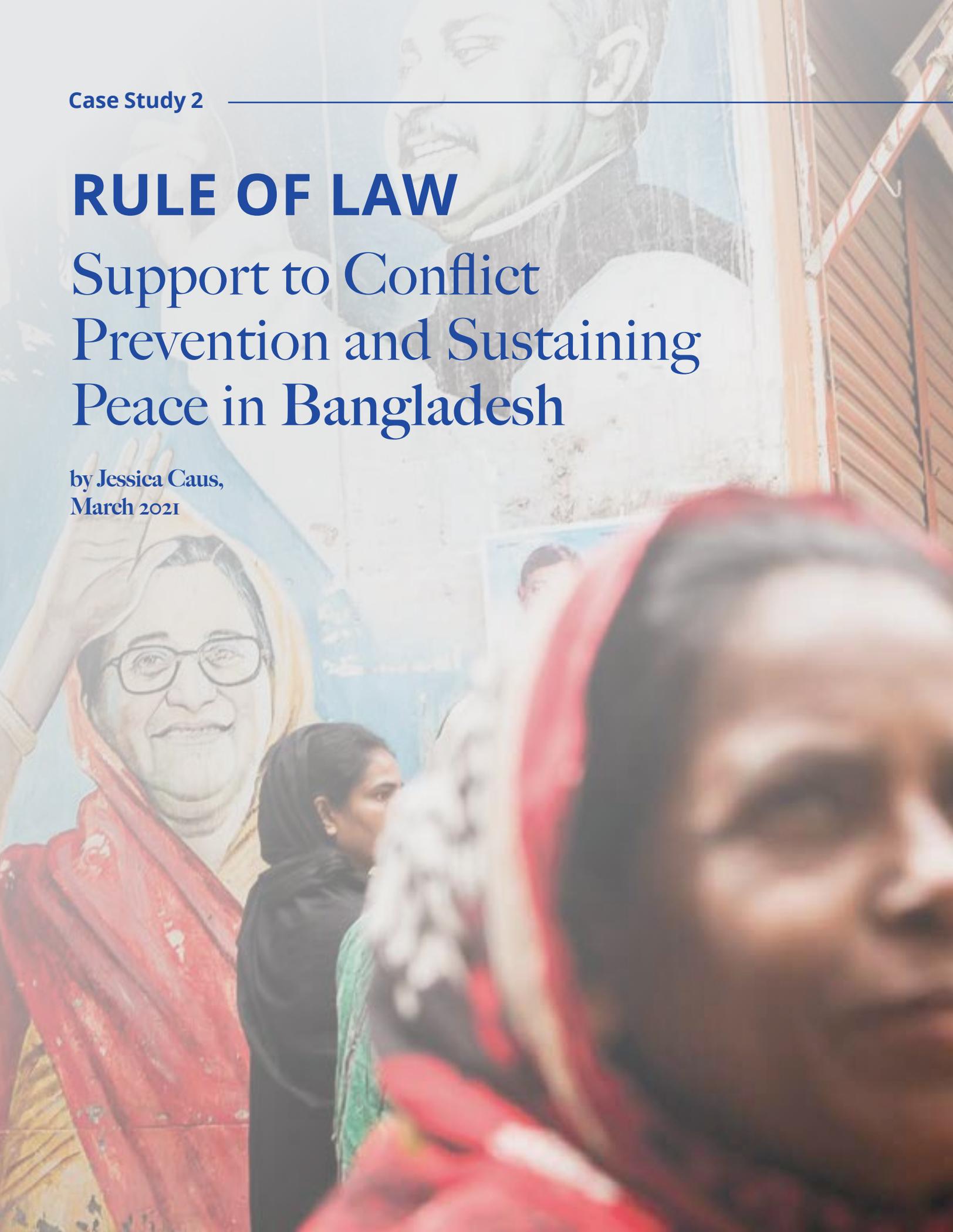# RULE OF LAW

Support to Conflict Prevention and Sustaining Peace in Bangladesh

by Jessica Caus,
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1. Introduction

Located on the Bay of Bengal in the world's largest river delta, Bangladesh represents an environmentally and politically fragile setting faced with multiple human security and conflict risks. It is amongst the countries most exposed and vulnerable to climate change, whose effects such as increased river flooding, rising sea levels, and more intense cyclones are already strongly affecting large segments of the population. Bangladesh also hosts nearly one million Rohingya refugees who have been displaced from bordering Myanmar since 2017, putting a strain on local communities already struggling with scarce resources and infrastructure deficits. At the same time, there are some indications that Bangladesh's ruling party may be drifting away from democratic principles, with widespread allegations of repressing opposition voices, committing human rights abuses, and politicizing independent institutions.[1]

The environmental, socioeconomic, and political challenges in Bangladesh form a complex set of risks that can drive intergroup tensions and, when conditions are ripe, could erupt into larger-scale violence. To mitigate these risks and strengthen local and national resilience, the UN and other international partners have been engaging in short-term humanitarian responses and longer-term development support. This case study explores the UN's engagement in one particular area – the rule of law – examining the related activities and impact of the Resident Coordinator's Office (RCO), UNDP, UN High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), UN Women, and others. Focusing on the period since 2017, the study asks: *How has the UN's rule of law support contributed to lowering the risks of violent conflict in Bangladesh?* The goal is to examine current rule of law approaches and identify specific evidence of impact, i.e. how these approaches have contributed to conflict prevention.

The paper is based on desk-based research and expert interviews with researchers and UN officials both in New York and Bangladesh. It is structured in five parts: (1) a background on the conflict risk landscape; (2) a brief mapping of UN rule of law actors in Bangladesh; (3) an analysis of specific approaches and evidence of impact, with a focus on the UN's support to e-justice and local-level rule of law programming; (4) mediating factors that either enable or inhibit impact; and (5) lessons and recommendations.

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A note on scope and methodology

Rule of law is defined by the UN as a "principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards."[2] Traditionally, this has resulted in a focus on police, justice, and corrections as the primary vehicles for the UN's rule of law engagement. However, we recognize that other areas of the UN's work may also contribute to the core goals of the UN's rule of law work, including efforts to combat impunity, build accountability, advance transitional justice, limit corruption, and address conflict-related sexual violence, amongst others. This project does not adopt a strict definition of the rule of law but is instead largely guided by interviews with experts in a range of field settings, asking them what they consider to be the key rule of law programmes by the UN and its partners.

In terms of the scope of these studies, it is important to highlight that this is not a comprehensive assessment of the UN's work in a given setting. It does not try to capture every rule of law programme, but instead reflects the views of experts about the most impactful, relevant, and effective rule of law interventions in the given timeframe. This expert-driven approach to cases studies is to ensure that they feed meaningful cross-cutting policy recommendations, which is the core purpose of this project.

In terms of methodology, we note that the UN's rule of law work takes place alongside the interventions of a range of actors, including national leaders, bilateral donors, INGOs, and local organizations. While it is our goal to identify evidence of the UN's impact, often the UN is a small player amongst these, supporting and coordinating rather than leading on programming. Given these limited supporting roles and the large number of other intervening factors, it can be difficult to isolate the UN's impact via its rule of law interventions. Rather than speak in direct causal terms about impact, we contextualize the UN's *contribution*, alongside the interventions of others, to the broader goals of risk reduction.[3] Where the precise impact is impossible to ascertain, or where the UN has not generated evidence that directly supports causal findings about impact, we rely on a broad set of expert consultations to help us identify good practice and lessons that could be applied beyond a single country context.[4]

2. The risk landscape in Bangladesh

With over 164 million people, Bangladesh is the eighth-most populous country in the world.[5] Its dense and fast-growing population is faced with risks of various dimensions. Bangladesh is amongst the countries that are most exposed and vulnerable to the impacts of climate change, with large-scale loss of arable land and extreme weather posing immediate threats to livelihoods of hundreds of thousands of people.[6] The combination of higher temperatures and more erratic rainfall has led to increased annual river flooding, resulting in the erosion of riverbanks and loss of cultivable land in a society highly dependent on agriculture. Further, more intense cyclone seasons and rising sea levels are threatening coastal dwellers, especially in densely populated areas. Storm surges and floods are uprooting whole communities, having led to a drastic increase in flood-driven migration. Extreme weather events and livelihoods losses in agriculture have been pushing more and more people into the cities, settling in slums and seeking employment in the informal sector.[7]

Rising urbanization rates in Bangladesh have also meant increased risks of urban and gang violence and higher crimes rates. According to some estimates, displaced people make up 80 per cent of the urban population in Bangladesh, driving dynamics of horizontal inequality and poverty, the rate of which was at nearly 30 per cent in mid-2020.[8] This is also due in part to the COVID-19 pandemic, which has been exacerbating socioeconomic grievances and deepening inequalities, as many Bangladeshis have lost their jobs or have not received their wages because of industry shutdown. In the garment industry, for instance, over 2 million people were laid off in the second half of March 2020 alone; 65 per cent of them were women.[9] These developments have led to increasing labour disputes and protests across the country, with risks of escalating into violence if the grievances persist (see also section 4).

A region experiencing poverty and underdevelopment at heightened levels are the Chittagong Hill Tracts (CHT), a group of three districts on the south-eastern border. The CHT count amongst the poorest and most conflict-prone areas of Bangladesh, with a history of insurgency and occasional fighting between the Government and the mostly indigenous population that has historically been marginalized economically and politically. While a peace agreement has been in place since 1997, large parts of it have not been fully implemented.[10] The area is controlled by the military and has seen a spike in violence in recent years, in particular around land issues as land grabbing (by the army or larger corporations) has become a prevalent practice in the area and competition over land has also increased in the context of new migrant pressures.[11]

In fact, aside from climate-driven and other internal migration, Bangladesh has also been sustaining a high number of Rohingya refugees from Myanmar. While sporadic Rohingya movement into Bangladesh began decades ago, a renewed crackdown on this Muslim minority in Myanmar led to a mass influx of refugees in 2017. Since then, nearly one million Rohingya have settled in the Cox's Bazar district – a district already grappling with resource scarcity and multiple development and security issues.[12] The arrival of the Rohingya, paired with the presence of criminal gangs and armed group elements in the refugee camps and in host communities, has led to increased tensions in the district, often along intercommunal lines, while crime rates and human rights violations are soaring, including extremely high rates of violence against women and girls (more in section 4).

The issue of gender-based violence (GBV) is rampant also beyond the Cox's Bazar context. According to a 2015 survey, over 70 per cent of married women or girls in Bangladesh have experienced a form of intimate partner abuse, including physical assault; acid attacks are a common form of such violence.[13] The high rates of gender-based violence (GBV) and also femicides in Bangladesh are embedded in a culture of gender inequality and marginalization of women, often seen as directly related to the practice of dowry.[14] In all of this, the number of actual incidents of GBV arguably exceeds the number of reported cases by far as women often refrain from filing complaints due to fears of stigma, low levels of trust in the police, a lack of services and shelters, and the social normalization of such violence in Bangladesh's patriarchal society. Of those that do file cases, only 3 per cent are getting justice, while 97 per cent remain deprived, according to research by a Bangladeshi NGO, in part because of long court delays that reinforce the culture of impunity for such crimes.[15] During COVID-19 and the related lockdown measures, the rates of violence against women and girls have risen even more: the months of March and April 2020 saw a 70 per cent increase in reported incidents compared to the previous year.[16]

Long delays in court proceedings are not limited to cases of GBV but pervade the entire justice system. According to estimates, 3.7 million cases are backlogged in the formal courts, while many cases take years or sometimes even decades to be resolved.[17] Further, many Bangladeshis – especially in remote areas – have very limited access to justice, either because they cannot afford justice services, do not have access to legal aid, or simply because they live too far away from the formal court infrastructure.[18] In rural communities, many thus rely on alternative dispute resolution mechanisms to solve their legal problems, which predominantly revolve around land issues, neighbour conflicts, and crime.[19] Deriving in part from the lag in the formal judiciary, another rule of law challenge in Bangladesh is its extremely overcrowded prison system: according to the national Justice Audit,[20] prisons are populated at 200 per cent of their actual capacity, while the majority of prisoners are in pre-trial detention.[21] The challenges in the judicial and penitentiary system, paired with allegations of human rights violations by some elements within the national police, are driving risks in Bangladesh, as lacking access to justice, dwindling trust in national institutions, and higher numbers of unresolved civil and criminal cases are disrupting social cohesion and increasing tensions, with risks of turning violent when conditions are ripe.[22] This is all taking place in an increasingly challenging political environment that is seen as sliding away from a free and democratic rule (especially after the election in 2018 that was marred by allegations of voter intimidation and rigging): judicial independence is seen as dwindling and the ruling party is accused of increasingly politicizing national institutions and silencing opposition voices.[23]

3. UN rule of law actors and involvement in Bangladesh

While the previous section sketched out the context the UN is operating in, this section gives a brief overview of the UN's rule of law actors and involvement in Bangladesh. In this non-mission setting, various entities in the UN Country Team, under the coordination of the Resident Coordinator, are engaging in rule of law work, including through joint programming.

Broadly, UN support to strengthen the rule of law occurs both via analytical and political work and dedicated programming. The team in the RCO, including its various advisors on issues such as human rights, peace and development, and gender, have been conducting analyses on the situation in the country, including the rule of law deficits and their impacts on social cohesion. These analyses serve as a basis for the highly relevant but (in the challenging political environment) more behind-the-scenes advocacy work of the Resident Coordinator, e.g. political advocacy on the review of certain legislation such as the contentious Digital Security Act or COVID-related prisoner releases.[24]

On the programmatic side, UNDP support to the police reform started around 2006, and support to the justice sector started around 2009 in the context of law reforms in Bangladesh.[25] However, it slowed down somewhat after 2016 when the funding environment (and, to some extent, government openness) changed towards a focus on humanitarian crises and building climate resilience as opposed to longer-term rule of law work.[26] The UN has since sustained a number of small-scale rule of law initiatives (some of which are discussed in section 4), hoping to ramp up engagement once the broader political environment allows.

A window of opportunity, or rather: necessity, came with the COVID-19 pandemic, during which UNDP has been supporting the judiciary in digitalizing some of its services (see below). In the Cox's Bazar district – another focus area of this study – UNHCR, IOM, and UNDP are working together on community safety and policing issues: UNHCR and IOM in the Rohingya refugee camps, and UNDP in the local host communities. UNODC and UN Women, too,

are involved in some of the UN's rule of law work and capacity-building of justice actors in Bangladesh.[27] In a tri-partnership with the EU and the Government of Bangladesh, UNDP is further involved in strengthening local dispute resolution mechanisms (see below).

Other engagement includes support for the National Human Rights Commission[28] and preventing violent conflict work to build local research capacity in identifying drivers of violent extremism and improving early warning as well as local and national governance responses.[29] The UN's work in the CHT to strengthen inclusive development, while not strictly under the rule of law portfolio, also includes some rule of law elements such as support for community-based mediation.[30]

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4. Rule of law impact

Across the spectrum of UN rule of law work in Bangladesh, a number of approaches and initiatives were highlighted by experts consulted for this study as having specific effects on conflict prevention or risk reduction and are therefore examined in more detail in this section.

While the conflict prevention lens may not always be fully applicable in the Bangladesh case (as opposed to settings experiencing outright armed conflict or civil war), it still holds value for this analysis. Bangladesh is faced with a broad set of human security and governance risks, including deep structural inequalities and an increasingly authoritarian rule. As laid out in the 2018 *Pathways for Peace* report by the UN and the World Bank, such conditions are driving tensions and risks of violent conflict, necessitating approaches to strengthen more inclusive development as well as transparent and representative politics.[31]

In Bangladesh, the UN's challenge lies in the fact that its programmatic work to strengthen the principles of good governance is taking place in a context that seems to be heading away from such principles. Rule of law institutions are part of a State apparatus that is seen as less and less inclusive, while the Government is wary of outside interventions that are perceived as promoting a Western agenda or securitizing development goals. UN programming in Bangladesh, including in the rule of law area, is thus rarely geared towards conflict prevention specifically, but in the spirit of SDG 16 is contributing to it via its support for inclusive institutions and development. This is the underlying lens for the assessment of impact in this paper.

Access to justice and legal aid in times of COVID-19: remote courts

As detailed earlier, Bangladesh's justice system has long been characterized by extensive case processing times and very high pre-trial detention rates. According to estimates, 3.7 million cases are backlogged in the formal courts, while more than 80 per cent of all detainees are pre-trial detainees.[32] The COVID-19 pandemic has exacerbated these problems, leading to a further backlog of cases with courts closed as part of mitigation measures.

In May 2020, UNDP initiated a virtual courts platform to help Bangladesh respond to the crisis and its impacts on the justice system. Working with the Government, UNDP launched the platform 'MyCourt' and, within three months, trained over 1,000 judges, lawyers, and court officials on the system. Virtual hearings were set up, facilitating better access to justice in times of COVID-19 and also more broadly, as many Bangladeshis, especially in remote areas, typically do not have easy access to the courts.[33] The formal justice sector in Bangladesh had been based entirely on manual systems (paper-based case filing, etc.). UNDP helped digitalize and streamline the process, introducing virtual case management systems.[34]

"In terms of impact, the UN has a real success story to tell here," one expert interviewed for this study explained. To decongest prisons and reduce the number of pre-trial detainees, the project initially prioritized bail hearings. Within the first three months, 15,000 bail hearings were completed online, resulting in the release of over 10,000 inmates, which helped reduce the prison population by 12 per cent at the time – a record in Bangladesh's history.[35] Not only has this, to some extent, mitigated the risk of COVID-19 transmission in the country's overcrowded prisons.[36] In indirect (and hard-to-quantify) ways, it also arguably served a conflict prevention or risk reduction purpose: reducing the number of people in prolonged detention meant that people could return to their families, pursue their livelihoods, and be less likely to fall into economic grievances and criminality or become radicalized in prisons.[37] "There is no doubt that, without our intervention, the prison population would have grown even more," a UN official explained, "and with it all the security risks."

After the initial focus on bail hearings, the UN has started to take up the issue of GBV in its e-justice work. In Bangladesh, violations of the Prevention of Women and Child Repression Act are dealt with by special tribunals meant to offer speedy investigations and trials, but the problem with case backlog remains dramatic. Early 2019, over 160,000 cases of violence against women and children were still pending in the courts, while many take years or even decades to be resolved.[38] The pandemic has been compounding these problems not only in terms of higher GBV rates because of lockdown measures but also in terms of further stalling case processing. To redress this lag, the UN has been setting up virtual hearings of GBV cases, anticipating clear prevention effects, as an increased caseload counteracts impunity and can help deter perpetrators.

A third area of focus in the e-justice work is labour disputes. Micro, small and medium enterprises (MSMEs) – key drivers of Bangladesh's economy – have suffered greatly from COVID-19, and countless people have lost their jobs or have had their payrolls interrupted.[39] As a result, disputes and protests around unpaid salaries are simmering across the country, with a high potential of escalating into unrest and violence in the context of already vast socioeconomic inequalities in Bangladesh. UN support to hold virtual trials on labour and commercial disputes will help resolve more cases in less time, help compensate those eligible, and contribute to de-escalating tensions and mitigating the risks of violence.[40]

An underpinning element of the UN's e-justice work is legal aid provision. In collaboration with the Ministry of Law, Justice and Parliamentary Affairs and National Legal Aid Services Organizations, UNDP set up legal aid cells in particular for disadvantaged and marginalized people, connecting them to pro bono lawyers and supporting national legal aid hotlines and virtual mediation services through the Worker's Legal Aid Cells as an extension of the remote approach.[41] According to UN experts, this has helped ease tensions, especially in the area of labour disputes, bringing together workers and employers to resolve COVID-19-related wage losses and refer cases to the relevant courts.

While the UN has supported remote courts in some other settings, as well, Bangladesh seems to stand out in terms of the dimension and success of this work. The 'MyCourt' initiative was operational within just a few months, and – as examined above – has helped decongest overcrowded prisons, reduce the existing case backlog and support dispute resolution across a number of areas. According to interviewees, this has had a visible impact on mitigating risks in a time when COVID-19 is driving tensions in the domestic and public sphere. To benefit from this approach also beyond the pandemic, UNDP and the Government are examining ways to further digitalize Bangladesh's justice system where feasible. In this regard, UNDP is working with the justice sector to implement the Accelerating Digitalization Project, an initiative serving as a bridge towards a full-fledged, State-led digital justice system in Bangladesh.[42] "This really opens up a new agenda for the judiciary," one expert explained, pointing to the potential of transforming the justice system and extending the remote approach to other areas where the UN can contribute to visible risk reduction, e.g. settling family disputes or commercial disputes.

Community policing and safety in refugee and host communities: the work in Cox's Bazar

An important area of UN support to Bangladesh with various rule of law elements is the work in the Cox's Bazar district on the south-eastern tip of the country, bordering Myanmar. The district bore the brunt of the Rohingya refugee crisis and is arguably amongst the most fragile areas in Bangladesh. Since 2017, Myanmar's crackdown on the Muslim Rohingya minority has resulted in an influx of over 750,000 refugees into Cox's Bazar – a district already dealing with scarce resources and multiple development, security, criminality and corruption challenges.

Across the 34 refugee camps in Cox's Bazar, security conditions are dire. High rates of GBV, murder, theft, kidnappings, human trafficking and drug trafficking, extortion, domestic violence – the refugee communities are experiencing a plethora of criminality issues and human rights violations. These challenges are often linked to increased gang violence and the presence of criminal networks – issues that, at least in part, pre-date 2017 given that porous borders facilitated illicit activity around drugs and human trafficking. Widespread allegations of corruption against 'Majhis' (appointed refugee leaders) and disputes over aid distribution add to the challenges in the camps, as does the lack of trust between the security forces and the camp communities. Shortfalls in security infrastructure, such as lack of night-time lighting or infrequent and limited night patrols by the police, are conducive to further criminality.[43]

The situation in the host communities is equally taxing. Against the backdrop of high gender inequality and restrictive social norms, violence against women and girls has increased drastically, as have other human rights violations as well as crime rates and poverty issues. While host communities were quite welcoming towards the Rohingya at the onset of the crisis, the mounting security and socioeconomic pressures (including competition over resources and land access) have increasingly led to tensions between host and refugee communities, and to local attitudes towards the Rohingya becoming more and more hostile.[44]

The UN is seeking to help stabilize the situation via various initiatives. In the host communities, UNDP has been engaged since 2018,[45] both with local governance support and rule of law programming around community policing, legal aid, and mediation, in close collaboration with UN Women. To this end, UNDP and UN Women have worked with district officials and the district police outside of the camps, providing capacity-building and technical support. UNDP also supported so-called Community Policing Forums (CPFs) – groups of community representatives that serve as a bridge between the police and the communities, helping to identify local security and criminality issues and work out prevention plans.[46] UN Women supported the establishment of dialogue forums between CPFs and communities on the issues of gender and protection. The UN also supported legal aid committees at the district and union level with trainings and other capacity-building, aiming to improve and expand legal aid services, particularly for marginalized community members, by strengthening the legal aid case referral from the local level to the district legal aid offices and courts.[47] In the same vein, UNDP worked with local mediation, youth, and women forums to strengthen their capacities to identify intercommunal tensions and prevent their escalation via mediation and better local governance approaches.[48]

In the refugee camps themselves, UN engagement was initially limited to short-term humanitarian responses, as the Government was apprehensive of longer-term UN Country Team programming for fear of signalling or effectuating a permanent integration of the Rohingya in the country.[49] Around 2019/20, however, the mounting security challenges in the camps prompted the district authorities to request the help of the UN to support the Bangladeshi police. In response (and after a COVID-19-related lag), UNDP, UNHCR, and IOM (and later UN Women) in late 2020 piloted a joint community safety and policing programme that mirrors the work in the host communities – in two camps (as of this writing, the approach is being expanded to eight additional camps).[50]

One of the key components of this programming has been building the capacity of the camp police and strengthening relations between the police and the refugee communities. To this end, the UN agencies have provided logistical and infrastructure support for the units of the Armed Police Battalion (APBn) that are deployed in the camps, and trained them on human rights and refugee protection issues.[51] They also received training on identifying and mediating conflicts in the refugee communities, including structures where female police officers support cases that involve Rohingya women and girls (and improving gender-responsive policing as well as enhancing case management, evidence collection, interviewing techniques, and enhancing access to justice for Rohingya GBV and trafficking survivors).[52]

The UN also helped set up counterparts of the Community Policing Forums (CPFs) in the host communities, namely Community Safety Forums (CSFs), that equally serve as the interface between the refugee communities and the camp police and administration. They are trained to identify and address local conflicts and work with the police to solve security issues. CSFs include representatives from various groups, including youth, women (UN Women supports entirely women-led CSFs), the elderly, disabled people, etc.[53] Further, the Camp in Charge (CiC) – the government representative in each camp – receive trainings to better manage cases of complaints of Rohingya and refer them to the district police and courts.[54]

While it is very early in the lifespan of this project to make definite claims about impact, experts have observed promising developments in the camps where the UN is active. When the camp police first deployed, they used to withdraw at night and patrols were limited to main roads only. With UN support, they have now more frequent and expanded patrols and a 24/7 presence in the camps.[55] UN Women supported the establishment of Women and Children Police Help Desks at police stations in five refugee camps, and have been training and mentoring the female officers deployed at these units to enhance GBV responses and other services for Rohingya women and girls (at the time of this writing, more of such help desk were being established, to deploy at least 100 additional female officers).[56]

There is also enhanced engagement between CiCs, the police and refugee representatives to address and prevent smaller-scale security issues in the camps, including domestic violence, with explicit participation of women in these consultations and broader mediation processes.[57] The participatory approach of this work has allowed the integration of the communities' perspective on the root causes of the security and safety issues in the camps into the prevention responses (underpinned by the UN's own robust analytical and early warning capacities in the Cox's Bazar area),[58] and community leaders were trained and enabled to mediate in disputes.[59]

According to UN experts, through this project the UN has contributed to mitigating tensions at the community level and, according to first estimates, bringing the number of crimes down in the camps where it is active (the concrete rates of this improvement were not yet clear as of this writing).[60] Case reporting and referral to the district police and courts have improved somewhat (with the hurdle that refugees need CiC approval to file a case with the district police), as have legal aid services.[61] Importantly, the interlinked nature of this work between the camps and the host communities has meant that dialogues have started between the two groups, with the potential to mitigate intercommunal tensions and promote peaceful coexistence, even though experts – albeit optimistic - highlighted that it is still too soon to identify impact with precision in this difficult and fragile context.[62]

Supporting local dispute resolution: village courts

Another local-level, people-centred approach to improve citizens' access to justice – especially in rural and impoverished areas – has been UNDP's support to the statutorily enabled Village Court system. In partnership with the EU and the Government, since 2009, UNDP has been supporting the implementor of this project, the Local Government Division of the Ministry of Local Government, Rural Development and Cooperatives, to set up Village Courts as community-level justice delivery mechanisms "by the people and for the people."[63] At the level of the Union Councils – the smallest unit of local government in Bangladesh – this system is intended to improve access to justice for disadvantaged and marginalized groups, especially women, and empower them to solve their disputes swiftly and without much cost.

To do this, UNDP has been building the capacity of the Local Government Division who supervises this system and Union Council officials who run the courts. It also set up systematic performance evaluations, strengthened the Government's monitoring capacity in this matter, and engaged in campaigns to raise awareness about the function of the courts in rural communities. The UN has also been advocating for amending legislation around the Village Courts to expand their jurisdiction and coverage and thus further enhance access to justice.[64]

Currently in its second phase (2016-2022), the project has achieved notable results:[65]

- Village courts were operationalized in 1,080 (out of 4,554) Union Councils across all eight divisions in Bangladesh. This includes new courts piloting in over 15 Union Councils in the three CHT districts, a particularly marginalized and conflict-prone area in the country.

- The courts are now accessible to over 21 million people in rural areas, especially in vulnerable communities.

- Between mid-2017 and early 2021, 220,000 cases have been reported and a vast majority of them (190,000) have been resolved.

- Resolving a case takes 23 days on average and costs courts users an average of USD 2.00 – much less than the national average.

- Of the resolved cases, 94 per cent of decisions have been implemented.

Across the interviews, experts pointed to the Village Court initiative as a notable success story for improving access to justice and reducing tensions on the local level.[66] The courts are resolving petty civil and criminal matters, settling community disputes, and fostering reconciliation. They do not have the power to impose prison sentences, but – in the spirit of victim-centred justice delivery – can rule on compensations or issue fines.[67] According to experts and internal assessment documents, this approach has visibly helped restore peaceful relations between neighbours and family members and elevate the status of disadvantaged community members. In total, the courts have recovered USD 21 million for eligible complainants (an average of USD 186 per person), who were then able to use the compensation for covering their family needs and reduce some of their financial stresses. Because of the increased caseload capacity and the swift processing, the Village Courts are also helping reduce the case backlog at the district level: the district courts have been increasingly referring cases to the Village Courts – nearly 11,000 between 2017 and 2021. These were cases in which applicants have been waiting for a decision by the district courts for over a year; after the referral to the Village Courts, their issues were resolved within 48 days and with significantly fewer costs.[68]

Via its support to this project, UNDP also contributed to a significant improvement in women's participation in and access to justice, dispelling a century-old tradition that saw little engagement of women in traditional conflict resolution. In the Village Court system, women are increasingly participating in decision-making processes as court panel members. In 2020, over a fifth of panel members were women, a significant increase compared to previous years.[69] On the victims' side, around 30 per cent of cases are filed by women – a sign that women's access to justice, at least at the local level, is improving.[70]

By supporting this form of local conflict resolution, the UN has arguably contributed to keeping community tensions down and preventing larger flare-ups of violence that could have arisen without functioning dispute resolution systems. The project also helped counteract some of the dynamics of inequality in Bangladesh, where poor rural populations have traditionally been cut off from proper justice services. The project's success is reflected in public satisfaction rates: 97 per cent of court users (including both applicants and respondents) were satisfied with the services and the decision-making of the Village Courts, citing swift judicial processing, minimal court fees, and the neutrality and fairness of the panel members as the main reasons for their positive rating.[71]

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5. Enabling and inhibiting factors

The previous section analysed a number of rule of law programmes and approaches of the UN over the past years, focusing on their risk reduction impact. This section explores what factors might have enabled, impeded, or otherwise influenced such impact.

Political will

Political will and openness on various levels of government were brought up consistently across the interviews and seen as 'making or breaking' the UN's work and impact. In Bangladesh, the extent of this openness has varied depending on the issue area. The success and speed of UNDP's e-justice engagement in 2020, for instance, was facilitated by strong openness of and cooperation with government actors, who paved the way for the digitalization work only days after the COVID-19 lockdown started.[72] UNDP could rely on a longstanding and good working relationship with the judiciary and other government actors. [73]

More broadly, however, the overall political environment in Bangladesh is challenging for rule of law programming as such, in a country that emphasizes its sovereignty and is wary of too much external intervention.[74] Several UN actors, including in the human rights space, do not have the full spectrum of access or opportunity to engage more systematically in the country.[75] The UN has adapted to this context by pursuing local-level approaches where possible, but also there it is faced with the challenge to ensure buy-in of various levels of government administration, which is not always easy to get (e.g. for the work in the refugee camps in Cox's Bazar, agencies need to go through the Refugee, Relief and Repatriation Commissioner (the head of the government agency responsible for the Rohingya issue), the district police, the CiC for each camp, etc.).[76]

Macro-level v. micro-level

On a related note – even though not an enabling/inhibiting factor per se – is the fact that, in the Bangladesh setting, the assessment of UN impact towards rule of law and conflict prevention strongly depends on which 'unit of analysis' is being applied. At the broader national level, the situation remains challenging and sensitive as various governance indicators suggest.[77] At the local level, as the previous chapters have shown, the UN has achieved some successes and good practices in terms of risk reduction, having worked to strengthen local dispute resolution mechanisms, expand access to justice especially for vulnerable and marginalized populations, and establish a more comprehensive community policing approach in refugee and host communities.

Joint work

In the Cox's Bazar district, the joint project by UNDP, UNHCR, and IOM – where UNHCR and IOM are mirroring those approaches in the camps that UNDP is applying in the communities outside the camps – is seen by many as an emerging good practice. While definite claims about prevention impact would be premature at this stage of the programming, interviewees pointed to emerging successes in terms of strengthening community policing and mediation systems and also easing intercommunal tensions between host and refugee groups, given the interlinked approach by the UN agencies in and outside of the camps.

Funding environment

Joint rule of law work in the Bangladeshi context also comes with challenges, in particular at the interface of humanitarian and development actors and their funding realities. Despite the vision of a 'One UN' approach and the humanitarian-development nexus, the donor landscape remains rather divided between the two areas (i.e. there being different donors for humanitarian versus development initiatives, where separate budgets and projects come with separate timeframes, which are naturally shorter for humanitarian responses as opposed to longer-term development work).[78] Additionally, the funding environment for Bangladesh in recent years has come to prioritize quick impact projects and shorter-term disaster responses (also given increased needs arising from climate change impacts and refugee crises), which does not bode well for comprehensive rule of law programming that requires several years of engagement.[79]

Health, humanitarian, or environmental crises

In terms of crises, the existing UN rule of law programming in Bangladesh is taking place in a context of high humanitarian and environmental risks that can severely hamper progress both on the rule of law and broader development. All stakeholders in Bangladesh – government actors, humanitarian and international actors, beneficiaries and the broader population – are consistently faced with the risk of climate-driven natural disasters such as cyclones or flash floods, which can uproot communities, destroy infrastructure, and annihilate development progress. Recent incidents of landslides or major fires in refugee camps, too, underline the fragility of this context. Additionally, the COVID-19 pandemic has hampered or stalled the rollout and implementation of new programming, restricted the movement of humanitarian staff in the refugee camps, and exacerbated socioeconomic and social grievances across the country. While the UN's e-justice work in Bangladesh has been exemplary of swift and efficient crisis responsiveness, COVID-19 remains a big challenge across the country.

6. Lessons and recommendations

Deriving from this analysis and the expert interviews conducted, the following lessons can inform UN actors and other stakeholders in other settings who seek to improve their rule of law interventions.

- **Work on speeding up justice processes.** Overstretched or inefficient justice systems with a high backlog of cases can reinforce a climate of impunity and undermine social cohesion as the number of unresolved disputes rises. The UN's COVID-19-related e-justice work in Bangladesh has shown how streamlining justice processes, in this case via swift digitalization, can help reduce tensions by resolving more cases in less time, improving access to justice in remote areas, and reduce prison populations, which is especially crucial in notoriously overcrowded prison systems such as Bangladesh's. Interviewees also pointed to the need to improve case management systems to speed up the justice process.

- **Go local.** In Bangladesh, community-based and victim-centred approaches (such as supporting local dispute resolution via the Village Courts system, community-based mediation, or enhancing police-community relations) have proven effective in reducing tensions at the local level. Such programming is particularly crucial to improve participation in dispute resolution mechanisms and access to justice for vulnerable groups, especially women. It can also help ensure that programmatic responses are based on accurate needs assessments by incorporating communities' perspectives on security and prevention issues.

- **Keep small-scale initiatives going when the broader political environment is not conducive.** Local, smaller-scale approaches also serve to keep some momentum on the rule of law front in settings where the broader political climate does not allow for more comprehensive measures. Starting small and building up engagement incrementally also helps build trust with stakeholders. In Bangladesh, the success of single initiatives led to further openings, as evidenced by the expansion of the community safety and security approach to additional refugee camps and host communities, as well as the broader digitalization agenda that followed the positive results of UNDP's COVID-19-related e-justice work.

- **Improve legal aid.** Legal aid is an essential element of a functioning justice system that ensures fundamental fairness and public trust in the justice process. The most effective means of reducing pre-trial detention and ensuring adequate redress for crimes

is to provide persons with access to competent lawyers at the earliest possible stage of the criminal justice process. This is especially crucial for rural, impoverished people and other marginalized groups, especially women. Supporting legal aid case referral mechanisms and building the capacity of legal aid organizations (including by digitalizing their services), as the UN does in Bangladesh, are important action steps in this regard. Further, the introduction of pre- and post-case mediation services can help reduce the caseload in the formal courts.[80]

- **The value of joint programming.** In Bangladesh and other settings, joint UN approaches on the rule of law have often proven effective and can facilitate cross-learning between agencies. In Cox's Bazar, UNHCR and IOM and mirroring the approaches that UNDP is implementing in host communities, while the project

also allows for interlinked approaches to start dialogues and coordinate prevention responses between the host and refugee communities. However, more resources are needed to adequately implement this approach across all Rohingya camps and relevant Unions in the Cox's Bazar District.

- **Work on land issues.** Competition over access to land is a major driver of tension in Bangladesh and other settings. Oftentimes, the UN is not adequately mandated or resourced to address this issue comprehensively. In light of the influence that land disputes have in driving risks across various settings, the UN should systematically ramp up its engagement in this space, e.g. through more comprehensive mandating and fostering local-level mediation mechanisms.

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46. Interviews, 12 and 21 January 2021.

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48. UNDP has been training mediation volunteers at the subdistrict- and Union-level to resolve petty civil and criminal disputes in communities – a crucial form of (alternative) dispute resolution amidst Bangladesh's overstretched formal justice system. Interview, 21 January 2021.

49. Interview, 25 March 2021.

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51. 1,600 APBn forces are currently deployed in the Cox's Bazar refugee camps. This civil-military force is operating like a civil police force (patrolling and being able to arrest and detain suspects); it cannot, however, file a case and conduct investigations. For these, the APBn needs to refer the cases to the district police outside of the camps. Interviews, 21 January and 4 March 2021.

52. Interview, 21 January 2021.

53. Interviews, 21 January 2021.

54. UN Women helped strengthen the capacities of the RRRC Officials, the CiC, the police and legal aid providers via trainings on the issues of gender-responsive humanitarian action, women's empowerment and their role in decision-making, including in cases of violence against women and trafficking. UN Women is also engaging in awareness campaigns and community mobilization activities to sensitize communities on protection services and access to justice for Rohingya refugees who have been victims of violence or trafficking. These efforts, according to an expert consulted, are helping strengthen the referral mechanisms between CiCs, legal aid providers and the police based on stakeholder consultations. Interviews, 21 January and 9 May 2021.

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