

Bangladesh Sexual and Gender Based Violence Assessment

Dhaka and Cox's Bazar, Bangladesh

14 to 21 November 2017

Executive Summary

This report was commissioned by the British High Commission Dhaka (BHCD) and the Foreign and Commonwealth Office's Preventing Sexual Violence in Conflict Initiative (PSVI). Its purpose was to carry out an analysis of the sexual and gender based violence (SGBV) affecting the Rohingya refugee community in Bangladesh; carry out a rapid assessment of the availability of services for survivors of SGBV, identify gaps and barriers in service provision and referral pathways in Cox's Bazar, Bangladesh; do a 'deep dive' on what is currently being done regarding investigation and documentation of SGBV; and make recommendations on action to be taken by HMG both in terms of the humanitarian response and on investigation and documentation of SGBV to appropriately prevent, mitigate and respond to SGBV affecting the Rohingya refugee population.

The report is based on a 7-day mission to Dhaka and Cox's Bazar, Bangladesh, from 14 to 21 November 2017, carried out by a refugee and gender expert and a PSVI criminal law expert.

On 25 August 2017, members of a Rohingya militant group, Arakan Rohingya Salvation Army (ARSA) attacked a number of security force outposts in northern Rakhine State, Myanmar. The response by the Myanmar army was brutal. It launched a systematic, ruthless and organised attack on the entire Rohingya population living in northern Rakhine State. Human rights groups have documented how the military killed hundreds of Rohingya civilians including children, raped and tortured Rohingya women and girls, and carried out an organised and targeted burning of entire Rohingya villages.¹

Levels of sexual violence against women and girls have been extremely high. Rape and sexual violence have been used by the Myanmar military as a weapon of war intended to instil terror and humiliate women and girls and their families. Its use has been widespread and systematic with victims being deliberately targeted on account of their ethnicity and religion. The Office of the High Commissioner for Human Rights (OHCHR) and human rights groups have documented harrowing stories of the gang rape of women and girls as young as five, sometimes with implements including knives and often committed in public and in front of family members.² Human rights groups have classified these atrocities as crimes against humanity under international law,³ and the UN High Commissioner for

¹ Amnesty International: "My World is Finished" Rohingya targeted in Crimes Against Humanity in Myanmar, October 2017: <https://www.amnesty.org/en/documents/asa16/7288/2017/en/>; Fortify Rights: "They tried to kill us all" Atrocity Crimes against Rohingya Muslims in Rakhine State, Myanmar, November 2017.": http://www.fortifyrights.org/downloads/THEY_TRIED_TO_KILL_US_ALL_Atrocity_Crimes_against_Rohingya_Muslims_Nov_2017.pdf; and Human Rights Watch: "All of my body was pain, sexual violence against Rohingya Women and Girls", November 16 2017: <https://www.hrw.org/report/2017/11/16/all-my-body-was-pain/sexual-violence-against-rohingya-women-and-girls-burma>

² Ibid; Mission Report of OHCHR rapid response mission to Cox's Bazar, Bangladesh, 13-24 September 2017.

³ Global Appeal for Action signed by 88 NGOs on 28 September 2017, available at: <https://www.hrw.org/news/2017/09/28/myanmar-global-appeal-un-action>

Human rights has described the violence as a “textbook example of ethnic cleansing”,⁴ a view recently echoed by the US Secretary of State.⁵

As a result of this violence, over 624,000 Rohingya civilians have fled to Bangladesh seeking safety in areas near Cox’s Bazar,⁶ where they have joined approximately 300,000 previously displaced Rohingya.⁷ More continue to cross the border daily.

In exile, refugees face the repercussions of sexual violence suffered in Myanmar, including stigma, shame and pregnancies from rape. They also face an ongoing risk of SGBV including human trafficking, sexual assault, domestic violence and rape in the refugee camps. These risks are exacerbated by overcrowding and unsafe shelters, a lack of privacy, and the scarcity of accessible, gender segregated and well-lit water, sanitation and hygiene (WASH) facilities.

This emergency has been incubating for decades, and cannot be seen as a short-term crisis. And there are no easy answers. For decades, the Rohingya have been repeatedly displaced and suffered multiple episodes of violence on account of the fact that they are not recognised as citizens of Myanmar where their very existence is denied. Until this core issue is resolved, there will be no resolution to their plight. Any *durable* solution for this marginalised and violated population, therefore, will take careful planning, brave political leadership and a realistic understanding of, and response to, entrenched drivers of violence and displacement.

The Bangladesh government has shown considerable generosity in opening its borders. However, it has refused to acknowledge these new arrivals as refugees, instead calling them ‘undocumented Myanmar nationals’ based on its view that recent arrivals will soon return to their homes in Myanmar. Yet despite rhetoric to the contrary (and the recent signing of a repatriation agreement between the governments of Bangladesh and Myanmar), few believe that safe and voluntary return will be viable any time soon.

Therefore, there is a need for the humanitarian response to be embedded in a recognition that this is a *protracted* refugee crisis. This recognition points to two core principles that need to underpin HMG’s response. First, interventions need to be holistic, targeting local communities as well as refugees, thereby building durability into the response; and second, they need to be accompanied by diplomatic engagement with the Bangladesh government to leverage the political space for freedom of movement to accompany the delivery of those services. Without engagement with this bigger picture, any humanitarian response – not least in the highly complex work of tackling SGBV – will be palliative. HMG is strongly positioned to engage with the Bangladesh government in this regard, as it has been leading the international response, diplomatically, politically, and in terms of humanitarian support.

The short-term approach to the crisis, along with an extremely challenging operating environment, has had an impact on protection generally and a gender-sensitive response specifically. While recognising that the scale of the emergency is almost unprecedented, the findings point to a number of key gaps and barriers to gender-sensitive service provision. These include inadequate lighting in the shelters and camps; limited mobility of women and girls in the camps (due to both cultural and logistical constraints) thereby restricting their access to health and other support services; lack of

⁴ BBC, Rohingya crisis: UN sees ‘ethnic cleansing’ in Myanmar, 11 September 2017, available at: <http://www.bbc.co.uk/news/world-asia-41224108>

⁵ <http://edition.cnn.com/2017/11/22/politics/tillerson-myanmar-ethnic-cleansing/index.html>

⁶ Inter Sector Co-ordination Group report dated 28 November 2017, https://reliefweb.int/sites/reliefweb.int/files/resources/171128_iscg_sitrep_one_pager_final.pdf

⁷ See Humanitarian Response Plan: Rohingya Refugee Crisis, DRAFT, October 2017. This number includes approximately 33,000 registered Rohingya refugees, https://cxbcoordination.org/wp-content/uploads/2017/08/170815_3W_R4_Final.pdf

adequate psychosocial services for this incredibly traumatised group; lack of security after 5pm in the camps when everyone except the refugees, including police and army, has to leave the camp leaving a large protection gap; concentration of the international relief effort in the mega-camp, limiting access to services in smaller camps; and a broader lack of clarity over the legal status of the refugees and, therefore, limited access to the criminal justice system in Bangladesh.

The report also analyses the work that is currently being done by Bangladeshi and international organisations to investigate and document SGBV. Although well intentioned, the findings point to serious reservations about the viability and practice of these documentation processes. The stories of victims are being taken in a seemingly haphazard and un-coordinated manner, with no method to ensure that the same women are not interviewed multiple times. Documentation is being done largely without the assistance of interpreters who speak Rohingya, although they speak a similar language, and without the input of international criminal lawyers and investigators to advise on best practice.

At a more fundamental level, there is substantial confusion about the purpose for which organisations are collecting survivors' stories. It is unclear whether the purpose is to raise global awareness of the issues or to achieve criminal accountability. If the latter, it is concerning that statements are being taken in the absence of the existence of, or proposal to set up, any realistic judicial accountability mechanism. This not only raises the expectations of victims unfairly, but makes huge assumptions regarding what justice means for this particular group.

In sum, there is an overall failure to adhere to best practice in evidence gathering, as set out in the PSVI International Protocol on the Documentation and Investigation of Sexual Violence in Conflict (International Protocol),⁸ and there are currently insufficient mechanisms to ensure appropriate psychosocial support for survivors when they tell their often harrowing stories. This is not only harmful to survivors and in contravention of the key ethical principle at the heart of documentation of SGBV to "Do No Harm", but may ultimately impede criminal accountability of the alleged perpetrators.

In light of the above, this report makes ten recommendations for ongoing and new HMG work, both in its humanitarian response and in the investigation and documentation of SGBV (which we see as mutually dependent). Summarised below (see the end of the report for the full detail), they all have the overall aim of preventing, mitigating and responding to SGBV affecting the Rohingya refugee population:

Recommendation 1: Leverage UK diplomacy regarding the protracted nature of the crisis: Recognition that this is a *protracted* refugee crisis needs to be built into all protection programming and response. HMG should engage diplomatically with the Bangladesh government accordingly, and provide reassurance that the British government is committed to supporting this population beyond the immediate humanitarian emergency. This engagement will create the political space for a response that is rooted in a recognition of the need to de-emphasise encampment and allow for freedom of movement (thereby opening up the possibilities for access to livelihoods), and to integrate services for refugees and the host population. Failure to do this will create an unsustainable, semi-permanent emergency in which trafficking, extremism and multiple other protection concerns will grow. It also creates the foundation on which our other recommendations rest.

Recommendation 2: More effective co-ordination of the SGBV response: HMG should continue to exert pressure for more effective co-ordination from its implementing partners on the ground to ensure greater accountability. Challenges around co-ordination have had a serious impact on protection generally and a gender-sensitive response specifically.

⁸ Second edition: March 2017.

Recommendation 3: Providing psychosocial capacity building: HMG should engage a psychosocial expert/s with the ability to deliver culturally and context sensitive trauma informed work, to do a scoping mission of the specific SGBV psychosocial needs in the camps and plan a programme that provides immediate psychosocial relief for those in need and most traumatised. It is also critical that there is appropriate psychosocial support in place to support the investigation and documentation of SGBV crimes.

Recommendation 4: Translation capacity building: HMG should fund the training of local interpreters in Rohingya, possibly through hiring Rohingya in Bangladesh who have the right to work and/or diaspora Rohingya with third country passports. At present there are no translation services in the camps with reliance being placed on locals from the Chittagong Hills who speak a similar but not identical language to the Rohingya. Accurate and reliable translation is key to the delivery of medical, psychosocial and legal support to the refugees and for the investigation and documentation of SGBV crimes.

Recommendation 5: Lighting: HMG should fund, via DFID, the installation of full, (not partial, as this is unsafe), lighting in the camps, in particular in WASH facilities, and distribute solar lamps. The lack of adequate lighting is a significant protection issue for women and girls in the camps.

Recommendation 6: Up-scaling support to INGOs who mainstream gender: HMG should upscale funding for INGOs that advocate a holistic approach to the treatment of victims of SGBV, in particular to increase the number of Women and Girl Friendly Spaces and mobile health and psycho social teams.

Recommendation 7: Training police and army on SGBV, including on human trafficking: HMG should train the Bangladesh army and police on SGBV and, in particular, human trafficking, perhaps in conjunction with UNHCR's existing programme.

Recommendation 8: Legal clarity and support for refugees: HMG should commission a technical expert to advise on the applicable law vis a vis the Rohingya should they find themselves either the victim of crime, or accused of committing a crime.

Recommendation 9: Train fact-finding investigators: HMG should despatch criminal law experts from the PSVI team of experts to train the Bangladesh organisations that are taking statements from survivors on how to document/investigate SGBV in line with best practice as set out in the International Protocol.

Recommendation 10: Ensure women's voices are heard regarding accountability mechanisms: HMG should carry out a qualitative study to ascertain what form of accountability survivors want – whether it is a criminal justice process, compensation, recognition of their group and citizenship, or all three – and focus HMG and PSVI's response accordingly.