consent. After that they went to the notary public to get married, but as soon as they returned the husband started to abuse Tahera's mother. Tahera did not know where in Ukhiya her marriage took place, but she learnt that 2 lakh taka and 2 annas gold was considered spent from her *kabin*. She was asked merely to sign the paper.

After appearing in the notary public, the villagers started to tell Tahera's mother that they feared for Tahera's well-being, as for sure she will be tortured by the family. When her mother started to lament after hearing such words, the in-laws started to scold her. When Tahera complained to the UP member, he told Tahera to go to the registration office to seal the marriage properly so that her *kabin* is legally soundproof which she did. But after that the torture on her began. After two months when the torture increased, she sought justice from the Member, but to no avail. Tahera was beaten regularly in addition to other kinds of torture, both mental and physical. Tahera told her husband that if he did not like her any more then to send her back to her parent's place. He responded by saying that because she did not consent to the marriage, as her husband, he will take revenge on her now. Tahera was battered so much that she often had to be taken to hospital. They used to hit her on her naked body and face with sticks as well as with hands and legs. But she did not have money to go to court. She sought justice with the women member of the UP but had to bear the wrath of her in laws for that. Her in-laws had successfully bribed most members of the UP to take their side, so that they stood witness against her saying that Tahera's family had coerced the boy into marriage. As a punishment Tahera's mother was brought over and her hair cut to shame her. When her mother protested the member was so angered that all her hair was shaved off! Tahera by this time had a child. She wanted to file a case against her in-laws. Her husband said that even if she filed a case for 1 crore taka he would not give her a divorce.

Tahera has filed a case with the Dept. of Women's Affair. They are interviewing different witnesses, after which Tahera will be informed about what decision to take. It is expected that she will be called to give witness soon. The boy's family did not file any case. The husband works in a saw mill and is doing well in the business.

BNWLA has sent a notice to Tahera's husband for mediation, but they did not appear. Rather they defied their authority. The legal officer said that if they kept on defying, then a case had to be filed against them as a last resort.

Tahera has continuously to listen to their verbal abuse. Her husband had even gone to a religious quack and plotted to get her killed. All this pressure had physically affected Tahera's health. In the meantime Tahera's husband has married again. Tahera therefore does not want to remain in his house anymore. She is practically imprisoned at home. Her husband is demanding dowry and if it is not possible in cash, then to give a piece of her parent's homestead land.

Tahera has now been at her mother's place for over two years. But her husband does not give any support neither to her or her child. The younger brother who is a tailor has to support the whole family. Tahera thinks that more or less all women suffer like her. According to her their lives are worth no more than vegetables in the market.

Aftermath, impact and responses to SGBV

When respondents were asked how they responded to the infliction of physical violence, 78.39% said they accepted! 11.91% returned to their father's house, 6.37% respondents left home. Asked whether they had gone to seek justice in any Salish, 79.65% said no, and 20.35% said yes. Out of those who said

yes, 78.49% went to local *Salish* and 21.51% settled for family mitigation. Among the local Bangladeshis, 100% sought justice in the local *Salish*.

When asked how their family members personally responded to sex and gender based violence, 66.80% said they preferred compromise in the family, 26.40% compromise with local elites, 8.4% preferred village salishes, 6% opted for Chairman, members and only 0.4% each listed the police and court as viable options.

Anomalous marriage practices

The high prevalence of early marriage in the region is coupled with regional characteristics which indicate on the one hand ground realities of poverty, a conservative value system, but most of all insecurity of the girl-child. On the other hand the presence of complex social dynamics due to the protracted presence of an unregistered population which has been forced to flee from Myanmar and having to live a stateless existence among the local people.

The practice of marrying more than once or taking in more than one wife also figured high in our sample i.e. 29.11% saying yes, and 70.89% saying no. It was both a cultural as well as situational feature of the region due to influx of UMN in the area. UMN are especially intent on stabilizing their identity through entering marital relations with Bangladeshis, both men and women. Prevalence of “stamp marriages” (i.e. marriages conducted through the buying of non-judicial stamps processed through the notary, but not registered in the Kazi Office as per Islamic Law) or “*shadakagojeybiye*” (i.e. marriages that have been recorded on cartridge paper which are also used in court but not with a price on it as in the case of non-judicial stamps). The “stamp” specifies how much money the amount of *denmohar* was, how much was given at the day of the wedding and how much remained so that in case of separation and divorce, one can determine how much is owed. Other material gifts exchanged like ornaments, sarees etc. are also written down. In the *kabinnama* (marriage contract), a clause is not added whether the woman has been given the right of divorce. Instead it is written that if the woman leaves the groom then the man does not have to pay the rest of the *denmohar*.

This was usually done by people who could not afford to buy the judicial stamps. Others who could not even procure such cartridge paper, resorted to simple wedding ceremonies conducted by Moulavis with witnesses. These form of marriages too were not regularized through Kazi Office. UMN generally started to refrain from using the Kazi Office since the Government of Bangladesh issued a ban on registration of marriages between Rohingya refugees and Bangladeshis in local Kazi Office in July 2014. <http://www.thedailystar.net/marriage-ban-on-rohingyas-33343>

UMN generally refrained from going to the Kazi Offices after that as some kind of documentation was demanded. Later registration through the notary by using non-judicial stamps too were also prohibited. But the existence of leakages in the system and the overwhelming demand from the ground kept the trends of such anomalous marriage procedures intact. <http://pnsnews24.com/news/national/12998>

Locals usually get married mostly in the Kazi offices. A national ID or birth certificate is usually necessary for getting registration through Kazi offices, but this is not possible anymore for UMN. But what is quite concerning is that it is not only the UMN who are going through such irregular customary practices, but in certain cases local population as well. The reasons of course are the advantages that such a flexibility offer to the people in general, (e.g. luring young girls into marriage whether Bangladeshi or UMN), the

same processes which of course may cause problems for the women in case of separation or abandonment as she has no legal paperwork on her side which will hold water if taken to court.

Comment by a local elite

“It is not only with Burmese women that marital relations are entered into, but also with Burmese boys. The acceptability of such relations stems from the fact that both communities are Muslims. It is called *stamp biye* i.e. marriage through court registration. This is no longer in effect except when local courts are bribed into producing documents. Usually 300 to 400 taka worth of legal paperwork is necessary. *Moulvis* from both sides are present even in such kinds of weddings. Together they agree on the substance that is to be written on the legal documents. Many know that this is not wholly legal, but still they follow it in the absence of any other forms of documentation that can be provided for social acceptability from the brides/bridegrooms side (if from Myanmar). The social acceptability comes from the fact that they are Muslims even though from a different nationality. “

Causes of polygamy

Our data revealed some of the causes for the prevalence of polygamy in this region. They are

- The vulnerability of female UMN women makes them easily available for locals and UMN men to be taken as second wives. Often the women have no alternative but to take up such an offer especially as the prospect of having someone to take care of them and any children is tempting.
- Since there are loopholes in following the legality in marriage practices in the region, many have taken the opportunity by marrying through informal ways such *shadakagojer biye*, *stamp biye*.
- Within the rules of Islamic marriage, the practice of being wedded by Islamic priests has given marriage relations a kind of social acceptability and this has attracted many women especially from UMN families towards getting married to local families.
- Many married UMN men had arrived from Myanmar without their wife and had remarried shortly thereafter.
- Some of the UMN men get married to Bangladeshi women for getting National Identity Card. Some of the local Bangladeshi men marry several UMN women by enticing them with the possibility of getting Bangladeshi citizenship. It was reported that one Bangladeshi man got married to 23 UMN women.
- Many of the UMN women's husbands often migrate to foreign countries or become imprisoned or face sudden death which results in a second marriage.
- The members of Block Management Committees (BMC) of the makeshift sites are financially solvent and most of them have 2 or 3 wives. Financial solvency is a cause for polygamy as it is traditionally believed that the more wives a man has the better off he is in the eyes of society.
- Many men get married to several women with the intention to engage their wives in economic activities which will ensure their financial solvency.

- In many cases we found that women lost their physical attractiveness after giving birth to several children and this has served as an excuse for their second marriage.
- Islam permits marrying of several women hence this is something that also plays into their value system.
- UMN women are considered fair, good looking, attractive and physically fit. This has lured many men into 2nd marriages as they are also available in the region despite the fact that the husband's responsibilities towards the UMN wives are relatively low

We therefore see that both in terms of traditional belief and value systems as well as opportunity cause by availability of vulnerable women and a lack of observing legality of marriages had cause a prevalence of polygamy in the region. The ways in which the negative aspects of polygamy can be reduced is through (a) creating more awareness about the legal aspects of Islamic marriages, (b) the proper interpretation of religious texts, (c) spread of education especially women's education make them less dependent, (d) stepping up mediation procedures and legal action in the region to redress exploitation of women in vulnerable situation (d) providing preoccupation in terms of work for camp dwellers so as to prevent them from falling into criminal networks.

Marriage as integration strategy

According to an ongoing census, it is reported that at least 25% of marriages are between UMN and Bangladeshis (personal communication with reporter).

If a UMN woman marries into a local family she is said to earn social acceptability. This is true especially in Teknaf, where the frequency is higher. Often when mixed nationality marriage are accepted but problems arise due to complex factors. In Teknaf, a mother accepted her son marrying a girl from Myanmar. But since they married young and the parents were dependent on the son's income they did not want them to have children so fast. Knowing it will strain the income base of the family and maybe they will lose their sons. This is supported by the fact that most families are nuclear. So the mother in law forced the daughter in law to take family planning measures through injection. This caused the daughter in law to get angry and hence both came to BNWLA for mediation. Both women were acting out of insecurity.

We heard alleged reports that Bangladeshi boys are often lured to Myanmar to impregnate and have babies by Myanmar women so that that they can be forced to marry them for citizenship. One UMN girl we met was brought from Burma to marry a boy, who became a *Yabba* addict and tortured her. Now she has a son and seeks help from BNWLA.

The Diagnostics!

What the local men says: *"Rohingyas use marriage as way of settlement in Bangladesh. Also for a ghati (base) for Yabba trafficking."*

What the local women says: *"Polygamy is a feature of the cultural conservatism in this region; keeping multiple wives is a sign of good status; it also denotes lack of education."*

What the victims says: *“Women if educated get status and dignity. Her work is respected.”*

What a high level public official says: *“Yes, education is a serious problem. But Rohingyas have a definite plan to integrate with this society. They are also a humanitarian issue. So, they should be confined to certain places and should be restricted in their interactions with Bangladeshis.”*

Case-narratives: Practices in mixed marriages

Mohsina is from Burma and her husband from Chakoria Chittagong. They had a love marriage despite the distance. It was because they were introduced through her husband’s friend who was Mohsina’s neighbor. In that particular locality of Teknaf, many UMNs live among local population and are scattered through the villages. As a result there are frequent intermarriages between local population and UMNs.

Mohsina was married through “stamp paper” (non-judicial stamp paper used in notary public) as she was from Myanmar. She merely gave a thumb print to what was verbally read out to her about her *den mohar* (dower money) and other things. Her husband gave signature to it.

Being born in Myanmar, Mohsina did not have a Bangladeshi birth certificate. Her daughter can receive a birth certificate only on showing the birth certificate of her father, grandparents. This is what she thinks but have not yet taken any steps because in order to get a birth certificate, the mother’s birth certificate also has to be shown. For this the Union Parishad has to investigate her roots. Now in such marriages the birth certificate of the child has become problematic. Because there were no restrictions before it was made easier.

Shaheda

“Men in this area tend to marry more than once. Shaheda’s husband has married twice, despite her having three children. When marrying for the 2nd time, he told his new wife that his 1st wife (Shaheda) had died. This has been sent to the city Mayor for investigation by the 2nd wife... The Mayor was supposed to write a letter on Shaheda’s behalf, but he was bribed by her husband and rewrote the letter to the 2nd wife saying that the 1st wife got married to a man from Myanmar and gave a false report. Shaheda’s father then complained to BNWLA. After approaching them the husband has been ready to pay for both their upkeep. He keeps them separately. He currently lives in Dubai, but does not send any money to her but send it to the second wife. As a result she and her two sons have to live in dire poverty. Her two sons work in the Ghat as coolie for money. They bring in 200 taka a day. Shaheda admits it is child labor and they don’t get sent to school but there is nothing that she can do because their father does not pay for their upkeep.

She does not think of doing any work. Perhaps it’s because she came from a very wealthy family in the Rakhine state in Myanmar. Also in her current locality too women do not work in the fields.

Her husband has promised her a new roof, but he has to repay some loans. After that he says he will do that. Now her husband is in town and BNWLA has been able to mediate so that he gives her money. But Shaheda thinks if he goes away again he may not give that money. But BNWLA says that they have arranged so that one person be responsible for the payment, who will pay BNWLA through receipt and

BNWLA will in turn pay Shaheda. In that way the payment will be ensured. The recipient will have his signature and the reason for the transaction will also be mentioned.

Child protection

If the age of the child is considered to be under 16 years of age, then 31% of children of the families surveyed are engaged in child labor!! The driving factor is of course poverty enhanced by sizeable number of abandoned or widowed women who are head of households (11.08%) but who cannot maintain their families with the little income she earns.

11.13% of the respondents said they worked in other people's houses. 88.46% said no. This may be because in this region many children worked at the beach, or *ghat* (port) to earn their keep. 79.35% of sample said their child did not go to school and 20.24% said they did. Among Bangladeshis, the rate of school-going child was much higher i.e. 49.21%, whilst among UMN's it was only 16.01%.

96.96% said their child was not affected by any kind of violence. 2.63% said yes. Those who did experience it 100% said steps were not taken to prevent it. 1.82% did take steps and that too in the Cox's Bazaar area mostly. 33.33% complained to the Union Parishad, 22.22% said they solved it through dialogue, 44.44% complained to the local elites.

22.87 % said their daughter got married but 17.61% said no, and for 59.51% it was not applicable. The marriage age of daughter was between 14 to 15 for 42.34% (more for UMN's); 16-18 years for 30.63%, 18.92% for 12-13 years. 16.13% said they gave dowry 77.22% said it was not applicable only 6.65% said no. Average dowry amounted 37,250.00 BDT for all. Highest were found among Bangladeshis in Ukhiya and then came Bangladeshis in Cox's Bazaar. Among UMN's the average figure was lower than Bangladeshis (32, 384.62 BDT)

9.07% respondents admitted they were tortured at their in-laws place, 13.31% said no and 77.62% said it was not applicable.

65% said yes to equality in inheritance of property rights between sons and daughters. 35% said no. The reasons they gave were (1) son and daughter were equal to them (83.69%); (2) to eliminate daughter disparity (12%) and (3) for future (4.31%)

Among those who said no, 61.14% gave religious reasons (it was not according to Sariat law), 27.43% said due to the patrilineal system (daughter goes to husband's home after marriage), 11.43% said sons worked harder.

Girls of 13 and 14 are also considered to be women and many street children of this age in CXB are used for sex work, and hard labor. Children in families affected by violence are used to earning an income. In Teknaf almost none of the victims could or wanted to send their children to school. One mother sent three boys to work as coolies in the port. The three together earned 200 takas a day. She says, "My husband is in Dubai and does not send me any money but gives it to his 2nd wife. Psychological roots of child abuse often are rooted in homes where women, their mothers are victims of violence or the

mother is fighting a case against the husband and the child is neglected by their father. The education of the child gets affected as he stops support.

Beach work in tourist area uses children. Women are often used as sex workers. Many men lure girls from villages to Cox's Bazaar with the promise of marriage, and then uses them and abandons them. During our field work we came across an incident where Faria a girl from Maheshkhali entered into a relationship with a boy from Hnila who promised to marry her. The girl claimed that they had even entered into a physical relationship through the "shadakagojeybiye" process. But then one day the boy asked her to come to Hnila with the agreement they had made in paper with the promise that it will be formalized. The girl accordingly took a bus to Hnila, but once she alighted the boy took the papers from her tore it apart and left her in a roadside pharmacy and never came back. The story unfolded further making the girl even more vulnerable, but to cut a long story short, she had to spend a night in custody at the house of the women member of the Union Parishad of Hnila from where she was dropped off in the Teknaf station the next day. The Teknaf police somehow reached BNWLA office from where she was taken to the BNWLA shelter in Cox's Bazaar and arrangement made for her to return to her family.

In many cases where love affairs do result in marriage, the problem is still not over for the girl or her child. Here is such a case.

Mariam: the perils of a young girl, mother and baby

Mariam is now 20 years old. And has studied in the madrasa and done her *dakhil*. She is now the mother of a 2 year old boy.

When she was 16, driven by hardship, she left home with her neighbor to work in the garments factory in Chittagong. She met her husband while working there. She married him because she believed him. He took her to his parents but they would not accept her. They took her to stay the night at her grandmother in laws residence and locked their son up and asked her to go back to town. He escaped and took her away and rented a house in town.

But then the husband stopped working said he wanted to work as carpenter, but also stopped training. He asked her to stop work. He could not pay the rent. Mariam's cousin helped a little. But to no avail. Running out of money, Mariam went to her mother's house. The husband came to stay next door to them, but after having stayed for 2 months, during which time Salma gave birth to a boy, he took 5 months of rent money and returned to his father's house.

Even before the birth of the baby the husband used to torture her. After the birth, he used to talk badly of her natal home. In the midst of all this when the baby was 5 months old, he took him away to his father's house without telling anyone. Mariam followed him there. When the baby was 1 year 10 days old, the mother in law kept the baby and threw Mariam out of the house. Mariam went from door to door saying that her mother in law has taken the baby from her, and at their intervention the mother in law gave her back her baby. The Mother in law also tortured Mariam using the kitchen knife, giving her electric shock through using multi-plugs to threaten her and using continuous verbal abuse, the intention being to drive away Mariam and also to pressurize her into bringing back one lakh taka from her house, knowing fully well that Mariam's family was not rich enough to deliver such money.

Mariam bore all this but she could not bear it anymore when her husband kicked their child so hard that the child was thrown out of the bed. From then he started to fear his father. He even tried to kill them

by giving electric shock to them through multi plug. They were saved by a neighbor who took away the plug point. After that Salma took the baby and returned to her house. Mariam does not know of her husband's whereabouts for a year. BNWLA has sent a legal notice to her husband to stand trial

Human trafficking: trends

Bangladesh is primarily a source, and, to a lesser extent, a destination country for men, women, and children subjected to forced labor and sex trafficking. Some of the Bangladeshi men and women who migrate willingly to the Persian Gulf, Iraq, Iran, Lebanon, Maldives, Malaysia, Singapore, Thailand, Brunei, Sudan, Mauritius, the United States, and Europe for work subsequently face conditions indicative of forced labor. Domestic workers are predominantly women and particularly vulnerable to abuse. Some women and children from Bangladesh are transported to India and Pakistan, where they are subjected to commercial sexual exploitation and forced labor.

Due to the clandestine nature of trafficking and rare prosecutions, crime statistics presents a very low estimate of the incidence of human trafficking. Consequently figures are estimated and tend to be quoted and cross-quoted in all literature. In recent Government statistics, the government reported investigating 84 new cases of sex trafficking and two cases of forced labor in 2013, compared with 67 sex and labor trafficking cases in 2012. All cases were prosecuted under the 2012 Prevention and Suppression of Human Trafficking Act (PSHTA). Authorities reported initiating prosecutions of 215 trafficking cases in 2013, compared with 94 in 2012. The government convicted 14 traffickers in 2013, compared with eight in the previous reporting period. The courts sentenced five of the convicted traffickers to life imprisonment, eight traffickers to ten years' imprisonment, and one trafficker to four months' imprisonment (mha.gov.bd › Country_Report_2014). The Bangladesh Police in its website (<http://www.police.gov.bd/Human-Trafficking-Monthly.php?id=324>) has given the following statistics from December 2015 to January 2016.

Months	No of Victims Trafficked				Victims Recovered			Persons Arrested	Persons Convicted
	Cases	M	F	C	M	F	C		
January 16	77	42	30	8	27	22	6	143	0
February 16	62	22	27	8	9	20	6	105	0
March 16	80	38	28	24	21	22	20	164	0
April 16	55	24	21	9	14	14	8	102	3
May 15	86	224	23	30	147	19	25	105	0
June 15	155	197	32	19	201	21	10	202	0
July 15 109	210	39	12	181	25	08	214	159	0
August 15	142	127	44	14	86	27	8	198	1
September 15	87	34	26	16	14	17	8	142	0
October 15	94	39	33	29	22	25	18	140	0
November 15	83	37	30	7	21	19	4	162	0
December 15	70	59	31	11	49	23	6	131	0

M= Male; F= Female; C= Child

However, the statistics above represent Bangladesh as a whole. The trafficking scene in the south-east of the country has drawn particular attention over the years due to influx of The Rohingya community in Bangladesh who have been especially vulnerable to human trafficking.

In recent years the south eastern region of the country has been plagued with the phenomena of illegal trafficking of persons mostly by sea-route. According to UNHCR sources, About 25,000 people departed irregularly from Bay of Bengal in the first quarter of 2015 and an estimated 300 died at sea. Over 5,400 persons of concern to UNHCR were in detention camps. The number of people leaving Myanmar and Bangladesh on boats has nearly tripled in three years – from 21,000 in 2012 to 58,000 last year.

It is largely conjectured that the original route to Thailand, Malaysia and beyond via the Bay of Bengal using various points of pick up near the coast along the Cox's bazaar District. This route was first navigated by refugees fleeing persecution from Myanmar and seeking more secure and destinations for earning a livelihood by using Bangladesh as a transit point. Profiteering dynamics was responsible for transforming the single-contract deals that Rohingya refugees were used to handle into the lucrative routes of human trafficking. After the media exploded with news about graveyards being unearthed on the shores of Thailand and Malaysia, strong security checks were instituted and the traffic is at abeyance though not completely controlled. During our field work we learnt that the traditional fishing village of Sonapara on the banks of Riju khal which flowed out to the Bay of Bengal was a key pick up point for the Cox's bazaar area, something that earned for it the name of Malaysia *Bondor* (port) or Airport *ghat* (jetty).

Since human trafficking impacted strongly on the make-up of family and household members we made it one of our themes in our survey. As far as our sample was concerned the trafficking was not reflected on their families. The majority respondents who were women, said that that 82.60% of their husbands were located at home, 6.50% in other districts 5.45% had died. But 93.4% opined that there is a tendency to go abroad for earning money. Only 6.6% said no. 72.20% said they knew of someone who had gone abroad illegally by sea, 4.20% said legally by air and 3.60% said illegally by road. A rough estimate on expenditure was given, the majority who said it cost about 150,000 to 200,000 BDT (41.80%) some said 200,001 to 300,000 BDT (28.89%). Out of the sources available to them, 71.60% said Brokers or *Dalals*, 24.40% said relatives. Asked whether the tendency to go abroad was increasing, 82.60% said no and only 6% said yes, indicating that the trend had gone down at least along known routes. When asked if anyone knew of persons who died on the way, 40.20% said yes, 3.60% said no and 56.20% said they did not know. When asked how they died, 32.84% said when boat sank into the sea, 23.38% said by *dalals* throwing people overboard, 11.94% said lack of treatment, 14.93% said food crises, and 16.92% said torture. 77.05% said they were in transit to go somewhere. More UMNs said this than Bangladeshis. Only 22.95% replied in the negative.

During our fieldwork we came across many instances of irregular movements of people. One Zahir Alam came back from Malaysia after having spent 11 months a Malaysian jail. He barely survived the difficult journey. He was a carpenter in Ukhiya bazaar and got caught up in the craze for going abroad in order to earn a better income. Barely after landing in Malaysia, and being robbed off in all his belongings, was he caught in jail, where he did not have enough money to buy his way out. Because he kept on crying for his family, a policeman took pity and said he will allow him to make a phone call home so that he can ask his family to send documents in order for the Bangladesh Embassy to process it. But there were many hitches to this process and he had to pay for more calls to his home. He would save up the nutrition

biscuits that the prison gave him for breakfast and sell them for 2 ringgits and save up for his calls. When he finally boarded the plane home, he could barely walk.

In Teknaf, the member of the Union Parishad himself related that two of his brothers had ended up in Malaysia and one brother, the eldest has just disappeared and he still did not know his whereabouts. He said that the broker who first contacted him for money for the first brother, was in fact someone from the makeshift site in Ukhiya. The broker who called for his second brother was a Bengali based in Teknaf. Other stories of irregular migration of Bangladeshis also was told to us in the same pattern. Some were traders who had lost money in business and was convinced that if they went abroad they could make up for their loss and send money home for the family. But as things stood, this was not so. They failed to say that living standards in Malaysia was higher and that there was not that much to spare. But this trafficking often spelt much tragedy for the women in the family as is to be seen in the following case.

Impact of trafficking on women

After Fahmida's husband left for Malaysia, she was contacted through telephone by her husband saying that he will be tortured unless they pay 1 and half lakh. She sold 2/3rd land of her land and gave the agent the money. 4 months later she heard that he is dead. She wished to file a case against the agent whose contact she had, but Inani police super called for a meeting along with other influential and together they persuaded her to accept 20,000 BDT as compensation from the agent or else her life would be at threat.

A journalist who covered many stories of trafficking informed us that even in remote areas one could find rows of Bkash stall where money transfer would take place. Western Union too was used by many locals to receive money from family members who worked illegally. Another journalist in Teknaf told us that brokers would pay many women to stand in line before a bank and they would lure potential migrants with the story that they were waiting for their money transfer from abroad and that if they went then their families too would benefit. The demand grew to an extent that even crazy persons wandering around the bazaar would be picked up and put in a trawler. Local people acknowledged that the trail was forged initially by Rohingyas but big business then took over. However some Rohingyas are also under trial under the Human Trafficking Act.

Yabba trafficking

More directly related to gender-based violence was another scourge particular to the region and that was Yabba trafficking. Yabba is an addictive substance that is mostly manufactured in Myanmar and is then carried into Bangladesh as a transit route to other places. It affects women in two ways. One, addiction or addictive behavior causes violence against women and two, women are often forced to be carriers of the drug. During our FGDs we heard of women being caught carrying the drug even in baby's pampers product. From statistics obtained through the Cox's Bazaar than with the help of BNWLA office, about 14 women were charged under the Narcotics Act and are held under trial in Cox's Bazaar jail;

Rasheda's case

After getting married to Rasheda, her husband got married to another girl. Together they had 5 to 6 children. One boy was drowned, after which the husband started abusing his wife and became a Yabba addict. Whenever he was addicted he used to beat up Rasheda. After his second marriage, Rasheda became separate, but the in-laws asked her to be patient, so she stayed on at their place. However the husband used to beat her up even then, so then she returned to her natal home. She approached BNWLA for mediation.

Ayesha: Victim of Violence due to Yabba addiction

Ayesha was born in Burma and came with her parents to Bangladesh when very little. They settled in a village in Teknaf and Ayesha came to know her future husband as he lived in the same neighborhood. After a month of their wedding, her mother and mother in law had a fight. As a result Ayesha's mother sold their property and moved back to their old place. Her husband now beats her regularly, kicks her, hits her with anything he finds and then locks her up. Ayesha went to BNWLA with complaints of upkeep and economic support. Ayesha took a loan meant only for women. She gave it to her husband to invest, but her husband did not pay the installments. When her husband comes home, she asked him for various household needs, but instead got battered up. But after that he bought whatever is needed. This has continued for long and not able to stand it much longer, she came to BNWLA for redressal. Her attempts to seek justice with her in laws and members have all met with failure. BNWLA had mediated with her husband quite successfully. He now does not beat her up. He is now afraid of getting legal notice and hence also pay the installments regularly.

Ayesha admits that the peculiar behavior of her husband was due to the fact that he was addicted to Yabba. She does not know whether he has stopped that or not. Members of BNWLA staff informed us that most men in the area were Yabba addicts and much of the violence against women were due to that addictive behavior. Those who are in the business do not live in that area, they reside in CXB and Chittagong and Dhaka. They visit the area once or twice and then are gone. Many women in order to maintain their relationship with their husbands are forced to be carriers.

Civil documentation

Issues regarding marriage registration

Civil documentation is a kind of protection during times of misfortune e.g. separation, abandonment by the male in the family. But there was a kind of callousness observed in procuring these certificates.

22.74% respondents said that they were married for 16 to 25 years and 21, 93% said 7-10 years. 18.31% said 11-15 years, just married until 3yrs were 8.85%. There were larger proportions of Bangladeshis in this category. More UMNs were married for a longer period of time.

The average age at marriage in all Upazilas is 16.26 years. This was held to be roughly the same across communities and Upazilas, Cox's Bazaar being the lowest. Bangladeshi community average was slightly higher in Teknaf (18) and in others very little difference though higher than UMNs. 81.29% said parents

took the decision, 16.5% said they decided on their own. But 98.79% said that their opinion was counted.

With regard to registration of marriage, only 19.11% said yes 80.89% said they did not get registration. 88.45% of UMN said no 11.55% said yes while among Bangladeshis 29.69% said no and 70.31% said yes. Proportionate amount of registered marriages were found to be more in Ukhiya. This included 95.65% of Bangladeshis and 12.88% of UMN.

The place of registration were mostly in Kazi offices (90.53%) and 9.47% in magistrates court. In Teknaf 100% were registered in Kazi office. In Ukhiya, 38.10% of UMN went to Magistrates court, while 100% Bangladeshis went to Kazi office.

Issues regarding birth registration

79.18% said they did not have birth registration certificate of their child. 20.41% said they have. 0.41% said it is not applicable (UMN). Those who responded in the positive were mostly local Bangladeshis. Only 12.41% of UMN said they had birth registrations of their child.

Those who registered said they got them from the Union Parishad. The reasons of not getting birth certificate were because they were from Myanmar (100% of UMN). 97.16% of our sample and 0.26% said because money was demanded. 2.58% said they did not think it was important (mostly Bangladeshis).

Birth and marriage registration of UMN was stopped formally, but some still manage to get them through bribes. Before *shahdakagojeybiye*, stamp marriage or notary was in currency. But registration with Kazi Office which held to be mandatory for the legality of the marriage, is not followed through. UMN still follow the prior arrangements lacking other means. Participants of our FGDs said it gave them identity as Muslims and was a kind of record of their marriage.

Some UMN women used birth certificate to get married with *kabin*. In one case of mixed marriage ID card was not given to her but children had birth certificates as they were first issued by the hospital where they were born.

Interestingly in a center for orphan and street children in Cox's Bazaar, there was a reluctance to take in UMN even if they fit the criteria. The reason given was in order to stabilize the situation of the street child, a kind of identity is given to him/her in the form of a birth certificate, name etc. This would not be possible for a child of an UMN as there are restrictions imposed by the Government on the issuance of birth certificate.

Detention trends

29.80% respondents said they knew someone in jail 61.80% said they did not. 55.70% said reasons for being in prison were for drug business (more UMN in this category). Other reasons stated were illegal migration (6.04%), VAW (4.03%), 14.77% for battering, 10.74% for trafficking of humans (only UMN in this category)

59.73% said bribes were given for release, 18.79% said negotiations were held, 13.42% said court cases were filed and 8.05% sent a plea to the administration.

A statement procured from Cox's Bazaar Thana in the month of March 2016, confirmed the above perceptions. About 216 UMN's were recorded to be in jail, 16 being women and 200 male prisoners who were all under trial. Out of the 16 women, 2 were held under the Foreigners Act and the remaining 14 were held both under the Foreigners Act as well as the Narcotics Control Act. Among the male the majority were charged under the Foreigners Act, followed by the Narcotics Control Act and the Foreigners Act. Next came those charged with Human Trafficking Act and Foreigners Act and there were a few charged under the Arms Act and Explosives as well as the Special Powers Act. This confirmed the observation above that drug abuse was a major thrust of criminality in the region.

Although locally, violence against women cases were assisted by the One Step Crisis Centre based in Cox's Bazaar, there were many times when cases bought by UMN's were refused by the OC. When asked why, the response was they did not want any "trouble" (*jhamela*). The implication was that they would be dealing with networks or perpetrators whose networks, addresses would be unknown.

Data Analysis of Social Protection

Perception of local people and local authorities

The protracted presence of the undocumented Myanmar nationals in Bangladesh has created much hostility among the local population on the one hand but has also generated a kind of sympathy for their suffering. 77.2% of respondents said that relations between host and refugee populations were friendly. 12.60% said it was competitive and 10.20% said it was ridden with jealousy. But they also said that they gained support more from locals than Government or influential members of the locality, NGOs and other organizations, like BNWLA (14.40%). 12.60% said no one helped.

Unfortunately the hostility has been more visible and manifest in local conflicts and the humanitarian content often hidden under the humdrum life of everyday living. The reasons for the hostility has been pointed out as the depression of local wages for day labor in the region, which adversely affects local population, the apparent enjoyment of services like ration and solar energy and others, 3rd country settlement of registered refugees compared to the hard struggle of Bangladeshi locals for the same kind of privileges. On the other hand, Rohingyas who come from across the border have the same features, religion and almost the same dialect as those in Cox's Bazaar district. Hence as noted in the sections above the assimilation of this population into the culture of region has also been very easy. This has provided a kind of social protection for the Rohingya refugees, but at the same time led them to have a co-dependent kind of relationships with local business interests where their stateless and powerless situation have lent them to be exploited by the power elite . Hence we see small groups of Rohingyas who have been trained to fight wars of syndicates and other vested interests of non-state actors.

They have also become the ideal scapegoat to be blamed for every problem facing the region. Both Government and local authorities blame them for causing criminalization of societies and using marital relations as a way of gaining citizenship and platform for trafficking (both Yabba and human). This attitude has led to constructing stereotypes of Rohingyas as quarrelsome, conflictual, violent and opportunists. Yet in the three year experience of working with refugees in the official camps as partners of UNHCR, we had found them to possess huge potential and depth of understanding and determination

to overcome their plight. We therefore include below both negative and positive ways in which the host communities view the UMN and also vice-versa.

Attitude of the host community towards UMN:

Negative views:

- As the population of the areas where UMN live are very dense, the environment and surrounding tend to be unclean and are hence considered to be unsanitary by many in the host community
- Because they are not allowed to work for their livelihood, they often have to live off the forests and sea where they collect woods or fish. They are often blamed for destroying the environment and ecology.
- As a vulnerable community their men and women are often drawn into illegal activities that are characteristics of this region such as engaging in illegal drug smuggling or trafficking or even petty theft and robbery. They are therefore blamed for destroying the law and order situation.
- Their intermarriage with members of the host community are not liked by many as they feel that they disrupt the normal family life in the area.
- The mentality of the host community is that since the UMN live without any protection from the Government any kind of oppression or harassment against them will not be taken up by the law and order agencies or the court. This is why even sexual abuse against women of UMN community gets no justice.

Positive views:

- Because of the protracted presence of UMN in the region a codependent relationship has grown between host community and UMN. This specially relates to their contribution to the labor market ensuring easy and cheap labor in the jetty, in construction, salt farms, fishing vessels and in the case of women as domestic help in the homes.
- As UMN men remain engaged as assistant of the owner of the fishing boat, so the owners of the fishing boat provide financial assistance during their crisis period
- Considering the political situation of Myanmar, many local people are empathetic towards the UMN
- Muslim-brotherhood ideology also works to encourage a humanitarian instinct to help fellow brothers. .

Criminalization of the population

Rohingyas in general have been criminalized by the Bangladeshi society. The Yabba trade is not a Rohingya specific criminal activity. True, they are almost wholly manufactured in factories in Myanmar,

but the networks which carry them into the transit route in Cox's Bazaar are controlled mostly by highly influential Bangladeshis, and some by highly placed Rohingyas. The law enforcing agencies are therefore seen as either corrupt or not strong enough to take action against them.

In Human Trafficking, Rohingyas were at the origin of the trafficking route facilitating refugees only. But as more and more demand was created they needed more organizing power and linked up with Bangladeshi underground actors. Criminalization is made more pervasive by the existence of black money and as was stated by some interviewees the Border Guards, BGB local authorities are all involved in taking a share.

Trafficking has also endangered the lives of the undocumented and documented Myanmar nationals who live precariously in this region as the case below illustrates.

Lili Begum's husband Nurul Islam was murdered by a terrorist gang in the registered camp on 03 April 2016 at 6.40 pm at his shop near his home. The murderer was known to Nurul Islam, and he is known as a human trafficker and a robber.

According to Lili, unknown people filed trafficking cases against him, and for this he suspected that Nurul Islam was behind this. He took revenge on Nurul Islam by killing him. At present the culprit is threatening Lili and her family members not to file any murder case against him. He is also threatening Lili, that he will kill Lili's children in the same way if they do not comply with him.

After arriving at the shelter home at BNWLA, Lili and her two children were traumatized and frustrated. The children were very weak and could not sleep at night. The condition of the elder son was very delicate; he was scared and woke up during the night shouting. They could not express their thoughts naturally to BNWLA staff. They could not take food normally. It was also found that Lili was pregnant. BNWLA provided medical support for the children and Lili Begum, as per the need.

They received comprehensive psychosocial counseling support along with food, clothes and recreation for the children. They mixed with other children at the shelter home. The family was then sent to Gazipur safe home for reasons of security as well as for better services.

Like Lili's family, many young women and girls who are documented and undocumented, fall victims to such violence. They felt that if the UNHCR and Government together monitored the situation properly throughout the camp and punish the human traffickers and other perpetrators such crimes could be greatly reduced.

Coping mechanisms:

Married women, tries to adapt to her suffering as was revealed by our survey where 78.39% respondents said they accepted their suffering from violence! 11.91% returned to their father's house. Only if they fail do they go to local authorities, or receive support by the family. The latter is often unlikely due to poverty. The former strategy is more or less influenced by the boy's family as the local authorities would be power elite who reside in the boy's village and hence more prone to be manipulated by them.

Unmarried girls often seek a way out of restriction or violence by natal family through eloping or love relations with prospective husband who ultimately cheats her. This has been pointed out in the case of Faria (see above).

For UMN's who reside in makeshift sites, silent suffering has often lead to severe depression which has come under the notice of psycho-social units who tend to them. They demonstrate signs of depression which manifest themselves in listlessness, uncaring attitude to their children etc. In such cases they find peace when they find a space to talk with each other about their problems. Women have mentioned a space called the "Shantikhana" which local NGOs had set up for psycho-social counselling, where they found some peace. The lack of unity among the migrants household often hampers the collective spirit which can create some kind of upliftment in their lives. More programs need to address that.

In terms of the challenges that UMN's face in everyday living, e.g. no legal way of earning an income, sending their children to school, they have found various ways with coping with this situation by alternative methods of procuring National Identity Cards and also Birth certificates for their country, which gives them an entry point to enjoying the privileges of citizenship in Bangladesh.

Processes through which UMN's (Undocumented Myanmar Nationals) get National Identity Card:

- They have liaison with local political leaders
- Bangladeshi member of the family (husband or wife) help other members through their family connection or through neighbors
- In exchange for money

Processes of getting Birth Certificate by the UMN:

- The UMN children get admission in school by providing local peoples' names and addresses as parents and collect birth certificate accordingly
- in exchange for money. This happens more in Leda as it is a site which does not have easy relations with the host community.
- Some people take the refugee card from the registered refugee and use that card for getting political asylum in foreign countries. The price of these types of cards can reach to BDT one to two lac.

Leadership mechanisms

Women who suffer however have gained strength through their experience to give voice and articulate their suffering. This was evident in the way that many victims related their stories to us channelizing their anger in a positive way. In many cases they felt the need for education in order to gain self-esteem and respect, something they felt that they had been deprived of.

A social worker rightly pointed to us that in order to address violence against women new iconic leaders were needed, not those who abide by conventions and merely pays lip service to the subject i.e. one

who says one thing and acts differently. The role of the media in projecting this new kind of leadership from the grassroots upwards is also needed. Capacity building of new leaders must also represent a new conscience and self-awareness which can form a basis of confidence-building measures that in turn can help transform society.

Security concerns: political dynamics and administrative red tape

47.60% respondents reported that they knew of conflict with locals, but 52.40% said they did not know of such conflict. The types of conflicts that were listed were beatings (89.08%) and quarrels 10.92%. Reasons for such conflicts were claimed to be mostly drug business (39.50%), over land/property (28.99%), and exertion of power and influence (22.69%). 3.36% said money lending. A few mentioned women, children and other issues. 58.24% said that attempt was made to resolve such conflict, 41.7% did not know of any such attempts. A larger proportion of Bangladeshis said yes compared to UMNs. When asked to name the agencies who took the lead to solve the conflict, 37.33% mentioned law enforcing agencies, 19.82% said NGOs, 33.18% said community leaders, and 4.61% said family and 5.07% said political leaders.

The type of security that is considered more important for the respondents (53.40%) was social safety, then came shelter (19.80%), financial (14%). 9.80% said security of life. Shelter was mentioned more among UMNs than Bangladeshis. Among the agencies that they thought who could ensure this security: 40% thought of Government 35% said NGOs, and 17% said local influential. Regarding the ways that they thought this could be ensured, information and support was mentioned by 20.20% , Government or administrative support was mentioned by 33.40% respondents, rehabilitation was mentioned by 17.40%, employment by 11.00% and due process of law by 9.20% (larger proportion of Bangladeshi mentioned this)

The case below illustrates the red tape faced by an organization like BNWLA even when they want to help out from a humanitarian angle:

On the 3th of June 2016, Sami Ara 16 year's old girl was roaming alone in the market. After seeing her alone a local man aged 42 followed her and convinced her to get married to him. A social youth group named 'Shadhin Moncho' reported it to the police station, claiming it as early marriage. Police arrested them and it was revealed that Sami Ara, was a Myanmar National. Through mobile court they were sent to jail and Sami Ara fell under the Foreigners Act. She is now in jail. The youth group members came to BNWLA to seek help for the girl as she is a minor. BNWLA communicated with the assistant police officer and with the judges to find out how to provide support to Sami Ara. But BNWLA is facing the following challenges in dealing with the cases.

-As Sami Ara is Myanmar National, it is not known on what ground the bail will be given to her.

-If she is under the custody of BNWLA how would she be repatriated to her own country

-The girl has given her full home address. So there is no scope to release her under any other ground.

-As she is in jail, it not easy to interview her anytime.

-There is no information about her relatives who resides in Bangladesh.

-Government is conducting a census for the Undocumented Myanmar nationals but it is difficult to bring her under the census.

-It is therefore difficult to ensure custody of the girl under BNWLA.

BNWLA will attempt to bring her under the custody by maintaining all legal procedures.

Regarding financial security 68% said they had problem to get jobs and 32% said they did not face any problems. 80.60% said they did not think the wages were sufficient. When asked what kind of job opportunity they needed for economic security, 47.20% day labor/industrial worker, 13.40% said fishing 10.4% said service sector (larger proportion of Bangladeshis said this), and 10.40% said domestic work. From this it is evident that the emphasis is predominantly on manual or unskilled labor.

Community problems are solved through *Salish* (42.86%), negotiation among themselves (26.96%), through local elites (20.51%). But 86.62% said the prime role is taken in all kinds of conflict resolution is taken by the local elite. Only 14.20% said they get local political support. Of the type of support they received, 52.11% said *Salish*, 30.99% said financial, 16.90% said any support. This works in two ways. The local authorities are the first available step to justice or to get protection, yet they are often highly corrupted by influential power elites, who takes sides. A gender-sensitive viewpoint is lacking in male stream institutions, hence women's perspectives, are trivialized. For example in a case that was mentioned before of an adolescent girl named Jyotsna who was cheated by her friend and had to end up in Teknaf Thana to be picked up by BNWLA staff to be taken to their shelter, our team witnessed the callousness of police officers who took up her case. They said that it was a personal love affair gone awry and that she had no business coming this far from home to meet a boy!

Officials at district levels also do not give priority to gender issues. There is a coordinating committee for Violence against women led by the Deputy Commissioner (DC) but the meeting is held together with law and order committee, and the former hardly gets any attention. The minutes are subsumed and written in a run of the mill way where the participants merely sign. No separate reporting is asked of the participants like OCC or Mohila Odhidoptor (personal communication with an officer).

Census of UMN and its perceptions

An enumeration of Undocumented Myanmar National was under way during the period of our field work. The first part consisting of household information had just ended. 42% of our respondents was aware that such a census was being conducted, 58% was not aware. Women especially did not know about it.

Out of those who knew about the census expressed their expectation from it. 36.01% expected an increase of government facilities from it (more Bangladeshis pointed this out), 28.62%, hoped for opportunities for permanent settlement, 24.44% expected to get living space, and 8.04% expected education facilities and 2.89% expected work opportunity.

UMNs hope for privileges that were the same as refugee status. Officials and local leaders thought otherwise. They focused on problems of UMN intermingling with local people. "They are a bad influence" (senior public official).

Other refugees felt disappointed. “So many people come asking questions, and yet we do not get anything.” UMN’s have requested those who came to do census, not to displace them from this area. After a long time they had found stability. They wanted to reside here permanently. “As a country of peace, Bangladesh is way better than Myanmar” they said. They want education for their children here. Many knew needlework which they learnt in Myanmar, but their husbands did not want them to work for a living. “Men usually go to the deep sea to fish during the season and hence there is no dearth of work for them” complained an undocumented worker.

There is yet no clarity among the local population on what to expect from the enumeration. We came across different speculations. They were:

“Education will not be a problem for UMN’s.”

“A child of intermarriage will be given ID cards, but not their mothers if they are from Myanmar. “

“Services may be provided by NGOs but not the Government.”

A senior official told us that the longer they take in the census the more chance that Rohingyas will mix with mainstream and create problems. Once they are identified they must be kept in a confined space like the documented refugees.

The Future

When we asked our sample population what they think their future will be like, 86.40% said it would be better! They explained how it could be better. 19.44% said if there was peaceful coexistence, 18% said they did not know, 17.13% said through permanent settlement, 11.57% by return to Myanmar and 10.65% said through gainful employment.

On gender concerns they voiced a demand for equal rights (32.71%); 22.77% opted for application of the rule of law, 21.53% chose self-reliance; 17.39% wanted more social awareness; 3.52% chose family education and 2.07% for women’s education. It is interesting to note that in our sample population 71.25% owned property under their husband’s name, the property of 17.5% was self-owned and 11.25% had joint property.

Chapter 4- Recommendations and the Way Forward

From the evidence above we observe a very challenging situation for a protection regime in terms of the stark realities of sex and gender-based violence as well as for child protection. The socioeconomic character of the region combined with the political dynamics have served to make it a complex and difficult terrain to address the roots of violence. Yet as the optimism of our respondents imply things

tomorrow has to be better than today. Understandably the solutions need to be as complex as the problems themselves and can only be made possible with the concerted effort of many through a series of multilayered and multifaceted array of interventions. Some of these have emerged through our research. We list them below according to the different stakeholders that need to be addressed: the Government of Bangladesh, international development partners, local and national NGOs and civil society.

Government of Bangladesh

- Establish an enhanced protection regime in the region. Protection of people's welfare needs and systems of justice need is to be considered parallel to development policy or else development of a region will only benefit a few at the cost of many. The Government of Bangladesh should therefore have a protection system in place that permeates administrative, social and justice apparatus of the state. For example a clear procedural code should be in place which allows a victim of violence whether they be from the host or refugee community to access Government services such as one step crisis center or other medical facilities.
- After enumeration of undocumented population, Government should set out a clear policy regarding the services of the state which this population can access in terms of their fundamental rights in order to stop further speculation and misinterpretation of laws and policies.
- District –based meetings of the SGBV platform led by the DC's office should ask for reports from all stakeholders and publicize them in the media.
- The signing of the 1951 UN Convention Relating to the Status of Refugees by Bangladesh will surely provide a legal framework and certain rights to the refugees in the region. However, one should be aware of the reality that, no amount of laws can give the refugees their due rights, if the administration at various level do not have the 'will' to help , one of the most disadvantaged groups in the world.
- The Foreigners Act of 1946 should be amended so that UMN's not be further harassed by arbitrary arrests and detention
- Support for psycho-social counselling for victims of violence should be provided for in government bodies such as the One Stop Crisis Center (OCC) and other related institutions.

International Development Partners

- Funds should be released for enhancing and upscaling measures to prevent, implement and advocate SGBV related issues among both host and refugee population.
- Existing programs that deal with SGBV or related needs such as psycho-social counselling of victims needs to be up-scaled by constituting a stand-alone SGBV component or wing.
- Protection-based programs needs to be holistic in nature i.e. they should look after legal, social and livelihood needs of the victim.

- Support should be given for national advocacy on protection issues

Local and National NGOs and Civil Society

- SGBV programs should have a mobilization element that engages the participation of the survivors of violence. In this way capacity building, confidence-building and leadership qualities will be enhanced through peer group pedagogy.
- Community mobilization on protection issues should engage with male members of the community and also incorporate discussions on notions of masculinity and the way they impact on social mores and behavior.
- Door to door follow up of cases of violence should be mandatory and backed up by sufficient resources, person power and training.
- Psycho-social counselling of victims of both genders needs to be introduced as part of the ongoing legal aid program.

Regional Organizations of South Asia (SAARC)

- It would be better if the South Asian countries deal with the refugee problems in a united way. Legislation of refugee sensitive laws by the respective national parliaments would be a positive step in protecting the rights of the refugees.

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Annexure

- Literature Review
- List of Key Informants
- Tables
- List of Under Trial prisoners from Myanmar