

Final Report

Documenting Gender-Based Violence Cases for determining concerted response

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Executive Summary

The main objective of this formative research was to explore issues related to gender-based violence (GBV) among gender-diverse populations (GDP) communities in Bangladesh in order to deliver recommendations to inform the design of future GBV interventions. Specific study objectives were as follows:

Objectives of the Study

1. To explore the nature and degree of GBV that the GDPs, ethnic minorities and Rohingya communities have been encountering.
2. To analyze how GBV against GDPs have been received by the societies, laws, and policies.
3. To analyze existing laws against rape and sexual harassment and violence and identify the gaps that exist for developing Advocacy Brief.
4. To recommend future program interventions and suggest ways to include GBV related activities into existing programs.

A qualitative study was conducted using 1) focus group discussions (FGDs) among the GDPs as well as; 2) in-depth interviews (IDIs) with community people and stakeholders representatives from community-based organisations; law enforcement officers; health service providers; legal service providers; stakeholders of different INGOs. Data collection for this study was conducted at two sites in Bangladesh: 1) Dhaka and 2) Cox's Bazar.

The study divided violence-related data into four sub themes: a) physical violence, b) sexual violence c) psychological violence and finally d) economic violence. Since the identity of the non-binary people is not homogeneous, participants' sexual orientation and gender identity have been given the importance to fathom the diversity of the data.

In the study, we found that 50% of transman and 75% transwoman experienced physical violence for numerous times. Even some of them shared that they discovered their GDP identity through the violence committed towards them. 40% gay and cross dressers encountered physical violence more than five times whereas 20% of the lesbian experienced the same. However, it was an interesting finding that among the lesbian respondents, 20% did not face any physical violence. In terms of intersex person, 60% of them faced physical violence for countless times. 33% pan-sexual and 80% Rohingya GDP also experienced violence for countless time while 20% bisexual and 20% Rohingya GDP have been subjected to violence for more than ten times. 20% MSM, 40% MSW and 29% Rakhine indigenous women faced physical violence.

When we asked the participants about the nature of violence they have encountered, they have made a list. And it is easily understood that they did not disclose all of the nature of physical violence as they had their own censorship strategy. However, according to them, all the Rohingya GDP participants experienced all types of physical violence listed for the study. The nearest 65% of the transwomen also stated that they encountered all forms of physical violence too and 60% of the intersex and 20% cross dresser also experienced all types of violence.

Family members have been identified as the first preparators of violence in most of the cases. In the study, we found that 90% transmen faced violence from the family members whereas 40% transwomen encountered violence from all categories of perpetrators. The highest number of intersex persons (75%) experienced violence from the family members and for cross dresser it stood at 60%. For MSM 40% of them had the memory of violence by the relatives and in the case of pansexual it was 33% who faced violence from the family and the equal percentage was from

neighbours and known/unknown persons. 50% of the bisexual participant in the study experienced it by the known/ unknown persons but they did not want to disclose the identity of the perpetrators. However, for the Rohingya GDP, it was all about the local leaders (in the camps) who committed physical violence against them. And for the Rakhaine participants, 75% of them complained that they faced physical violence in many occasions by the known and unknown persons. Yes, most of the participants in the study in each group never asked for any justice and did not go anywhere for seeking justice for the violence they have come across. Like none of the transmen, gay, lesbian and Rohingya GDPs ever went to any places or individuals/ groups to get justice. 75% inter sex persons also did not go anywhere to demand justice against the physical violence they had gone through.

The study revealed that 45% transwomen, 60% intersex and Rohingya GDP faced sexual violence whereas it stood at 30%, 40% and 20% for the same three groups respectively who experienced the sexual violence more than ten times. 40% lesbian participants had this experience for about five times and 40% bisexual also met the experience of sexual violence. Family members, neighbors, relatives, gurus, local leaders, partners, political leaders were identified as the perpetrators by the 20% transwomen. The findings discovered that a significant number of participants became victim to sexual violence by the unknown/known people. 40% transmen and lesbian and 50% pan sexual and MSM faced sexual violence by the relatives. 25% Gay and bisexual and 33% crossdresser also suffered sexual violence by neighbors. 70% Rohingya GDP experienced sexual violence by local leaders inside the camps. Like the physical violence, all transmen, Gay, intersex, crossdresser, Rohingya GDP never went to any places to seek the justice against the sexual violation they encountered. 60% transwomen, 6% lesbian, 50% pansexual and MSM also did not ask for any justice. It was noticeable that participants opined that they felt comfortable to share their experiences to the civil society as they consider them better compared to law enforcing agency.

The study found that all the participants of the study had gone through severe psychological violence which led trauma, anxiety, sleeplessness, stressed, and thought of committing suicide. Along with physical, sexual and economic violence, mental stress also has had an effect in the lives of the GDPs in Bangladesh. Almost all of them faced continuous ignorance, stigma, avoidance by the family members, and relatives. They also encountered countless teasing at home and in public places which put them down mentally. It also hampered their motivation to do any work. In the FGDs and IDIs, most of them opined that they could not continue schooling due to the teasing, and harassment done by classmates, teachers and others. In most of the cases, they were treated as a curse in the family.

60% transwomen and the same percentage of inter sex participated in the study informed that they faced all forms of economic violence. However, 80% Rohingya GDPs opined that they experienced all in their lives. All the participants complained that their money had been snatched by others and most of the participants except Rohingya GDPs stated that their parents refused to invest money on their education when they found that they were 'hijra' and have non-binary sexual orientation. One cross dresser participant shared his story of land grabbing. On the other hand, 40% bisexuals also were denied their hereditary property. 80% Gay and same percentage lesbian pointed out that their family members created financial violence for them whereas 66% pan sexual, 60% crossdresser and 60% bi sexual also claimed that their family members deprived them economically. 40% cross dresser also complained that the political leaders took a share of their income by threatening them that otherwise they would disclose their identity to other if they do not give him money. In the study we found that the transmen and Rohingya GDPs never had gone

anywhere to ensure justice. The ratio is more than half (60%) for Gay, lesbian and MSM who also never demanded justice for the violence that they encountered. But it was also a significant finding that participants feel comfortable to share their experiences with the civil society. 28% Rakhine also never asked for any justice as they could not believe that they would get any justice. Among the groups belonging to LGBTQI platform, the transgenders are found to go many places to seek justice, regarding the land they inherit.

There is no such specific law or policy in Bangladesh to prohibit or ensure protection against discrimination based on non-binary gender, sexual orientation, caste, religion and so on. Though the government of Bangladesh accepted the 'hijra sex', existing laws do not recognise GDP and the people having different sexual orientation. And therefore, without legal protection, stigmatization, harassment and violence against GDPs and persons with different sexual orientations continue and there is no scope of getting justice. It is very difficult to solve the cases filed by GDP as existing laws are not enough to handle their cases. For example, the term person does not indicate out of male and female binary in the laws. Then we cannot use other term than the two existing male and female category. Furthermore, we have metropolitan laws, if anyone shows any vulgar gestures in the public place, is treated as a punishable offence. And most of the Hijras have different gesture than the male and female. Therefore, sometimes, they are arrested due to their gesture. But it is not their problem or intended acts. Thus, the experiences of violence against GDPs remain undocumented and they are far away from getting justice for any of the violence that they come across. Even their social justice is yet to be ensured.

Considering the ongoing legal and policy barriers to working with and delivering services for GDPs in Bangladesh, the participants recommended many important issues based on their experiences of gender-based violence about the restructuring of legal policies and frameworks. In the FGDs participants suggested that laws related with the gender-based violence which now focus only on women should be broaden enough to accommodate all GDPs and persons belong to LGBTQ platform.

Participants in the study also opined that all NGOs should also include GDPs and persons with different sexual orientation in the gender-based violence theme and count their narratives of different types of violence that the GDPs have gone through and never had the space to demand justice. Like in Cox's Bazar, the coalition for Hamartian Alliance also incorporated Rohingya GDP in the gender hub. Therefore, it is now a timely work to incorporate the issue in the all-gender units of all National and Internal organisation working in Bangladesh and diverse approaches are needed to develop the program to stop gender-based violence. Before developing the approaches, clear understanding of sexuality, sexual orientation and gender diversity are necessarily needed to define and contextualise in an academic and discursive way. There should not be any misconception about the issue when it is incorporated in the analysis of gender-based program.

In the interviews, the lawyers opined that the article 377 should be repealed. Article 54 also needs to be revised. One of the lawyers told that when the law refers to a person, it indicates a male or a female only. It also needs to get corrected as we have GDPs in our country. In addition to that he suggested that metropolitan police laws also need to be revised.

In the FGDs and IDIs, the different stakeholders suggested the issue of extra effort to ensure the implementation of existing laws on violence where it will embrace police support for the anticipation of GBV through training/educating on GDPs' human rights and their important roles in shielding those rights, predominantly in the places or spaces where laws are helpful and well formulated.

The participants also made some other strong recommendations. They opined that when discrimination will be decreased and their rights will be acknowledged then only gender-based violence on them will be lessened. If their rights are not recognised, then violence on them will not be accepted as a crime.

They also feel that they need to know enough information on human rights. It can be achieved through strengthening community cognizance, outreach and armament efforts in raising awareness of GDPs, informing GDPs about their rights and advising them on how to work out with those rights to develop their life standards.

Inclusion of GDP in the existing GBV programs also requires the training of lawyers, doctors, police on sexuality, gender diversity and sexual orientation. When we talked with a religious leader, he informed us that in the Sariah Law, there is provision for the transgender people to inherit property. Since the transgender people struggle a lot to regain the rights on the inheritance property, religious leaders also need to be incorporated when GBV approaches are reformulated.

Political leaders and representatives of local government should be incorporated in the GBV programs. They are the important stakeholders to introduce the new approaches to the people in local to national level.

List of the acronyms

FGDs: Focus Group Discussions.

GBV : Gender Based Violence.

GBVH: Gender Based Violence and Harassment.

GDPs: Gender Diverse Populations.

HIV: Human Immunodeficiency Virus

IDIs: In-Depth Interviews

LGBTQ: Lesbian, Gay, Bisexual, Transgender and Queer

MSM: Men who have Sex with men.

MSW: Male Sex Worker

NHRC: National Human Rights Commission

UNHCR: United Nations High Commissioner for Refugees

USAID: United States Agency for International Development

1.1 Background and Rationale

According to the United Nations High Commissioner for Refugees (UNHCR), gender-based violence refers to harmful acts directed at an individual based on their gender¹. But this gender neutral and liberal definition of Gender Based Violence (GBV) have been mostly confined to male and female due to the binary mind set and existing interpretation of law in Bangladesh. Therefore, GBV is commonly imagined as an issue which has affected mainly women and girls². However, a United States Agency for International Development (USAID) report³ exemplifies that stigma, discrimination and violence are also associated with Gender Diverse Populations (GDPs) because they gainsay social gender roles. These kinds of violence are originated of groundless fear of gender diverse phobia and perpetuate ongoing sexism. Therefore, this display of violence toward GDPs can also be included a form of gender-based violence.

We should know that gender-based violence and harassment (verbal, physical, economic and sexual) can constitute a serious violation of human rights. Unfortunately, most of the cases GBV covertly mention only to the violence experience of cisgender, heterosexual women, which often excludes GDPs. And in most of the cases, the perpetrators who commit violence against persons belong to gender nonconformity, gender expression or identity, and assumed sexual orientation. Therefore, these forms of violence should be considered within the accepted discourse of GBV⁴. Gender-based violence and harassment (GBVH) comprises domestic and intimate partner/sex partner violence, violence due to dowry, acid attacks, rape, and nuisance and so on⁵. Nowadays, violence against GDPs is also testified by various podia. The GDPs still are excluded from the laws and protection to address violence against persons⁶. Existing laws and policies in Bangladesh to address violence are biased towards gender conformity and heterosexuality.

¹ <https://www.unhcr.org/gender-based-violence>

² IGWG of USAID. Addressing Gender-based Violence through USAID's Health Programs.. Second Edition ed. Washington, D.C.; 2008

³ Betron M, Gonzalez-Figueroa E. Gender Identity and Violence in MSM and Transgenders: Policy Implications for HIV Services. Washington, DC: Futures Group, USAID; 2009.

⁴ Andrea L. Wirtz, Tonia C. Poteat, Mannat Malik, Nancy Glass (2020) Gender-Based Violence Against Transgender People in the United States: A Call for Research and Programming

⁵ Kazi Tobarak Hossain and Md. Saidur Rashid Sumon, "Violence against Women: Nature, Causes and Dimensions in Contemporary Bangladesh", Bangladesh e-Journal of Sociology 10, No. 1 (2013), 79–91

⁶ Taslima Yasmin, "Sexual Violence in Bangladesh: Addressing gaps in the Legal Framework", Dhaka University Law Journal 28 (2017), p. 109

Though generally denoting to violence committed by men against women, gender-based violence labels any violence entrenched in gender focused power relation and gender-based discrimination⁷. The GDPs do not match with internal sense of expected gender identity and they are at risk of GBV as they signify an encounter to the socially expected gender norms, roles and sexual orientation. Surveys and accessible data exemplify a high degree of GBV that the GDPs face across the universe. Survey conducted in the middle and high school students in the United States in the year of 2009 reveals that 64 percent of students belonging to Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) reported being verbally harassed, 27 percent faced physical harassment, and 13 percent were physically assaulted at school due to their gender and sexual expression and orientation⁸.

Bangladesh's gender diverse population (GDP) community colloquially referred as 'hijra' (a result of a popular misconception, shared by the state as well, that dilutes sexual variations under this single term which is synonymous to transwoman) had been neglected for decades. Still, such a limited definition misleads the understanding of these persons. Though creating a separate identity for them was an attempt to mainstream them and to advance their social and legal rights for their own welfare, the misconceptions about their identities and an absence of economic and political rights of such persons are not encompassing pluralistic sexual expressions and may lead to more discriminatory treatments and vulnerabilities. In addition to that, in the past decade, data on such violence and its relationship with mental health issues and Human Immunodeficiency Virus (HIV) risk behaviours among GDPs have been limited. And these people with various sexual orientations are deprived of their fundamental rights and become victims of violence, social prejudices, injustice and discriminations. The GDP, therefore, remains hidden in order to maintain their privacy and safety. But when their gender identity is exposed, they are openly bullied and tortured.

However, sexual aggression against these groups often remains as a secret that is usually denied by both the perpetrator and the victim. Unfortunately, even the government, NGOs and human

⁷ Gender Secretariat, Department for Democracy and Social Development, Sida, "Action Plan for Sida's Work Against Gender-Based Violence 2008–2010" (August 2008), accessed at <http://webapps01.un.org/vawdatabase/uploads/Sweden%20-%20Attachment%205%20Action%20Plan%20for%20Sidas%20Work%20Against%20Gender-based%20violence.pdf>, on Nov. 17, 2011.

⁸ Joseph G. Kosciw et al., *The 2009 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, and Transgender Youth in Our Nation's Schools* (New York: GLSEN, 2010).

rights bodies consider that violence a controversial and taboo topic. Yet, every now and then a story comes out and sends shockwaves through the society. However, the only data we have from the study of Bandhu's Baseline Survey on Human Rights Violation and Socio-Economic Conditions of Sexual Minorities in Bangladesh -2015), where they found that 42.2% of the gender diverse population were the victims of rape, 26.1% gang-rape, 55.3% physical torture and 63.3% faced police arrest due to their gender identity. Even there is no data on Gender-Based Violence against GDPs in the ministry of Women and Children Affairs.

Although efforts to document and contest GBV within the GDPs have commenced, a lot of work needs to be done. Hence, interventions to respond to and prevent GBV inflicted to GDPs needs to be developed and applied at multiple levels: individuals and families, communities, and governments. Silence or being muted is one of the main hindrances to combating GBV against the GDP community. GDPs generally do not report crimes carried out against them and, even if crimes are testified, police overlook GDP victims. In contrast to that, relevant information, safe spaces, security, and full support are needed if GDP victims are to be encouraged to report GBV. Additionally, mechanisms/tools should be placed to assist any victim of GBV to ensure the justice and amend the existing laws and policies that continue discrimination and violence.

Opposing the issue of GBV against GDPs will not only ensure the rights and safety of GDPs but will also work towards larger goals of gender equality and elimination of all forms of gender-based violence. Again, reducing the stigma and taboos surrounding GDPs is a grave phase to ensuring human rights and contesting gender-based violence in general⁹.

Hence, the lack of systematic research on above issues leads us to undertake such a research that would contribute to reshaping the law and help to ensure social and legal justice against the violence faced by GDPs, ethnic and Rohingya communities living in Bangladesh.

Therefore, the main objective of this study was to conduct formative research to explore issues related to gender-based violence among GDP communities in Bangladesh in order to deliver recommendations to inform the design of future GBV interventions. Specific study objectives were as follows:

⁹ Gilles, K (2011) <https://www.prb.org/gender-based-violence-transgender/> last seen 1/5/2021

1.2 Objectives of the Study

- To explore the nature and degree of GBV that the GDPs, ethnic minorities and Rohingya communities have been encountering.
- To analyse how these have been received by the societies, laws, and policies. To analyse existing laws against rape and sexual harassment and violence and identify the gaps that exist for developing Advocacy Brief.
- To recommend future program interventions and suggest ways to include GBV related activities into existing programs.

1.3 Methodology

The study was designed in such a way that it would unmake the opinions of different stakeholders and other social coinages. A mix of different qualitative research techniques, along with literature/document review were used for the study. These methods were used for collecting explanatory data to understand the relationships and contribution of the relevant stakeholders.

1.4 Secondary Data

The primary sources of secondary data used in the study were the current national policies, declaration and legal instruments of instant relevance to the study as well as available materials and resources on violence against women and children. In addition to it, secondary data covered international and regional rights instruments related to various human rights, law, legislation developed against violence against GDPs, ethnic and Rohingya communities in South Asia.

1.5 Primary Data

Numerous data collection methods in social sciences were used in the study to collect the qualitative information.

1.6 Study Design

A qualitative study was conducted using 1) focus group discussions (FGDs) among the GDPs as well as; 2) in-depth interviews (IDIs) with community people and stakeholders' representatives from community-based organisations; law enforcement officers; health service providers; legal service providers; stakeholders of different INGOs. Data collection for this study has been conducted at two sites in Bangladesh: 1) Dhaka and 2) Cox's Bazar.

1.7 Sample

Since the research team respects the self-declaration of sexual orientation and gender identity of person, the number of the GDPs from each category was not predetermined.

1.8 Study participants

All study participants were aged 18 years or older. Participants also self-identified as the member of the GDP community. However, with in the box of GDP, the study accommodated 12 categorises (list given below) of people belonging to LGBTQI platform.

Purposively sampling method was used to ensure that it would be easy for them to deliver in-depth and relevant information on the research topic spheres.

The approach of the study is multi-sited, discursive, grounded in a qualitative methodology (focus group discussions, in-depth interview and participant observation) and is based on 10-day fieldwork from January 20 to January 30 in the Cox's Bazar and Dhaka.

Table -1: Participants from Dhaka

Identity	Place	Number
Transwomen	Dhaka	12
Transmen	Dhaka	10
Gay	Dhaka	5
Lesbian	Dhaka	5
Bi Sexual	Dhaka	5
Cross Dresser	Dhaka	5
Intersex	Dhaka	20
Pan sexual	Dhaka	3
MSM	Dhaka	5
MSW	Dhaka	5

Selection process of the Informants:

Since the nature of the study is very sensitive and it was our attempt to place as much diversity as possible, we tried our best to get the GDPs (with various identities) involved in this study. We wanted to see which groups experienced much violence and what were the nature of violence that each group has been encountering. However, the number of the participants of some groups were tiny as some of them did not want to disclose themselves for many reasons. Therefore, the study

reached only them who were available and gave permission to talk. Hence it may not be a proper sample size to make a comparison among the groups.

Table 2: Participants from Cox’s Bazar

Identity	Place	Number
Transwomen (host)	Cox’s Bazar	8
Rohingaya GDP	Cox’s Bazar	10
Rakhaine	Cox’s Bazar	7

Apart from them, two lawyers, two religious’ leaders, one Member of Parliament, two civil society members, two NGO officials, two activists and two representatives of INGO in the Cox’s Bazar have been interviewed.

1.9 Data Collection

Interviews and focus group discussions were conducted in Bengali, Rohingya and in Chittagonian dialects. Interviews and FGDs were guided by semi-structured question guides with open-ended questions and suggested probes. Data collection was carried out by consultants.

1.10 Focus Group Discussions (FGDs)

FGDs were conducted among GDPs in the above mentioned two field areas, with a maximum of eight participants per FGD due to the Corona crisis. These FGDs allowed to initiate discussions among GDPs. It needs to note down here that each FGD lasted from 2 to 2.5 hours, and all participants gave verbal consent to conduct the FGD session.

FGDs were conducted according to a guideline prepared for the FGD which included research topic domains.

1.11 In-Depth Interviews (IDIs)

In-depth interviews were conducted with key informants, a category of participants which included community stakeholders from GDPs; representatives from community-based organisations who work with these populations; law enforcement officers; health service providers; legal service providers, key local policy makers and donors. 36 IDIs were conducted for the research. However, due to Covid situation, in addition to taking interview in person, interviews were conducted through mobile phone, skype, Whatsapp, Viber and Facebook calling. Each IDI lasted between 1 and 1.5 hours, and all interviews were done with the participant consent.

1.12 Survey

To understand and identify the types and level of violence, frequency, sexual orientation and gender identity of perpetrators, the study conducted a survey among 100 persons from different sexual orientation and GDP from Bengali and Rohingya communities.

1.13 Case Study

In addition, the research conducted six case studies among different groups (2 transwomen, 1 cross dresser, 1lesbian, 1 transman and a pansexual).

1.14 Participant Observation

Participant Observation will be used as another method to get the data.

Table 3: Geographical coverage and expected coverage

Geographical Coverage	Representation of groups
<ul style="list-style-type: none"> Dhaka 	<ul style="list-style-type: none"> Bengali GDPs
<ul style="list-style-type: none"> Cox'sBazar 	<ul style="list-style-type: none"> Rohingya Rakhaine Bengali

1.15 Research Ethics

The basic demographic information such as age, education, marital status, and occupation were collected for all participants in this study using a demographic questionnaire added to the main questionnaire survey. The names, address and contact/mobile information of the participants were collected with their consent . However, the pseudonyms were used in the report instead of original names. Orally informed consent was obtained from each participant prior to the IDI or FGD and survey. The study team were very concerned about the personal security of the participants. Therefore, FGDs and IDI (in person) were conducted in the mentioned places with the help of the participants. All participants in the study were properly briefed about the objectives and output of the study prior to the discussions.

The researcher has taken ‘do no harm’ approach, so that the research might not cause any participant to experience further harm, including not causing the participant further trauma. All questions were asked sensitively, in a supportive and non-judgemental manner.

Stakeholders: The project was conducted with GDPs, ethnic and Rohingya communities, Ministry of Children Affairs, Ministry of Social Welfare, Ministry of Law and activists and NGOs.

1.16 Output of the Study

1. A scope for Policy advocacy is created to amend existing laws and polices dealing with GBV that respond to GDP issues.
2. Identified the GBV case study documentation process and techniques in relation to GDP
3. An advocacy brief is developed on tackling GBV against GDP for a wide range of audience.

1.17 Workplan and Field Work Strategy

The data collection team for the study consisted of two teams. Each team was comprised of three persons: two research assistants (one male and one female) and in one of the researchers, both of whom were women. The zones were divided between the teams and each of the teams needed ten working days to conduct the data collection process.

Limitation of the study

As it is very challenging to work in field of LGBTQI due to the security reasons, the study was able to reach 100 people belonging to LGBTQI. However, we could not interview the target number of the GDPs due to the ongoing pandemic. And number of the participants from all groups were not equal. It was difficult to get interview of Lesbian, Gay, Cross dresser, Pan sexual, Bi Sexual due to the security reason. Hence we admit that the study has some limitations.

Chapter 2 Nature of Violence

Violence is also an intricately layered phenomenon where each participant, each witness to violence, brings their own perspective and techniques of the violence they face. Mehta (2000:103)¹⁰ explains how local structures of feeling are generated to sustain the potential for violence, while Das (2000)¹¹ similarly shows the heterogeneity of these local structures of feeling and the potential for a different stance toward violence contained in everyday life. Therefore, to find the everyday form of violence, the study first looked into the previous researches and tried to make an overview of them to catch the gap and finalise the questionnaire for FGD and IDIs. Researches¹² show that the GDP persons have been the victims of different types violence and harassment in Bangladesh but their narratives of experiences of violence have rarely been documented and reported to get justice.

The study divided data of violence that the GDPs encountered into four sub themes: a) physical violence, b) sexual violence c) psychological violence and finally d) economic violence. Since the identity of the non-binary people is not homogeneous, participants' sexual orientation and gender identity have been given the importance to fathom the diversity of the data.

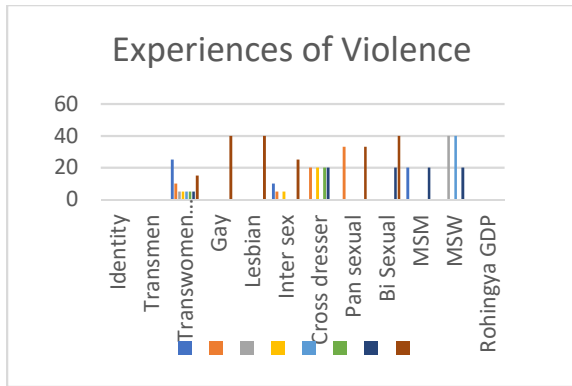
2.1 Physical Violence

Graph-1: Experiences of Violence

¹⁰ Mehta, D. (2000) "Circumcision, Body, Masculinity: The Ritual Wound and Collective" in Veena Das et al., eds. *Violence and Subjectivity*. Berkeley and London, University of California Press.

¹¹ Das, V. (2000) "The Act of Witness: Violence, Poisonous Knowledge and Subjectivity" in Veena Das et al. *Violence and Subjectivity*. Berkeley and London: University of California Press.

¹² Human Rights in Bangladesh. Rights of Sexual Minorities. 2008. Available from: http://www.askbd.org/hr_report2008/22_Sexual.pdf, last seen 26 March, 2021. Khan SI, Hussain MI, Parveen S, Bhuiyan MI, Gourab G, Sarker GF, Arafat SM, Sikder J. Living on the Extreme Margin: Social Exclusion of the Transgender Population (Hijra) in Bangladesh. *J Health Popul Nutr*. 2009; 27(4).



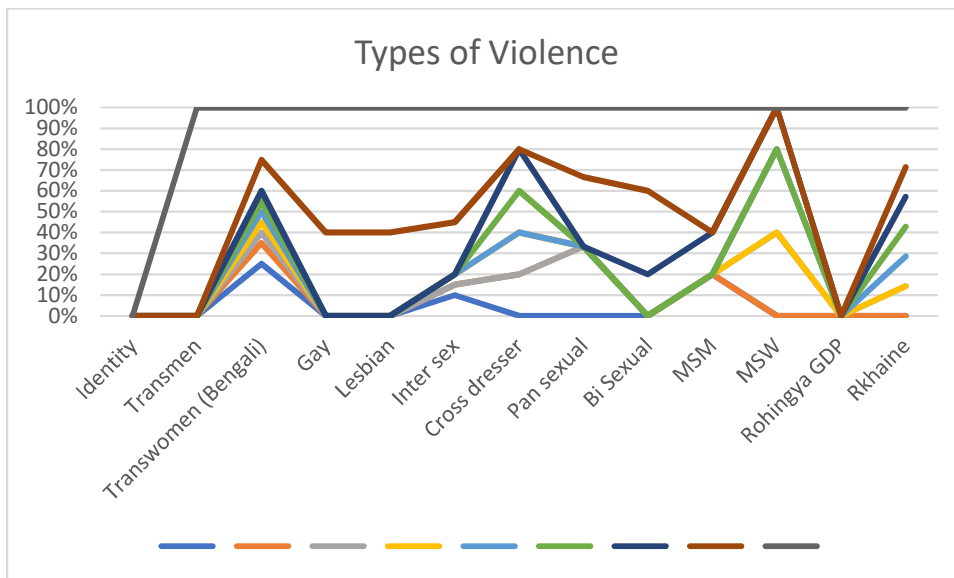
In the study, we found that 50% of transman and 75% transwoman experienced physical violence for numerous time. Even some of them shared that they discovered their GDP identity through the violence committed towards them. 40% gay and cross dressers encountered physical violence more than five

times whereas 20% of the lesbian experienced the same. However, it was an interesting finding that among the lesbian respondents, 20% did not face any physical violence. In terms of intersex person, 60% of them faced physical violence for countless time. 33% pan sexual and 80%

Rohingya GDP also experienced violence for countless time while 20% bisexual and 20% Rohingya GDP have been subjected to violence for more than ten times. 20% MSM, 40% MSW and 29% Rakhaine indigenous women faced physical violence (for in details please see table 1)

2.2 Types of physical violence

Graph-2: Types of physical violence



When we asked the participants about the nature of violence they have encountered, they have mentioned a list. And it is easily imagined that they did not disclose all of the nature of physical

violence as they had their own censorship strategy. However, according to them, all the Rohingya GDP participants experienced all types of physical violence listed for the study. The nearest 65% of the transwomen also stated that they also encountered all forms of physical violence and 60% of the intersex and 20% cross dresser also experienced all. The next highest categories of the physical violence that the participants have come across was beating and slapping. 66% pansexual persons faced beating whereas 40% of the cross dresser and MSM have had the experiences. It is an interesting finding that all participants of the study (who have experiences of violence) faced the violence of slapping (for details please see the annex). 43% Rakhaine participants encountered the threats of physical violence (for details, please see table -2 in the annex).

It was revealed in the study that the transgender people have been victimized of violence more often than the other categories due to their gesture, movement and their traditional profession of collecting money. Usha, a transwoman from Dhaka stated,

‘We cannot hide ourselves, people can easily recognise us by our gesture, voice etc. Therefore, we can easily become target for physical violence. Generally, people do not accept non-binary people. Other people can hide them. They will not be target of physical violence if they do not disclose their identity. We become victim of physical violence everywhere. If we go to the hospital and wait in the queue, people do not allow us to be in the queue with them. They push us, kick us, punch us and scold us. Therefore, being victim of physical violence is the everyday violence for us.’

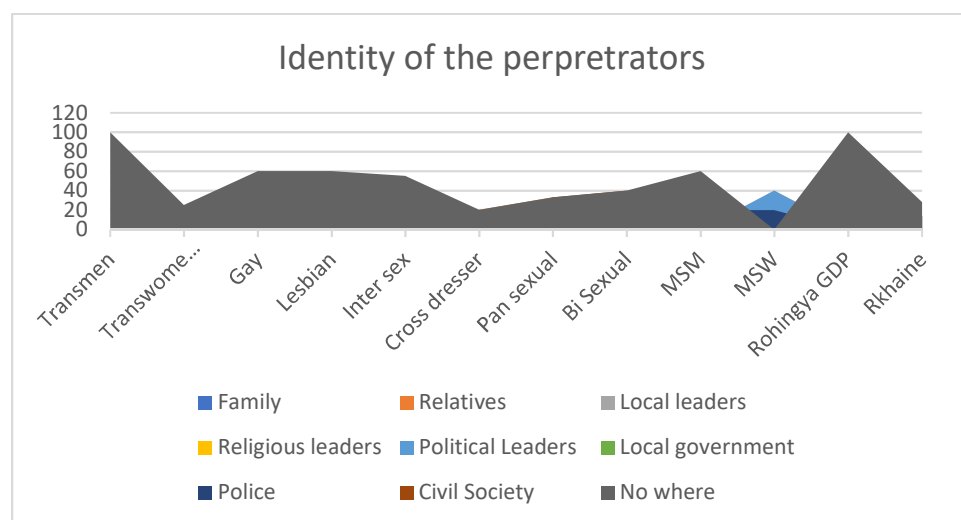
It was observed in the FGDs’ that the participants replied to the questions related to violence as if it is a part of their everyday lives and they accept it casually. Hence, in this study I examine GDPs

perspectives on everyday forms of violence drawing from scholars [Das (1996¹³, 2000¹⁴), Scheper-Hughes' (1992)¹⁵ and Mookherjee (2015)¹⁶], who don't treat violence as an exception.

2.3 Identity of the perpetrators

In the study, the participant identified a varied array of perpetrators of gender-based violence, from own's family, relatives, partners to local and political leaders, neighbours to the police who are primarily responsible to ensure human rights of the GDPs people in the family and public spaces.

Graph-3: Identity of the perpetrators



Family members have been identified as the first preparators of violence in most of the cases. In the study, we found that 90% transmen faced violence from the family members whereas 40% transwomen encountered violence from all categories of perpetrators. The highest number of intersex persons (75%) experienced violence from the family members and for cross dresser it stood at 60%. For MSM 40% of them had the memory of violence by the relatives and in the case

¹³ Sexual Violence, Discursive Formations and the State 91996), conomic and Political Weekly Vol. 31, No. 35/37, Special Number (Sep., 1996), pp. 2411-2413+2415-2418+2420-2423 (11 pages).Published by: Economic and Political Weekly

¹⁴ Das, V. (2000) "The Act of Witness: Violence, Poisonous Knowledge and Subjectivity" in Veena Das et al. Violence and Subjectivity. Berkeley and London: University of California Press.

Scheper-Hughes, N. & P. Bourgois (2004) Violence in war and peace: an anthology

¹⁵ Scheper-Hughes, N. & P. Bourgois (2004) Violence in war and peace: an anthology. Malden, Mass, Blackwell.

¹⁶ Mookherjee (2015) The Spectral Wound: Sexual Violence, Public Memories, and the Bangladesh War of 1971. Forward by Veena Das. Durham, N.C, Duke University Press.

of pansexual it was 33% who faced violence from the family and the equal percentage was from neighbours and known/unknown persons. 50% of the bisexual participant in the study experienced it by the known/ unknown persons but they did not want to disclose the identity of the perpetrators. However, for the Rohingya GDP, it was all about the local leaders (in the camps) who committed physical violence against them. And for the Rakhaine participants, 75% of them complained that they faced physical violence in many occasions by the known and unknown persons. But they were also reluctant to disclose the identity of the perpetrators to avoid the further consequences. (for details see table 3 in the annex).

Why people target them and commit physical violence against them so easily? What is their perceptions? In replying to these questions, participants in FDGs and IDIs explained in the way:

‘It could be that perpetrators think that we are different. Therefore we are not the part of the their community’ and none would protest if they beat us or do any physical torture. They think that we are powerless people, we can’t take any legal or social action against them as they are powerful through their binary identity’.

On the other hand, a report prepared by the Sexual Rights Initiative specifies that there has never been a case lodged under section 377. However, it has been primarily used to bully and harass LGBTQI communities¹⁷.

2.4 Seeking Justice

Yes, most of the participants in the study in each group never asked for any justice and did not go anywhere for seeking justice for the violence they have come across. Like none of the transmen, gay, lesbian and Rohingya GDPs never went to any places or individuals/ groups to get justice. 75% inter sex persons also did not go anywhere to demand justice against the physical violence they have gone through. 29% Rakhaine also never went to anywhere to receive justice as Uching

¹⁷ Sexual Rights Initiative. Report on Bangladesh - 4th Round of the Universal Periodic Review. February 2009 [cited 2010 Jun 7]. Available from: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/BD/SRI_BGD_UPR_S4_2009_SexualRightsInitiative_JOINT_upr.pdf 27).

may Rakhine said, ‘We know that we will never get justice as we are minority in the country. Police, court will not listen to us. When they see that we are not Bengali then they don’t want to listen to us. If the perpetrator is Bengali, then there is less chance to get the justice.’ Lipika, 29, a lesbian, shared, ‘I know there is no justice for me in the existing laws, so why should I go there? In addition, people will get to know my identity and my harassment will be increased instead of getting justice. Therefore, I decided not to demand any justice until the laws will be changed.’ 33% pan sexual and the same percentage of bisexual went to the police but hiding their sexual orientation. 25% MSW went to the member of local government (Annex -table 4)

Unfortunately, none of the participants of the study who have encountered physical violence received justice, though some of them went to various stakeholders for justice. Therefore, it discouraged them go to anywhere to seek for justice.

2.5 Sexual Violence

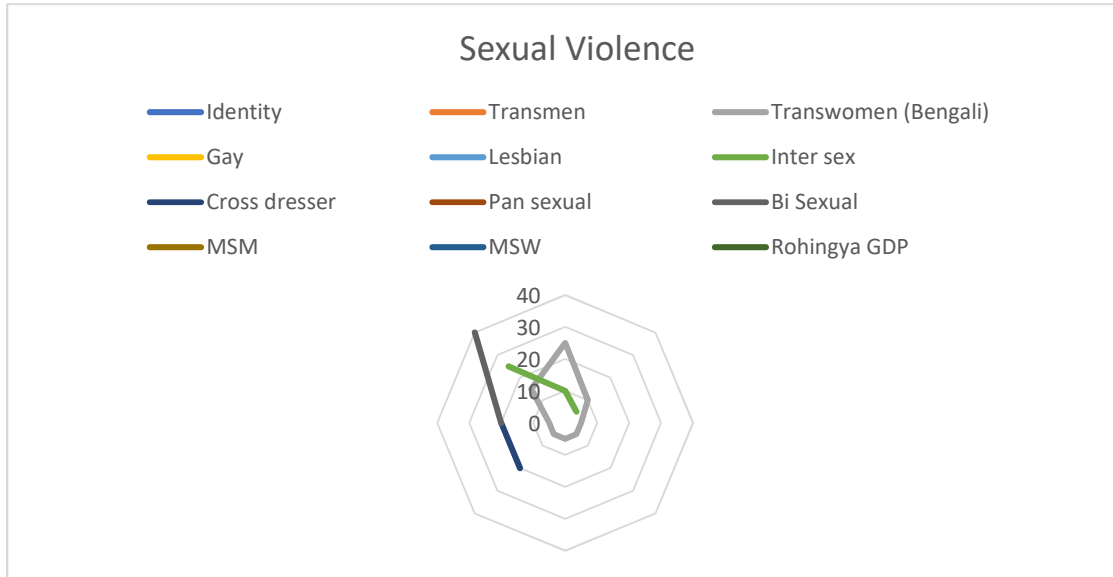
‘I did not know that I am a transgender. When I was 12 years old, I was taking bathe in the pond near to my house, one of my neighbours also came to the pond with me. But he suddenly hugged me and tried to do some bad things forcefully with me. I protested and tried to get me out of his hug. Then he did shout at me by saying “you are a hijra, everyone will do the same thing with you”. And then he raped me. I became very sick; I was bleeding heavily. But I could not tell this experience to anyone. I guess, my mother understood something. Then she tried to heal my injured placed with traditional hot napkin therapy.’ (Shahnaz, transwoman, Dhaka, interview, 21 January, 2021)

Not only Shahnaz, most of the transgender people participated in the study shared that they discovered their gender identity through the experience of sexual violence. Even Sundory, a transwoman in Dhaka, stated :

‘I was raped by 11 persons. They took me from a bazar and locked me in a room. Then they all raped me. Then I realised something different with me. Why they have done this with me? Why I could not make any protest? They kept saying that it was safe for them to do that with me than a woman as I could not share this with anyone and none will believe me as I am a hijra’

Not only transgender persons belonging to LGBTQI platform face various types of some violence. According to a research done by the United Nations, it was found that 3.7% of men in rural Bangladesh raped at least another man¹⁸.

Graph-4: Sexual Violence



The study revealed that 45% transwomen, 60% intersex and Rohingya GDP faced sexual violence whereas it stood at 30%, 40% and 20% for the same three groups respectively who experienced the sexual violence more than ten times. 40% lesbian participants had this experience for about five times and 40% bisexual also met the experience of sexual violence. However, in the in-depth interview, some of them shared that they experienced it before they discovered their sexual orientation. An important finding of the study was that participants who did not have any experience of sexual violence were mostly men, However, 40% transmen also stated that they did not face any sexual violence. (For details, please see annex -table 4)

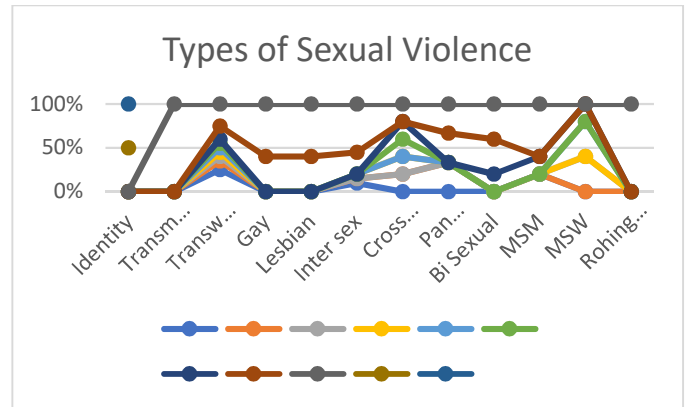
Graph-5 indicates that most of the participants were the victim of rape except gay, MSM, MSW and Rakhaine women. 20% transmen were the victim of rape and for

transwomen it stood at more than half (55%). The highest number (70%) of the Rohignya GDP had the experience of rape. It was for 33% for pan sexual. 25% transwomen faced

¹⁸ Dhaka Tribune, October 12, 2020

all of the types of sexual violence in their entire life. 43% Rakhaine women shared that people touched their body parts. Most of them were involved in beauty parlor business and they work in the shop locating in the various Burmese market in the Cox's Bazar. Some customers asked them to give them the phone number and 14% of them shared that they received indecent proposal over the phone. When they rejected it, they were told: 'Your society is free, why do you feel shy to Bengali people. I like you; I will give you more money than others (please see table 5 in the annex for details)

Type of Sexual Violence
Graph-5



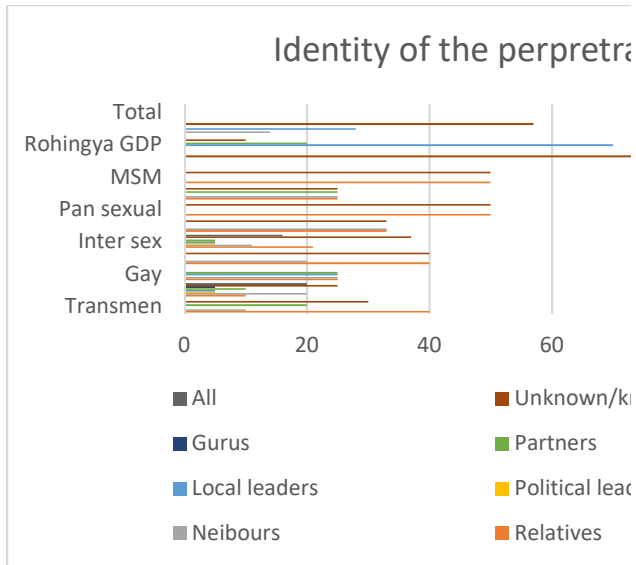
The GDPs in the Rohignya camp said that they were beaten in the day time by the local leaders due to their feminine attitude, long hair. However, some of the leaders asked them to meet them at night to have sex with them. If the GDPs show any reaction or disliking or try to run away, they are given more punishment and are made frequent victims to sexual violence.

2.6 Identity of the perpetrators

Family members, neighbors, relatives, gurus, local leaders, partners, political leaders were identified as the perpetrators by the 20% transwomen. The findings discovered that a significant number of participants became victim to sexual violence by the unknow/known people. 40% transmen and lesbian and 50% pan sexual and MSM faced

sexual violence by the relatives. 25% Gay and bisexual and 33% crossdresser also suffered sexual violence by neighbors. 70% Rohinya GDP experienced sexual violence by local leaders inside the camps. 25% gay and bisexual and 20% Rohingya GDP met sexual violence by their partners. 5% transwomen admitted that they experienced sexual violence by their gurus.

Graph-6: Identity of the perpetrators

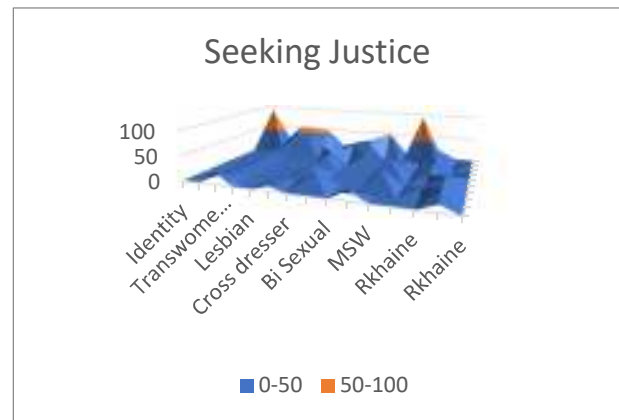


It is important here to note that the GDPs can be targeted for sexual violence as the perpetrators know that there is no punishment for committing the offence to the GDPs as the Section 375 and 377 of the Penal Code (The S. 377 in PC is based on the British colonialists' religious and social mindset. They considered homosexuality as a sin and therefore should be criminally punishable) of 1860 and section 9 and 10 of the Prevention of Women and Children Repression Act, 2000 are the laws that address the issue of rape and sexual harassment. According to the existing law, the definition of rape under section 375 of the Penal Code holds that only a woman can be a victim of rape. Unfortunately, rape of a man or male or any GDPs and penetration by other means are not

counted as rape in the definition which have made the law gender biased and insufficient to ensure justice for male and GD victim¹⁹.

2.7 Seeking Justice

Graph-7 Seeking Justice



Like the physical violence, all transmen, Gay, intersex, crossdresser, Rohingya GDP never went to any places to seek the justice against the sexual violation they encountered. 60% transwomen, 6% lesbian, 50% pansexual and MSM also did not ask for any justice. It was noticeable that participants opined that they felt comfortable to share their experiences to the civil society as they consider them better compared to law enforcing agency. A MSW participant said when he was victim to sexual violence by his client and he complained to local leaders to get justice. 5% transwomen stated that they tried to reach all the people,

¹⁹ The New Age, September 1, 2020

however never received any justice. 20% of lesbian and 33% pansexual complained to the police for the violence they faced.

Among the respondents, only one obtained justice. She was systematically raped by her school teacher nearly ten years ago when she was just 14 years old. She did not share it with anyone except her elder sister. Her grandfather who was a lawyer, and he filed a case against the rape. After six years of trial, she got justice and the perpetrator was given punishment. She shared that she was not confirmed about her gender identity and sexual orientation but perhaps the perpetrator understood that which made him confident that she would never receive justice as the law would not work for her (as a pansexual and queer). "Probably the police did not know my sexual orientation and gender identity", she added.

2.8 Psychological violence

The study found that all the participants of the study have gone through severe psychological violence which led trauma, anxiety, sleeplessness, stressed, and thought of committing suicide. Along with physical, sexual and economic violence, mental stress also has had an effect in the lives of the GDPs in Bangladesh. Almost all of them faced continuous ignorance, stigma, avoidance by the family members, and relatives. They also encounter countless teasing at home and in public places which put them down mentally. It also hampered their motivation to do any work. In the FGDs and IDIs, most of them opined that they could not continue schooling due to the teasing, and harassment done by classmates, teachers and others. In most of the cases, they were treated as a curse in the family.

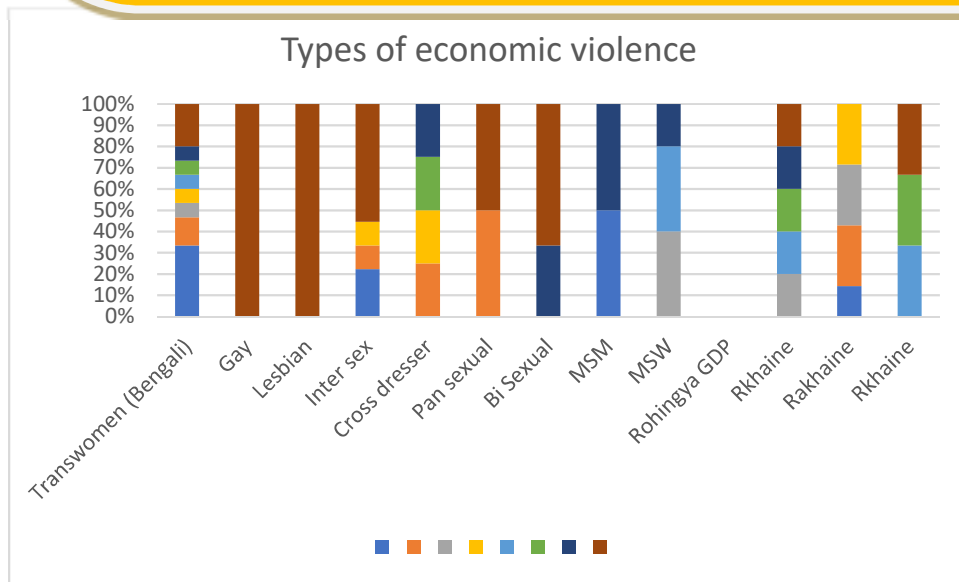
In the study, out of the 20 transwomen, 9 of them wanted to commit suicide at different stage of their life. The first mental pressure they felt about dress up. They could not wear the dresses according to their choice which Shammiul Alim Shammi correctly identified, 'it was a struggle for wearing sari'. In contrast, Aher Mahmud, a transman, who was an athlete in Bangladesh described his mental pressure in this way:

‘ It was the time when I was a participant of SAAF Games. Suddenly I was told to wear a sari and lead the Bangladesh team in the inaugural session. But when I wore the sari, I felt that I could not walk as I hated wearing the sari. In the following day, it was my event day, I could not even run because I was so upset mentally.’

It was not all about the dress up. The participants also shared that people laughed at them and asked them to walk and move 'like a man' (for transwoman) and 'like a woman'(for transman). Gay are also treated as 'perverted', 'sex crazy', 'abnormal ' etc.

Even GDPs were forced to get married by the family members. The study found that in some of the cases family treated gender diversity and different sexual orientation as a 'disease' or 'fashion' of the persons. They tried solve it by applying different methods. A transwoman stated her experience in the following way:

‘I grew up in Dhaka although my home town is in Comilla. People have a view that the GDPs (hijras) can’t get married or no one will marry them as they don’t have any interest in girls. However, I got married due to the family pressure. I told my family that I want to marry a boy, not a girl. My family thought that if I marry any girl, my nature will change. The girl whom I married was known to me previously and I shared about myself with her. But she decided to get married. Before marrying me, my sisters also tried to make her understand about my situation. However, she was very stubborn to marry me. After marrying me, she started misbehaving with me. She couldn’t tolerate me. She tortured me both mentally and physically. I even suggested her to marry someone else and I would help her in that regard. But she didn’t agree with me. She told me to divorce her so that she can have the amount of dower and maintenance. She started causing problems at my house and I was bound to send her notice of Talaq (divorce). I became severely devastated after getting married’.



60% transwomen and the same percentage of inter sex participated in the study informed that they faced all forms of economic violence. However, 80% Rohingya GDPs opined that they experienced all in their lives. All the participants complained that their money have been snatched

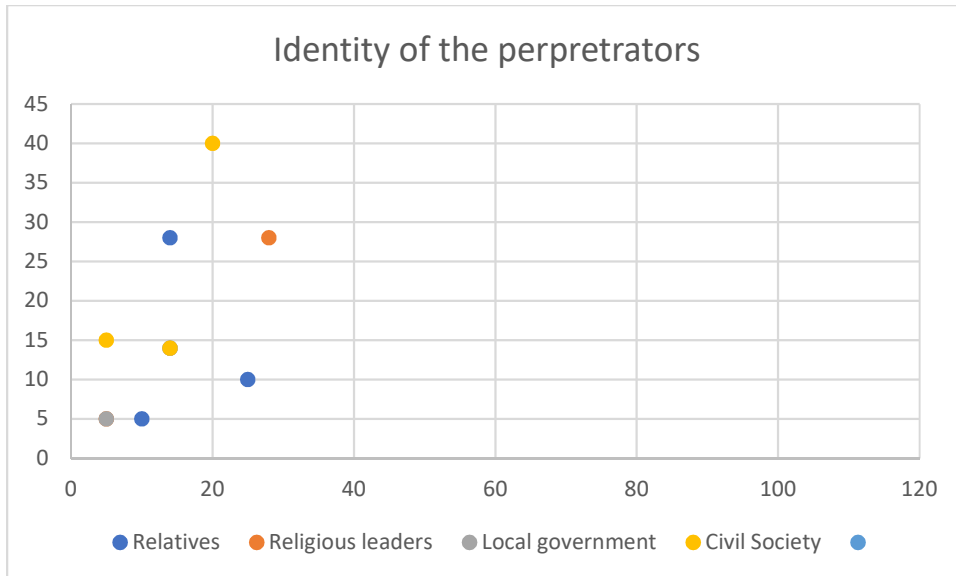
by others and most of the participants except Rohingya GDPs stated that their parents refused to invest money on their education when they found that they are ‘hijra’ and have non-binary sexual orientation. One cross dresser participant shared his story of land grabbing :

On the other hand, 40% bisexuals also were denied their hereditary property. (for details, please see annex table-9)

‘It was my land. I was the only child of my parents. My father died when I was very young. My neighbours first thought that I was hijra. Then they told my mother that I could not inherit of my father’s property. My mother did not believe it. But one day my mother found woman’s shoes in my room. It was not only a pair of shoes, I bought at least 20 pairs of high hills. I also did not understand who I was. But I realised that I was bit different from a traditional sense of being a ‘man’. My mother asked me why I bought a lot of woman’s shoes? I did not answer her. Even I did not know the answer. I only knew that I loved them. Probably, my neighbours who is a pollical leader in our area kept a close eye on me and they wanted to grab my land. Finally, they filed a false case spreading the rumour that I am a hijra and I falsified the document of land. When I went to the police station, they replied to me that hijra cannot file a case and it seemed that they did not believe me. I showed them the document of the land. Still I have been handling the case, but they almost grabbed my land and we have been waiting for the verdict from the court.’.

2.10 Identity of the perpetrators

Graph-9: Identity of the perpetrators



80% Gay and same percentage lesbian pointed out that their family members created financial violence for them whereas 66% pan sexual, 60% crossdresser and 60% bi sexual also claimed that their family members deprived them economically. 40% cross dresser also complained that the political leaders took a share of their income by threatening them that otherwise they would disclose their identity to other if they do not give him money. All transwomen and intersex persons stated that they have been victim of economic violence by all mentioned in the study. A significant number of the participants pointed at the police and their partners for their sufferings. Though in the FGDs, participants did not mention about political and local leaders but in the IDI some of them shared that they give money to these three categories: the police, political leaders and local leaders. Even Rohignya participants also mentioned about the police. Ichamoti Hijra from Dhaka shared her experience:

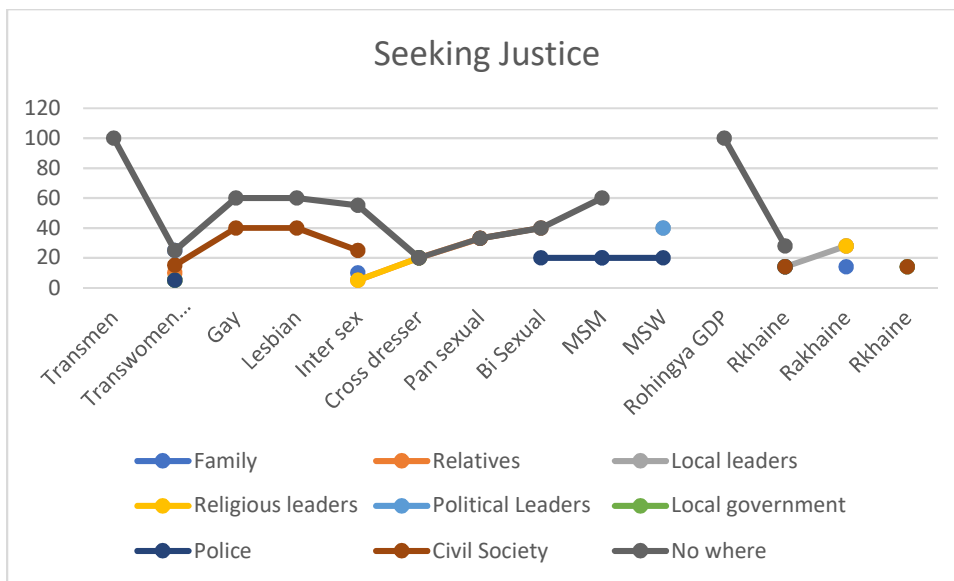
‘I work as a sex worker and I give money to the police, local leaders and political leaders. Otherwise, I cannot continue my work in this area. Not only me, all of the sex workers are doing the same thing to survive. Apart from this, we give money to Gurus. We earn little, but we are bound to share our income with four to give groups.’

Even MSW and MSW also share their money with the police and local leaders. It was not voluntary; it has been taken forcefully.

2.11 Seeking Justice

In the study we found that the transmen and Rohingya GDPs never have gone anywhere to ensure justice. The ratio is more than half (60%) for Gay, lesbian and MSM who also never demanded justice for the violence that they encountered. But it was also a significant finding that participants feel comfortable to share their experiences with the civil society. 28% Rakhine also never asked for any justice as they could not believe that they would get any justice. Among the groups belonging to LGBTQI platform, the transgenders are found to go many places to seek justice, regarding the land they inherit. In most of the cases, they were denied justice. And only in two cases, they got back their land. (For details please see table 11 in annex)

Graph-10: Seeking Justice



Only in two cases, justice was ensured. The transwomen were able to gain access to their inheritance property after going through a lot of struggles. Bandhu Social Welfare Society helped them to get the land back through their para -legal, panel lawyer and Ain O alap system.

Chapter 3

Existing law and policies

3.1 Constitutional law

The existing laws against gender-based violence in Bangladesh costumes from the Constitution of Bangladesh. Article 28 of the constitution “guarantees the right to equality and non-discrimination for every citizen of the country.” and non-discrimination towards the citizen of Bangladesh. Article 28(2) of the constitution states that “women shall have equal rights with men in all spheres of the State and of public life”. Again, article 28(4) of the same constitution states that: “Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens”. And article 19(3) also holds that: “The State shall endeavor to ensure equality of opportunity and participation of women in all spheres of national life” as an essential code of State policy.

3.2 Absence of an anti-discrimination law

There is no such specific law or policy in Bangladesh to prohibit or ensure protection against discrimination based on non-binary gender, sexual orientation, caste, religion and so on. A draft of Anti-discrimination Bill was formulated by the National Human Rights Commission (NHRC) in 2013, which bans discrimination against any individual or community/sect on various grounds including place of birth, locality, religion, faith, caste, custom, culture, occupation, gender (man, woman, hijra), sexual orientation, age, disability, special condition (pregnancy) and marital status, and so on. However, the draft has not tenable strong support for its representation and waits for legislative review. Neither the Women and Children Repression Prevention Act nor the Penal Code contemplate on a ‘male’ or a GDP person as the victim/survivor of rape or sexual offences. Hence, the current legal framework in Bangladesh for sexual offences remains quiet about rape or sexual assault against a GDPs or non-consensual sexual intercourse committed between the same sex persons. Section 377 of the Penal Code broadly criminalizes ‘unnatural offences’ without defining what the term refers to. Voluntary sexual intercourse between persons of the same sex comes within its ambit, enshrining discrimination against the LGBTQ community in law.

Even the outlawing of consensual sexual acts between same sex couples, which section 377 of the Penal Code reports ‘unnatural offences’, also makes way for legitimizing discrimination and violence against the lesbian, gay, bisexual, transgender and queer (LGBTQ) community²⁰. Though the government of Bangladesh accepted the ‘hijra sex’, existing laws do not recognise GDP and the people having different sexual orientation. And therefore, without legal protection, stigmatization, harassment and violence against GDPs and persons with different sexual orientations continue and there is no scope of getting justice.

3.3 Penal Code, 1860

In the 375, it is stated: A man is said to commit "rape" who except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions: Firstly: against her will, secondly: without her consent. Thirdly: with her consent, when her consent has been obtained by putting her in fear of death, or injury. Fourthly: with her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married. Fifthly: with or without her consent, when she is under fourteen years of age. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. Exception: Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape. Under the Penal Code, the sentence for rape is either life incarceration, or custody for a tenure which comprises 10 years, along with a fine²¹.

Moreover, section 354 of the Penal Code delivers that whoever assaults or practices illegal force against any woman, meaning to “outrage her modesty” or eloquent that this piece will “outrage her modesty”, will be punished with a maximum of two years of custody along with a fine. Even the existing law section 509 bans other sexual felonies that do not comprise physical interaction. This section stipulates custody for up to a year, or a fine, or both, for anyone who intends to “insult the modesty of any woman”, expresses any word or sound envisioned to be heard by a woman, displays any object planned to be seen by a woman, or encroaches on a woman’s privacy.

²⁰ United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, Concluding observations on the initial report of Bangladesh. CAT/C/BGD/CO/1, 2019

²¹ Section 376 of the Penal Code 1860.

3.4 Nari O Shishu Nirjatan Daman Ain (Women and Children Repression Prevention Act), 2000 (last amended in 2020)

The Women and Children Repression Prevention Act is the cardinal legislation that outlaws and introduces punitive sentences for various forms of violence against women in Bangladesh. These include trafficking, kidnapping, rape, sexual assault and dowry violence.

The act makes special tribunals²² in each district to try these crimes. The Code of Criminal Procedure will be followed regarding the submission of a complaint, investigation, trial and settlement. Section 2(e) of the Women and Children Repression Prevention Act provides that, subject to section 9 – the provision penalizing rape – the word ‘rape’ will have the same meaning as in section 375 of the Penal Code. However, the minimum age of consent, that is the age below which sexual intercourse is considered statutory rape, was increased by the 2003 Amendment to the Act.

3.5 Domestic Violence (Prevention and Protection) Act, 2010

The Domestic Violence (Prevention and Protection) Act possibly is the first law introduced in Bangladesh to exactly report domestic violence. Before introducing the law in Bangladesh 2010, this offence only came within the prospect of the Women and Children Repression Prevention Act if they were connected to dowry²³. It is interesting to note it here that again the 2010 act defines domestic violence with in binary category; ‘man and woman’ as the act states, “any act of physical abuse, psychological abuse, sexual abuse or economic harm by a person against a woman or child with whom he has a family relationship”²⁴.

In the case of GDPs, especially the transgender people face domestic violence from the family in their early age due to their attitude, behaviour which was generally opposite to the birth assigned sex. All transgender people participated in the study experienced various kind of violence (physical, mental, sexual and economic) for the first time from their family members and relatives. Even some of them discovered their gender identity through the experiences of sexual violence

²² Section 25 of the Women and Children Repression Prevention Act.

²³ Shahnaz Huda, Five Years since Domestic Violence (Prevention and Protection) Act 2010: Is It Helping Survivors? (Plan International, 2016), p. 32.

²⁴ Section 3 of the Domestic Violence (Prevention and Protection) Act

they encountered from their relatives and neighbours. However, two of them went to the police station and faced verbal harassment instead of justice.

In an interview taken for the study, a lawyer states, “The challenges we have been facing now is that the government only accepted the identity of the ‘hijra’ population without ensuring any safeguard for them. It is very difficult to solve the cases filed by GDP as existing laws are not enough to handle their cases. For example, the term person does not indicate out of male and female binary in the laws. Then we cannot use other term than the two existing male and female category. Furthermore, we have metropolitan laws, if anyone shows any vulgar gestures in the public place, is treated as a punishable offence. And most of the Hijras have different gesture than the male and female. Therefore, sometimes, they have been arrested due to their gesture. But it is not their problem or intended acts. We have to work with all the limitations of the laws. We receive 15-20 cases in a month from GDPs and most of them are related with inheritance, harassment and discriminations. The GDP generally don’t go to the police station as they know that they will not welcome there and they will not receive justice. Furthermore, they know that they cannot file a case with their identity as the existing laws do not support their identities. In addition to that, police generally laugh at them when they go to the police station with a complain. Most of the case, the police officers think that they go there for collecting money. Even sometimes they have to share their collected money with the police, otherwise, they will face the case and become victim. However, if it is related with inheritance, we try to settle it with the help of family members. But it is also another reality that many GDPs are not interested to file a case as they don’t want to reveal their identity to others”.

It is definitely interesting to have an overview of the existing laws alongside with laws related with GBV. If we analyse The Dhaka Metropolitan Police Ordinance, 1976, we can find that in the article 76 it is said: “ Whoever willfully and indecently exposes his person in any street or public place within sight of, and in such manner as may be seen by, any woman, whether from within any house or building or not, or willfully presses or obstructs any woman in a street or public place or insults or annoys any woman by using indecent language or making indecent sounds, gestures, or remarks in any street or public place, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand taka, or with both”.

Therefore, many GDPs especially transgender persons got arrested by the police under this law as their gesture, attitude, sounds (clapping) may annoy woman in the street. It is just may be cisgender woman feel uncomfortable to see the gesture of non-binary people and then they file complain against the transgender people in Bangladesh. And as a result of these complain they get arrested by the police.

Thus, the experiences of violence against GDPs remain undocumented and they are far away from getting justice for any of the violence that they come across. Even their social justice is yet to be ensured.

Of those who were aware of transgender persons, 62 percent said that in response, they are ridiculed. These findings were corroborated by the FGDs, where all participants were of the opinion that no transgender person would be accepted in their community²⁵. This indicates that persons identifying publicly as transgender face increased vulnerability; this issue requires further research.

²⁵ <https://reliefweb.int/sites/reliefweb.int/files/resources/rr-rohingya-refugee-response-gender-analysis-010818-en.pdf>

Chapter 4

Scope of Intervention in the existing approaches to combat GBV in Bangladesh

Although many organisations working (Bandhu Social Welfare Society, Ain O Salish Kendra, BLAST and so on) so far to reduce or amend the things of gender-based violence in Bangladesh, there persist plentiful trials to the operative application of GBV intrusions and amenities. The challenges mentioned by participants in the FGDs and IDIs encompassed ongoing stigma and discrimination and mechanism of facing violence by various stakeholders which discourages GDPs and persons with non-straight sexual orientation from vigorously seeking services and also makes them more hidden, private and less expressive. They face difficulties reaching the police, political leaders, religious leaders to support them. The police force them to share their collected money, some local leaders also have a share of the money. They have legal barriers like the laws article 377 as well.

Considering the ongoing legal and policy barriers to working with and delivering services for GDPs in Bangladesh, the participants recommended many important issues based on their experiences of gender-based violence about the restructuring of legal policies and frameworks. In the FGDs participants suggested that laws related with the gender-based violence which now focus only on women should be broaden enough to accommodate all GDPs and persons belong to LGBTQ platform.

Participants in the study also opined that all NGOs should also include GDPs and persons with different sexual orientation in the gender-based violence theme and count their narratives of different types of violence that the GDPs have gone through and never had the space to demand justice. Like in Cox's Bazar, the coalition for Hamartian Alliance also incorporated Rohingya GDP in the gender hub. Therefore, it is now a timely work to incorporate the issue in the all-gender units of all National and Internal organisation working in Bangladesh and diverse approaches are needed to develop the program to stop gender-based violence. Before developing the approaches, clear understanding of sexuality, sexual orientation and gender diversity are necessarily needed to define and contextualise in an academic and discursive way. There should not be any misconception about the issue when it is incorporated in the analysis of gender-based program.

In the interviews, the lawyers opined that the article 377 should be repealed. Article 54 also needs to be revised. One of the lawyers told that when the law refers to a person, it indicates a male or a female only. It also needs to be corrected as we have GDPs in our country. In addition to that he suggested that metropolitan police laws also need to be revised. Only then, violence against the GDPs will be stopped.

In the FGDs and IDIs, the different stakeholders suggested the issue of extra effort to ensure the implementation of existing laws on violence where it will embrace police support for the anticipation of GBV through training/educating on GDPs' human rights and their important roles in shielding those rights, predominantly in the places or spaces where laws are helpful and well formulated.

The participants also made some other strong recommendations. They opined that when discrimination will be decreased and their rights will be acknowledged then only gender-based violence on them will be lessened. If their rights are not recognised, then violence on them will not be accepted as a crime.

They also feel that they need to know enough information on human rights. It can be achieved through strengthening community cognizance, outreach and awareness efforts in raising awareness of GDPs, informing GDPs about their rights and instructing them on how to work out with those rights to develop their life standards.

Inclusion of GDP in the existing GBV programs also requires the training of lawyers, doctors, police on sexuality, gender diversity and sexual orientation. When we talked with a religious leader, he informed us that in the Shariah Law, there is provision for the transgender people to inherit property. Since the transgender people struggle a lot to regain the rights on the inheritance property, religious leaders also need to be incorporated when GBV approaches are reformulated.

Political leaders and representatives of local government should be incorporated in the GBV programs. They are the important stakeholders to introduce the new approaches to the people in local to national level.

Annex

Table-1

Identity	Not at all	1 Time	2 Time	3-4 Times	5 Times	More than 5 times	More than 10 times	Countless	
Transmen						3 (30%)	2 (20%)	5 (50%)	10
Transwomen (Bengali)							5 (25%)	15 (75%)	20
Gay			1 (20%)		2 (40%)	2 (40%)			5
Lesbian	1 (20%)		1(20%)	1(20%)	1(20%)	1(20%)			5
Inter sex							8 (40%)	12 (60%)	20
Cross dresser			1 (20%)	2(40%)		2(40%)			5
Pen sexual			1 (33%)	1(33%)				1(33%)	3
Bi Sexual	2(40%)		1 (20%)	1 (20%)			1(20%)		5
MSM		3 (60%)	1(20%)	1(20%)					5
MSW	1(20%)		2 (40%)	2(40%)					5
Rohingya GDP							2(20%)	8 (80%)	10
Rkhaine	1 (14%)	2 (29%)	2(29%)	2(29%)					7
Total	5	5	10	10	3	8	18	41	100

Table-2

Gender and Sexual Identity	Slapping	Punching	Pushing	Kicking	Beating	Threatening of physical attack	Pulling the hair	Out of medication	All	Total
Transmen	7 (70%)				2(20%)				1(10%)	10
Transwomen (Bengali)	5 (25%)						1 (5%)	1 (5%)	13 (65%)	20
Gay	2 (40%)	1 (20%)	1(20%)						1(20%)	5
Lesbian	1 (25%)				1(25%)	1(25%)	1(25%)			4
Inter sex	3 (15%)				5 (25%)				12(60%)	20
Cross dresser	2 (40%)				2 (40%)				1 (20%)	5
Pen sexual	1 (33%)				2 (66%)					3
Bi Sexual	1 (25%)	1(25%)			1(25%)					4
MSM	1 (20%)	1(20%)	1(20%)		2 (40%)					5
MSW	1 (25%)			1(25%)	1(25%)	1(25%)				4
Rohingya GDP									10 (100%)	10
Rakhaine			2 (29%)		1 (14%)	3(43%)	1 (14%)			7
Total										

Table-3

	Family members	Relatives	Neighbours	Political leaders	Local leaders	Partners	Gurus	Unknown /known binary people	All
Transmen	9 (90%)							1 (10%)	
Transwomen (Bengali)	5(25%)	2 (10%)	2 (10%)			1(5%)	1 (5%)	1 (5%)	8 (40%)
Gay	2 (40%)					2 (40%)		1 (20%)	
Lesbian	1 (25%)	1(25%)				1(25%)		1(25%)	
Inter sex	15 (75%)	3 (15%)						2 (19%)	

Cross dresser	3 (60%)	1 (20%)	1 (20%)						
Pen sexual		1 (33%)	1 (33%)					1 (33%)	
Bi Sexual						1 (25%)		2 (50%)	
MSM		2 (40%)			1 (20%)	1(20%)		1(20%)	
MSW	1 (25%)			1(25%)	1(25%)	1(25%)			
Rohingya GDP					10 (100%)				
Rakhaine			1 (14%)	1(14%)				5 (72%)	
Total									

Table -4

Seeking Justice

Identity	Family	Relatives	Local leaders	Religious leaders	Political Leaders	Local government	Police	Civil Society	All	No where
Transmen										10 (100%)
Transwomen (Bengali)			3 (15%)	1 (5%)	1(5%)	1(5%)	3 (15%)	1(5%)	1(5%)	9 (45%)
Gay										5 (100%)
Lesbian										4 (100%)
Inter sex						1 (5%)	1(5%)	3 (15%)		15 (75%)
Cross dresser			1 (20%)			1(20%)				3 (60%)
Pen sexual							1 (33%)	1(33%)		1(33%)
Bi Sexual							1(33%)			2 (66%)
MSM					1 (20%)	1(20%)	1(20%)			2 (40%)
MSW					1 (25%)	1(25%)		1(25%)		1(25%)
Rohingya GDP										10
Rkhaine					1 (14%)	1(14%)	2 (29%)	1(14%)		2 (29%)
Total										

Table -5

	Not at all	1 Time	2 Time	3-4 Times	5 Times	More than 5 times	More than 10 times	Countless
Transmen	4 (40%)	2 (20%)		2 (20%)	1 (10%)	1 (10%)		
Transwomen (Bengali)					4 (20%)	1 (5%)	6 (30%)	9 (45%)
Gay	2 (40%)	1 920%	2 (40%)					
Lesbian		2 (40%)		1 (20%)	2 (40%)			
Inter sex							8 (40%)	12 (60%)
Cross dresser	4 (80%)	1(20%)						
Pan sexual		1 (33%)	1(33%)	1(33%)				
Bi Sexual	1 (20%)	1(20%)	1(20%)	2 (40%)				
MSM	1 (20%)	2 (40%)	1(20%)	1(20%)				
MSW	2 (40%)	1(20%)	1(20%)	1(20%)				
Rohingya GDP					1 (10%)	1(10%)	2 (20%)	6 960%)
Rkhaine	5 (71%)	1 (14%)	1 (14%)					
Total								

Table-6

Type of Sexual Violence

	Experience less	Rape	Sexual Harassment	Sexual Abuse	Rape threats	Touching body parts	Indecent proposal	Attempt to rape	Sexual jokes/videos	All
Transmen		1 (20%)	1(20%)	1(20%)		1(20%)			1(20%)	
Transwomen (Bengali)		11 (55%)	1 (5%)	1(5%)		1(5%)		1(5%)		5 (25%)
Gay	1 (20%)		1(20%)			1(20%)	1(20%)		1(20%)	
Lesbian		1(20%)	1(20%)	1(20%)	1(20%)	1(20%)				
Inter sex	1 (5%)	4 (20%)	5 (25%)	4 (20%)	1 (5%)	2 (10%)	1(5%)	1(5%)	1(5%)	
Cross dresser	2 (40%)		1 (20%)			1(20%)	1(20%)			
Pan sexual	1 (33%)	1(33%)							1(33%)	
Bi Sexual	1(20%)	1(20%)	1(20%)			1(20%)	1(20%)			
MSM	3 (60%)					1(20%)	1(20%)			
MSW	4 (80%)					1(20%)				
Rohingya GDP		7 (70%)	1 (10%)			1(10%)		1(10%)		
Rakhaine			1 (14%)		1(14%)	3 (43%)	1(14%)		1(14%)	
Total										

Table-7

Identity	Family members	Relatives	Neighbours	Political leaders	Local leaders	Partners	Gurus	Unknown binary people	All
Transmen		4 (40%)	1 (10%)			2 (20%)		3 (30%)	
Transwomen (Bengali)		2 (10%)	4 (20%)	1 (5%)	1(5%)	2 (10%)	1(5%)	5 (25%)	4 (20%)
Gay		1 (25%)	1(25%)		1(25%)	1(25%)			
Lesbian		2 (40%)	1 (20%)					2 (40%)	
Inter sex		4 (21%)	2 (11)	1 (5%)	1(5%)	1(5%)		7 (37%)	3 (16%)
Cross dresser		1 (33%)	1(33%)					1(33%)	
Pan sexual		1 (50%)						1(50%)	
Bi Sexual		1 (25%)	1(25%)			1(25%)		1(25%)	
MSM		1 (50%)						1 (50%)	
MSW								1 (100%)	
Rohingya GDP					7 (70%)	2(20%)		1(10%)	
Rkhaine			1 (14%)		2 (28%)			4 (57%)	
Total									

Table -8

Seeking Justice

Identity	Family	Relatives	Local leaders	Religious leaders	Political Leaders	Local government	Police	Civil Society	All	No where
Transmen										10 (100%)
Transwomen (Bengali)	2 (10%)		1 (5%)		1(5%)	1(5%)		1(5%)	1(5%)	13 (65%)
Gay										4 (100%)

Lesbian							1 (20%)	1 (20%)		3(60%)
Inter sex										19 (75%)
Cross dresser										3 (100%)
Pan sexual								1(50%)		1(50%)
Bi Sexual							1 (33%)	1(33%)		1 (33%)
MSM								1 (50%)		1 (50%)
MSW			1 (100%)							
Rohingya GDP										10 (100%)
Rkhaine					1 (14%)	1(14%)		1(14%)		4 (57%)
Total										

Table-9

Identity	Denied Inheritance property	Denied invest for education	Snatching money	Forced Displacement	Denied financial support	Land grabbing	Fired from job	All forms
Transmen	10	10	5 (50%)	1 (10%)	1 (10%)		1(10%)	
Transwomen (Bengali)			5 (25%)	1 (5%)			2 (10%)	12 (60%)
Gay	1 (20%)		1 (20%)	2 (40%)	1 (20%)			
Lesbian	1 (20%)		1 (20%)	1 (20%)	1(20%)			1 (20%)
Inter sex							8 (40%)	12 (60%)
Cross dresser			1 (20%)	2 (40%)		2 (40%)		
Pan sexual			1 (33%)	1 (33%)				1 (33%)
Bi Sexual	2 (40%)		1 (20%)	1 (20%)			1 (20%)	
MSM		3 (60%)	1 (20%)	1 (20%)				
MSW	1 (20%)		2 (40%)	2 (40%)				
Rohingya GDP			2 (20%)					8 (80%)
Rakhaine	1 (14%)	2 (28%)	2 (28%)	2 (28%)				
Total	5	5	10	10	3	8	18	41

Table -10

	Family members	Relatives	Neighbours	Political leaders	Local leaders	Partners	Police	Gurus	Unknown/known binary people	All
Transmen	4 (40%)	4 (40%)							2 (20%)	
Transwomen (Bengali)										20(100%)
Gay	4 (80%)					1 (20%)				
Lesbian	4 (80%)					1(20%)				
Inter sex										20 (100%)
Cross dresser	3 (60%)			2 (40%)						
Pen sexual	2 (66%)						1 (33%)			
Bi Sexual	3 (60%)					1 (20%)	1 (20%)			
MSM	2 (40%)					2 (40%)	1 (20%)			
MSW	2 (40%)				1 (20%)	1(20%)	1(20%)			
Rohingya GDP					8 (80%)	1 (10%)	1 (10%)			

Rkhaine	1 (14%)				2 (28%)		2 (28%)		2 (28%)	
Total										

Table 11

Seeking Justice

Identity	Family	Relatives	Local leaders	Religious leaders	Political Leaders	Local government	Police	Civil Society	No where
Transmen									10 (100%)
Transwomen (Bengali)	5 (25%)	2 (10%)	1 (5%)	1(5%)	1(5%)	1(5%)	1(5%)	3 (15%)	5 (25%)
Gay								2 (40%)	3 (60%)
Lesbian								2 (40%)	3 (60%)
Inter sex	2 (10%)	1 (5%)		1(5%)				5 (25%)	11 (55%)
Cross dresser		1 (20%)		1(20%)		1(20%)	1(20%)		1(20%)
Pan sexual		1 (33%)						1(33%)	1(33%)
Bi Sexual							1 (20%)	2 (40%)	2 (40%)
MSM	1 (20%)						1 (20%)		3 (60%)
MSW			2 (40%)		2 (40%)		1 (20%)		
Rohingya GDP									10 (100%)
Rkhaine			1 (14%)		1(14%)	1(14%)	1(14%)	1(14%)	2 (28%)
Total									