

SPOTLIGHT



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BATTERED JUSTICE

MALIHA KHAN



PHOTO: ANISUR RAHMAN

Sexual and gender-based violence against women is a common occurrence in the Rohingya camps where they have sought refuge and justice a matter of informal arbitration

Hamida Begum's* husband had beat her yet again. But this time was different. He had also uttered *talaq* three times, essentially divorcing her according to the Islamic customs of the Rohingya community.

Back in Myanmar, Hamida Begum and her husband had lived well enough. Since arriving in the camps in Cox's Bazar, however, they have constantly been at odds. Nur Alam, her husband, says he beat her for various reasons, including alleging that she didn't stay at home at night.

The dispute over the 'divorce' continues in an office close to the entrance of the sprawling Kutupalong camp. The (relatively) spacious office is filled with heated voices and multiple people trying to be heard while Hamida's baby wails in her arms. Hardly the calming environment for counselling that signs across the room say it to be, this is the one-stop crisis centre (OCC), as well as the regional trauma counselling centre run by the government in the camps.

This is not the first time the couple has been to the OCC for counselling, having come earlier to "resolve" their disputes. The family dynamics are complicated. Alam was a widower with six children, who 28-year-old Hamida, his second wife, had practically raised. The large family shared a two-room shack and Hamida says she would frequently be beaten when the now-grown children (by Alam's first wife) would complain to their father about her.

After one of these beatings near the end

of last month, Hamida went to her *majhi*, a community leader, to complain as she feared she might get hurt as she was pregnant. He took her that day to the OCC, which happened to be closed as it was a Saturday (the OCC is closed on weekends). They had to leave.

Back at home, Alam beat her when he found out where she'd been. He had previously warned her against reporting him to the *majhis*, she said to her counselor at the OCC. This turn of events led, ultimately, to her 'divorce'.

The couple received counseling at the OCC the very next day [Sunday] and the centre sent its Rohingya case workers to their block to ascertain what had happened. They spoke to the *majhi* and family members.

In her defence, Hamida's *majhi* and her brother said they would have known [in response to Alam's allegation that she didn't stay at home at night], since everyone lives in such cramped quarters and as the community is so conservative. People were bound to talk if it were true. "We were not aware of any such problems [with her] and he [the husband] hadn't voiced any objections until suddenly divorcing her now," said Hamida's brother.

The counselors tried to get the couple to agree to live together again. But Alam wouldn't agree, stubbornly sticking to the fact that he had 'divorced' Hamida. He wouldn't agree to a formal divorce [which would mean returning her dowry] either. As her husband and the counselor discussed what could be done, Hamida stood there and hardly got a word in edgewise as others argued over her fate.

With the trauma they faced back in Myanmar and in fleeing to Bangladesh still fresh, violence is far from gone from the lives of Rohingya women and girls.

Everyday conflicts over rations and space are strife in the bustling camps. Any occurrence gathers a crowd. There is no privacy in the sea of shacks, stacked next to, and on top of, each other. Fights too, are accordingly common, whether between neighbours or more commonly, within households.

Domestic violence is widespread in the camps, say community leaders and aid workers. Other forms of gender-based

violence (GBV) present in the camps are sexual violence, divorce, polygamy, and forced marriage.

Hamida's case, along with many others, unfold daily in the backdrop even as a number of agencies and organisations in the camps held activities marking the global "16 Days of Activism" against gender-based violence. Rallies and marches were held, trainings organised, and aid workers and volunteers wore orange #HearMeToo badges and made posters and banners to raise awareness.

All GBV cases are referred to the OCC—either brought by the *majhis*, through the camp in-charges (CICs), or sent by various organisations working with the refugees. The centre has seen 1,700 cases of sexual

and gender-based violence since October 2017. Where physical assault is involved, GBV survivors are first sent for medical treatment at the OCC at Cox's Bazar Sadar Hospital. Anita Saha, regional coordinator for the Ministry of Women and Children Affairs, runs the OCC. Most cases coming to Saha over the past few months, are of women suffering from domestic violence, or complaining that their husbands had divorced them (as Alam did) or were threatening to divorce them and remarrying. Saha, a clinical psychologist, has worked with many survivors of sexual and intimate partner violence in her two-year stint in the camps.

"We try to deal with such cases through mediation and enforcing a written document in case mediation fails," says Saha. This way, a divorce can be granted but only with the consent of both husband and wife and return of the latter's dowry. This is provided for in a written document (in Arabic and Burmese) which

has been drawn up according to the *shariah* followed by the Rohingya community.

When a husband insists that the divorce stand and refuses to return the dowry, the case is referred to the CIC. If he then decides that there is no other way than by taking legal action, the woman is referred to organisations providing legal support, which can take her to file a case at the local *thana*.

Saha acknowledges, "Though many organisations are providing support, be it psychosocial or legal, the primary task of ensuring safety and security is the main crisis. It's still a challenge."

In case of a battered woman like Hamida, it is no longer possible to return to her married home while her husband claims that she is no longer his wife. If she returns to her parents' or relatives home, she is stigmatised because her husband left her.

A study by BBC Media Action on violence against women in the Rohingya community states that many cases of domestic violence go unreported, as women don't tend to report until they are beaten so severely that they require medical treatment. The women who

information, socialise outside the home and take part in activities like sewing, rather than a safe space to stay in case of an emergency.

There is only one safe home in the camps, run by the International Organisation for Migration (IOM). But, says Saha, if need be, survivors of domestic and intimate partner violence are sent to safe homes in Cox's Bazar town, run by the Bangladesh National Women Lawyers' Association (BNWLA) which also provides legal support to GBV survivors in the camps.

LEGAL REDRESS

The first point of contact for information and support on where to go for refugees in the camps is their *majhi*, an unofficial leader in their block. There are hundreds of *majhis* working in Kutupalong camp alone, each responsible for hundreds of households. Initially put in place by the army to help with distributing food and emergency supplies, the *majhis* are now influential in their communities with refugees turning to them for everything from a lost ration card to domestic quarrels to severe cases of assault.

A complex governance system is in



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participated in the study also said that while they might return to their parents' home, this would only be temporary as their husbands were likely to marry again and they would be left with no home and unable

to remarry. Mediation by family members and community leaders was respected, but the usual decision, as was the case for Hamida, is usually that the wife returns to her (abusive) husband's home. Women also voiced concern that their husbands were increasingly abandoning their wives (and children) and remarrying because they no longer face legal restrictions in marrying (as they did back in Myanmar).

A number of women-friendly spaces, run by various agencies and NGOs, can be found scattered around the camps. In Rohingya, they are referred to as "shanti khana", "shanti" means peace, literally a place of peace. But these are more a place for women to gather, get useful

place in the camps to administer such a large population. Other than the *majhis*, there are also head *majhis*, a chairman, and justice committees, all refugees themselves. The latter is made up of 21 members including women, *imams* (religious figures), and educated elders who mediate and help resolve neighbour and familial conflicts.

Similar to *salish* practiced in rural parts of Bangladesh, the justice committees are intended to reduce the judiciary burden of the CICs and the OCC, as they command respect from the Rohingya community. These are also similar to *somaj*, village societies made up of elders who who acted as arbitrators in similar non-religious matters in Rohingya communities in Myanmar.

Over them all, are the CICs. The camp in-charges are uniquely both magistrate and administrator. Bureaucrats picked from the Bangladesh Civil Service, they are in charge of coordinating everything from relief to dealing with criminal acts before handing over perpetrators to the local police. They have almost complete discretionary power in the camps.

Around 30 Rohingya women, all clad in full burqa, sit on a windy hilltop in Camp 3, ahead of a meeting with the CIC. They are volunteers who work to help the CICs and the justice committees. Every day, they go door-to-door to find out what problems women in the community face, of which there are many. "People are not right in the head, so many have lost family members. Also, there are so many people living so close together," says one volunteer and mother of five, Monowara. The Rohingya have no legal status in Bangladesh. Other than the roughly 34,000 refugees living in the registered camps who enjoy protection under international law, refugees who arrived in the last two influxes, numbering almost 900,000, do not.

The refugees' deaths and marriages are not formally registered. Births and education certificates of children are not officially recognised. Survivors of gender-based violence such as rape and domestic violence have no access to formal medicolegal reports documenting what happened to them.

A review of gender mainstreaming in the refugee response this year notes, "there is an urgent need for access to state led justice mechanisms for refugees." The Domestic Violence (Prevention and Protection) Act, 2010 and The Prevention of Oppression Against Women and Children Act 2000 (amended 2003), for example, apply under Bangladeshi law. The magnitude of the camps and the fact that the Rohingya community are likely to resist measures going against their cultural and religious customs, however, means that enforcing law and order, and access to justice, is increasingly arbitrary.

A deputy CIC at the Kutupalong megacamp, says the local police are burdened so mobile courts have been set up where the CICs act as magistrates. "We prefer settling cases whenever possible," he says, speaking on condition of anonymity because they are not authorised to speak to the media.

Unless, of course, it's 'serious'—such as deaths and disappearances. "If a refugee physically assaults someone else causing severe injuries, that person cannot be counselled to stop or intimidated into stopping his violent behaviour. Such perpetrators are handed over to the local police," he says. Hamida's case does not make the cut.

A joint agency gender analysis which came out in August 2018, found that domestic violence was seen as the norm by both Rohingya men and women. This too, it notes, only referred to physical violence, with psychological abuse not perceived as violence.

Aid agencies also found that domestic violence increased in the Rohingya community post-displacement [August 2017]. Rohingya women said that this was due to their husbands being frustrated at not being able to work and the difficult circumstances in which they now live.

Beatings are not unusual for even minor causes. An Oxfam report out this year cites Rohingya women saying they risked a beating from their husbands for spending too much time outside the home gathering lakri [firewood] or for not finishing housework 'properly' or on time.

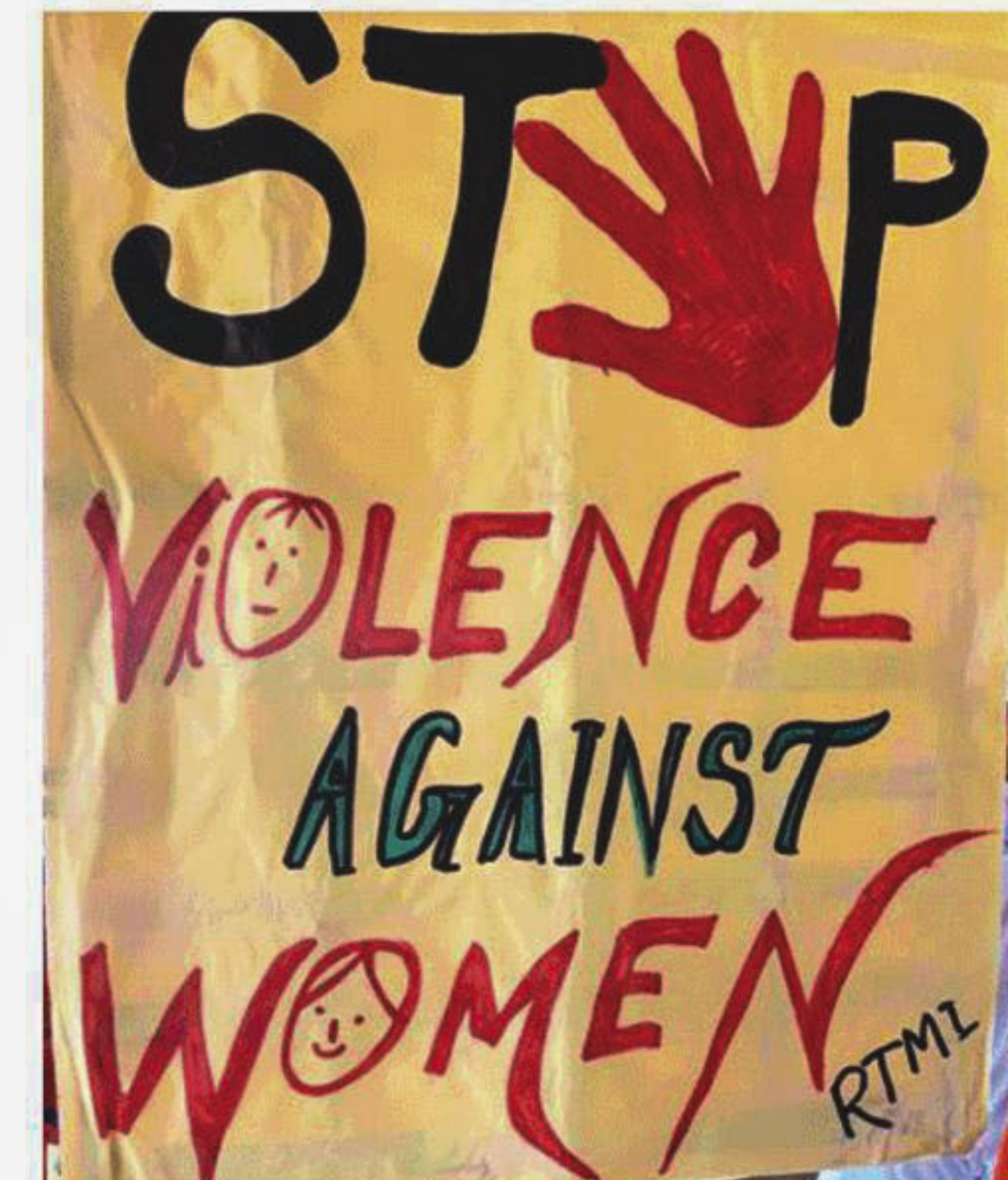


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FEAR OF SEXUAL ASSAULT REAL

Conservative cultural and religious customs mean young girls (even after marriage) rarely leave their homes. In the dense, bustling camps, the lack of privacy and fear of assault means they tend to stay inside or don't stray too far from their shelter.

This fear is not imagined. Eight-year-old Maimuna was playing outside her shack with other children in her block when a 20-year-old man grabbed and tried to molest her in a nearby latrine. An aid worker who was nearby in Kutupalong Camp 1 and witnessed what had happened, caught the man with the help of others and took him to the army sentries stationed in their block.

This is as far as Maimuna's mother, Mohsena Akhter, knows of the fate of the man who tried to rape her youngest daughter. "They took him to the army, but I haven't yet been told what will be done about him," she says. When we speak to her again almost a week later (the incident itself happened on December 3), she still had not been informed about what had happened to the perpetrator.

A child protection officer of an INGO who spoke to her immediately after the incident recalls that Maimuna was shaking and unable to speak. They first received a phone call from one of their Rohingya volunteers who worked in that community. The officer did a spot visit immediately, accompanied by a female psychosocial officer.

"When we got there, there was a crowd around their home. After speaking to Maimuna and ensuring she wasn't physically hurt, we turned to the *majhi* and her mother to learn what happened in their own words. But he suggested we come the next day as a crowd had gathered," said the officer.

"I am thankful nothing happened to her. My child was playing just in front of our home, how could something like this happen to her? She is still scared and not doing well," says her mother. Maimuna no longer leaves the house alone, she adds.

In the crowded refugee camps, justice continues to be elusive.

(Names of the refugees have been changed for confidentiality)