

UNDP Access to Justice and  
Informal Justice Systems Research

# RAKHINE STATE



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***Ms. Aye Gets Hurt Twice***

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# ABBREVIATIONS AND ACRONYMS

BGP	Border Guard Police
CSC	Citizenship Scrutiny Card
DoF	Department of Fisheries
DNK	Do Not Know
GAD	General Administration Department, Ministry of Home Affairs
RTA	Refuse To Answer
VA	Village Administrator
VTA	Village Tract Administrator
W/VTA	Ward/Village Tract Administrator

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## FOREWORD

In Myanmar, the justice sector is playing an important role in the country's democratic transition. Underlying the work of the courts, the law officers and the police – and most other government agencies that provide some form of justice service – is the recognised need to rebuild and strengthen the trust and confidence that people have in formal systems of governance. People's expectations for fair, equitable and rights-based treatment are clearly rising and progress can in part be measured by how much trust and confidence the Myanmar people have in the formal justice system.

This report, "Access to Justice and Informal Justice Systems in Rakhine State", begins to define what people's expectations are for civil and criminal justice services in Myanmar, and how formal and informal processes are used at the grassroots level when conflicts arise. Its dialogue-interview methodology with individuals, families and groups in informal settings, in IDP camps and in conflict-prone areas of Myanmar allows us to access hard-to-obtain data that can better inform future justice sector development planning. It also allows us to understand the perspectives of people who have little faith that their cases will be dealt with fairly during voluntary or involuntary interactions with the justice system. This low level of trust causes people to rely largely on informal methods of dispute resolution, which can produce equitable results, but whose outcomes do not always align with legal, due process or human rights norms.



To rebuild trust, measurable progress needs to be made by the government to improve the quality and fairness of all actors and agencies involved in the justice sector. Understanding people's perceptions and expectations of the justice system is a necessary early step that Myanmar must fully explore if it wants to develop responsive solutions to the justice needs of all its people, including the most vulnerable and marginalised.

Finally, let me thank all the people in Rakhine State who agreed to be interviewed for this report. We hope that this report will help policy-makers, development partners, civil society and all other stakeholders in creating a rights-based and capable justice system in Myanmar.

**Peter Batchelor**  
Country Director  
UNDP Myanmar



# EXECUTIVE SUMMARY

Photo: Local jetty in Rathadaung Township, Rakhine State

The United Nations Development Programme (UNDP) in Myanmar commissioned the access to justice and informal justice systems research in three locations: Rakhine, Kachin and Shan States, which includes specific attention to informal justice systems.

The research sought to answer three main questions:

1. How do people seek access to justice?
2. What are people's perceptions of, and trust and confidence in, the formal justice system?
3. What is the range of informal justice processes that exist in the local area, and how do they operate?

The research methodology is outlined in Annex I. This report summarises the findings in Rakhine State.<sup>1</sup> It is important to note that the findings are indicative rather than representative, because of the sampling methodology, and cannot be generalised to any wider population.

Findings from this study are intended to help UNDP identify entry points for rule of law and access to justice programming.

"Ms. Aye Gets Hurt Twice" is a popular saying in Myanmar to describe a situation where someone endures one instance of injustice after another. In Rakhine State, poverty-stricken people are forced to submit to a demand by one

corrupt official, only to find that they have to submit to demands by some other officials later.

The Introduction to this report (Chapter 1) outlines the conceptual underpinnings of the study, providing a context for the research findings and analysis that follows. It relies on three key concepts fundamental to good governance: (i) the legitimacy of authority; (ii) public trust in the legitimacy and exercise of judicial authority; and (iii) the rule of law, including accountability of police, judges, law officers and legal aid providers. As in all countries, public trust in the legitimacy of the justice system is linked to shared values in society. Those shared values are typically based in human rights, particularly substantive equality, non-discrimination, and the right to equal and just treatment according to due process under the law. Shared values are therefore central to the exercise of access to justice, and inform people's expectations of judicial processes and outcomes. They also imply a common expectation of accountability – that those who hold a public mandate are responsible and answerable to the public for their actions and, simultaneously, the public has a right to hold public officials to account.

Chapter 2 describes the study sites in Rakhine State and the demographic and socio-economic background of the respondents.<sup>2</sup> Chapters 3 to 6 present and analyse the research findings.

Chapter 3 provides the context within which respondents reported on the disputes they and their communities were involved in during the previous year. It begins by reporting on levels of social trust among respondents. It is noteworthy that Muslim<sup>3</sup> respondents were signifi-

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1 Study sites and respondents in Rakhine State were purposively selected. The findings describe only the study sample. Statistically relevant comparisons cannot be made among respondents, and the findings cannot be generalised to any wider population.

2 In this report, "respondent" is used to refer to any person who participated in the research study, including those who participated in focus groups and interviews. This report does not include findings in relation to internally displaced respondents.

3 Respondents were asked to identify their ethnicity (via an open-ended question, with no prompting). This general categorisation, "Muslim", is made on the basis of those who self-identified as Rohingya or Muslim or Islam or Bengali, as well as those who were not asked about their ethnicity in Rathedaung, Maungdaw and Mrauk-U Townships. For those who were not asked about their ethnicity, responses are inferred from their answers in relation to the main language spoken in their household.

cantly more likely than others to consider most people generally to be trustworthy and fair. The chapter also examines respondents' perceptions of certain dimensions of justice and law. Overall, respondents clearly preferred disputes to be settled locally. Large majorities agreed that people are able to seek help and obtain a remedy and fair outcome for injustices, and that procedural justice is more important than obtaining a favourable outcome. Respondents also overwhelmingly cited wealth, education and ethnicity as the main factors that determine how well a person is treated in Myanmar society.

Chapter 3 goes on to describe the significant effect that the inter-communal violence of 2012–2013 had on all communities in the study. Strained relationships between Buddhist and Muslim communities resulted in adverse consequences on livelihoods and economic activity. Muslim respondents in northern Rakhine in particular spoke of being more affected than others by the consequences of the violence and there seem to be more obstacles for them to overcome in seeking access to justice. This situation has become more entrenched since the imposition of local orders.

The chapter also makes clear that, generally, people are not engaged with the formal justice system. Furthermore, respondents often did not know or misunderstood the law. Nonetheless, more than two thirds of respondents perceived that not all people have equal rights before the law in Myanmar. The chapter also presents the view of justice officials, most of whom wanted to be more active in raising awareness of the law and how the justice system operates.

Chapter 4 examines the nature of the disputes that respondents had been involved in and which types of dispute they considered to be of priority. The most common disputes, and those of greatest concern, related to problems

obtaining birth and identity documentation, debts owed by others and land. Muslims appear to be overrepresented in reporting many of the most common disputes. Apart from disputes over debt, disputes appear to fall along religious lines. Land-related problems were largely faced by Buddhist respondents; others were mostly experienced by Muslim respondents. On the basis of their personal encounters with public officials, respondents reported that officials commonly abuse their authority.

At the community level, the major concerns related to public nuisance and insecurity, and small-scale civil disputes between individuals. Alcohol consumption was identified as contributing to disputes spilling into the public arena. Justice sector officials attributed criminal matters generally to the harsh economic conditions.

How people went about trying to settle their disputes and resolve their concerns is analysed in Chapter 5. Perhaps the most significant finding is that after complainants had attempted to negotiate directly with the other party to a dispute and/or sought the assistance of third parties, nearly 77% of the disputes of greatest concern remained unresolved. This suggests that respondents' access to justice was extremely limited. Local administrators were the most prominent third parties involved in attempts at dispute resolution, and they frequently collaborated with "elderly and respected persons" (*yamiyahpa*) within the community. Some complainants did not seek help from anyone or did not take any action following unsuccessful negotiations, for reasons including anticipated costs (including the breaking of social bonds), lack of knowledge of sources of help, and feelings of fear, resignation or shame.

Chapter 6 reports on respondents' perceptions and attitudes towards the justice system and those who have a role in the provision of justice services – judges, law officers, the police

and community leaders. It revisits the matter of shared values, with a focus on questions of corruption and public accountability by officials.

Respondents expressed confidence in the competence of judges, law officers and the police, but were less assured that their values aligned with shared values such as fairness, respect and a lack of corruption. This might reflect respondents' relative lack of exposure to the formal justice system. In contrast, the majority believed that community leaders are aligned with community priorities and do ascribe to shared values. Overall, the police were the least trusted of the key judicial actors. Community leaders were the most trusted, by a considerable margin.

Chapter 6 also reveals a widespread perception and experience that public officials do not always treat people equally. Respondents consider the poor are most at risk of not being treated equally with others under the law when charged with a criminal offence. Given their experience of corruption, respondents who were likely to report corrupt practice had little expectation of official accountability. A significant proportion of those unlikely to report corrupt practice cited corruption itself as inhibiting attempts to secure accountability, and attributed their reluctance to report to fear or apprehension about having to deal with the law, bureaucracy and the judicial system. This clearly has implications for access to justice.

The overall conclusions and recommendations arising from the study are presented in Chapter 7. A significant finding is that a very large proportion of disputes or justice concerns related to respondents' interactions with state actors or public officials, for which respondents have no recourse within the formal justice system. Administrative justice – broadly construed to include all legitimate means of seeking redress

in relation to abuse of public authority and quasi-judicial decision-making by officials of government agencies– is identified as a clear priority to ensure that those who exercise public functions are accountable to the public.<sup>4</sup>

The richness and complexities of social relations in Rakhine State require more than the blunt instrument of legislation to achieve equality among its peoples. While attention must be paid to ensuring consistent treatment between people, focus must also be directed towards the treatment of all people as equals. This implies the fundamental need to address the root causes of unequal treatment.

The study strongly suggests that developing a more informed and engaged citizenry by encouraging general civic knowledge about the Myanmar State and society, and fostering the development of a national Myanmar identity that embraces the country's cultural, ethnic and religious diversity, while also promoting fairness, respect and tolerance will help generate greater social cohesion in Rakhine State.

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4 Under current administrative law, people have no formal right to be heard or right to appeal important decisions – even if correctly made – by non-judicial government officials.



# CHAPTER 1

# INTRODUCTION

Photo: Children playing in a Thar Yar Kone Village, Sittwe Township, Rakhine State

## BACKGROUND TO THE RESEARCH

Following the first phase of a rule of law and access to justice mapping carried out in Mandalay, Shan and Ayeyarwaddy in 2013, the United Nations Development Programme (UNDP) in Myanmar commissioned further research on access to justice and informal justice systems in three other locations: Rakhine, Kachin and Shan States.

This second phase of research broadens and deepens the focus of the earlier work to include specific attention to informal justice systems. One of the main findings of the 2013 mapping, echoed in a subsequent and separate piece of research carried out in Mon and Yangon in 2014,<sup>5</sup> highlighted that a large majority of disputes of any kind are settled at the ward and village level, without resort to the formal justice system.

Beyond the two abovementioned initiatives and a very small handful of other qualitative studies, knowledge and understanding relating to access to justice in Myanmar remain patchy. This research therefore aims to contribute towards UNDP's efforts to strengthen the rule of law and increase access to justice in Myanmar, by: (i) expanding UNDP's baseline understanding of how people seek access to justice through the formal justice system, and (ii) deepening UNDP's understanding of how informal justice systems operate. Findings from this study are intended to help UNDP and other stakeholders identify entry points for rule of law and access to justice programming.

## RESEARCH PURPOSE AND METHODOLOGY

The purpose of the study was to cast light on the formal, quasi-judicial/administrative and informal processes of justice, and why and how people use them to resolve their disputes and grievances.

The research sought to answer three main questions:

1. How do people seek access to justice?
2. What are people's perceptions of, and trust and confidence in, the formal justice system?
3. What is the range of informal justice processes that exist in the local area, and how do they operate?

The research methodology is presented in Annex I. It is important to note that, given the specific selection of study sites and respondents,<sup>6</sup> the findings describe only the study sample.<sup>7</sup> Statistically significant comparisons cannot be made among research respondents and the findings cannot be generalised to any wider population.

## CONCEPTUAL OVERVIEW

Two key concepts – legitimacy and trust – are fundamental to good governance in any society. The results of the historic 2015 general

5 Myanmar Legal Aid Network, *Between Fear and Hope: Challenges and Opportunities for Strengthening Rule of Law and Access to Justice in Myanmar* (September 2014).

6 In this report, "respondent" is used to refer to any person who participated in the research study, including those who participated in focus group discussions and interviews.

7 This report includes findings obtained from focus group discussions and key informant interviews conducted as part of pre-testing the research instruments in Sittwe Township. However, findings from the household semi-structured interview questionnaire are not included as the instrument was revised following the pre-test.

elections demonstrated the centrality of these concepts to the exercise of political authority in Myanmar.

Legitimacy and trust are inherent to the rule of law and critical in the exercise of legal authority through the formal justice system.

Legitimacy promotes compliance with the law, encourages cooperation with actors in the formal justice sector, and has the potential to facilitate community engagement in a way that enhances the social, political and economic development of communities.<sup>8</sup> Public trust in the justice system and its legitimacy promotes trust in other public institutions because it provides some guarantee against possible abuses by other such institutions.<sup>9</sup>

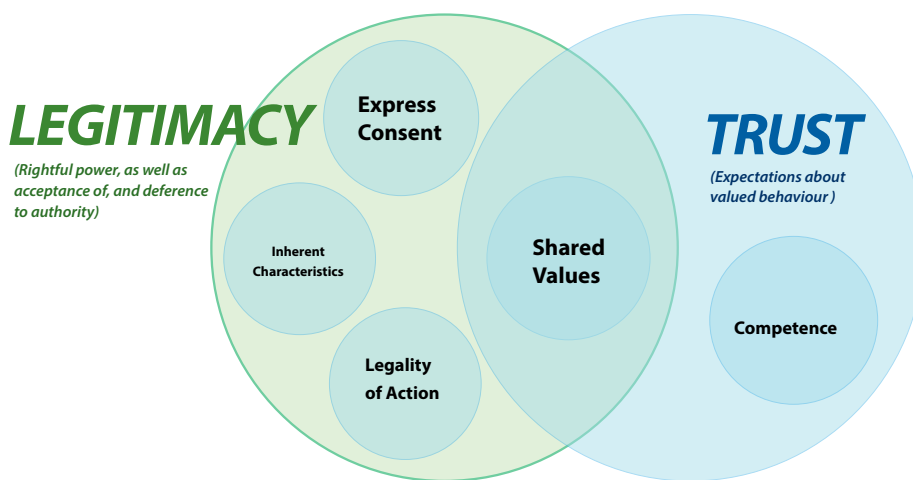
Trust is a function of competence and shared values. In other words, public trust in the justice system depends on those who play a role in the system having the competence (knowledge,

skills and resources) and right intentions to do what the public trusts them to do, that is, to act in ways that the public considers effective, fair and responsive to local needs and priorities.<sup>10</sup> Consequently, when public officials succumb to bribery or to external influence/pressures, or act in discriminatory ways, these behaviours represent a specific set of barriers to trust that inhibit access to justice.

Legitimacy also concerns shared values. Legitimacy has been defined as including three elements: (i) express consent; (ii) express consent grounded in the authority's conformity to standards of legality; and (iii) shared values, or right intentions.<sup>11</sup> In the Myanmar context, this definition was extended to include: (iv) inherent characteristics of the authorities, including judicial and law enforcement.

Thus, the concepts of legitimacy and trust intersect and overlap in the realm of shared values (Figure 1.1).<sup>12</sup>

Figure 1.1 Legitimacy and Trust



8 Tom Tyler and Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation and Engagement* (2013).

9 Steven Van de Walle, *Trust in the Justice System: A Comparative View Across Europe* (2009).

10 Jonathan Jackson et al., *Trust in Justice: Notes on the Development of European Social Indicators* (2011).

11 Drawing similarly upon the development of the European Social Survey justice indicators. See David Beetham, *The Legitimation of Power* (1991) in Mike Hough & Stefano Maffei, "Trust in Justice: Thinking about Legitimacy", *Criminology in Europe* (2)2013.

12 Jonathan Jackson and Jacinta Gau, "Carving up Concepts? Differentiating between Trust and Legitimacy in Public Attitudes towards Legal Authority", in E. Shockley et al. (eds), *Interdisciplinary Perspectives on Trust*, Switzerland: Springer International, 2016: 49–69.



This study reveals shared values to be central to the exercise of access to justice.<sup>13</sup> They also inform people's expectations of judicial processes, whether in formal, quasi-formal/administrative or informal contexts. These shared values include equality before the law<sup>14</sup>, non-discrimination, respect for others, fairness and a lack of corruption in society. At community level, they relate to equality and non-discrimination in social affairs, and transparency, independence and fairness in judicial processes. These values relate to fundamental principles of human rights.<sup>15</sup>

These shared values also imply a common expectation of accountability. Accountability is one of the prerequisites of democratic or good governance. It means holding elected or appointed officials charged with a public mandate responsible and answerable for their actions, activities and decisions. Civil society plays an important role in holding those in public office to account. Accountability seeks to know who is liable for what and what kind of conduct is illegal.<sup>16</sup>

Typically, justice sector reform within a rule of law context relates to policy goals that include ensuring public security, promoting efficient and predictable governance, respecting guarantees of equality and fundamental rights protections, and ensuring that the State is bound

by the law, especially through an independent and accountable judiciary.<sup>17</sup> Progress in each of these areas will vary from one context to another, and the different goals may sometimes appear to be in tension with one another, for example, between public security and illegal migration on the one hand, and human rights protections on the other.

The focus of this study is access to justice. Access to justice is an important touchstone when exploring challenges relating to the rule of law. Where fundamental rights are violated or threatened, ensuring an effective remedy requires: (i) recognition of fundamental rights (in law or custom); (ii) awareness of those rights; (iii) the confidence and ability to make claims when rights are contested or threatened; (iv) fairness of any adjudication process; (v) fairness of the outcome; and (vi) fairness and effectiveness of enforcement and implementation of decisions concerning rights. All are essential to obtaining an effective remedy, whatever the process and context.

Awareness of rights is an important first step on the path towards accessing justice. Recognition of those rights is a necessary foundation in ensuring there is a pathway towards justice. The fundamental principle of equality before the law and respect for shared values will be critical factors in improving access to justice in Myanmar.

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13 See footnote 1 and Annex I.

14 Equality before the law is the cornerstone of fair trials rights and due process as enshrined in Article 7 of the Universal Declaration of Human Rights (UDHR), which states that "All are equal before the law and are entitled without any discrimination to equal protection of the law", as well as Art. 14 of the International Covenant on Civil and Political Rights.

15 Human rights are rights inherent to all human beings, of whatever nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status. Everyone is equally entitled to their human rights without discrimination. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

16 United Nations Economic and Social Council. Definition of basic concepts and terminologies in governance and public administration. Note by the Secretariat; Committee of Experts on Public Administration. Fifth session New York, 27-31 March 2006, Agenda item 5 Compendium of basic terminology in governance and public administration. (UN Doc. E/C.16/2006/4).

17 While a definition of the rule of law was not attempted for this study, its constituent elements were taken as: (i) government bound by law; (ii) fair and transparent enactment, adjudication and enforcement of law; (iii) the contents of law ensure respect for equal dignity; and (iv) access to justice.

See also World Justice Project, Factors of the WJP Rule of Law Index at <http://worldjusticeproject.org/factors> and Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies, 23 August 2004 (UN Doc. S/2004/616).



## CHAPTER 2

# CHARACTERISTICS OF STUDY SITES AND RESPONDENTS

Photo: Boy selling shrimps at a morning village bazaar in Thin Ga Net Village, Sittwe Township, Rakhine State

This chapter provides an overall description of the study sites and respondents and their general demographic, socio-economic and cultural characteristics. It also looks at how respondents access local officials and services and the other means of support respondents turn to in times of need.

## OVERVIEW OF STUDY SITES

Research was conducted in communities located in three parts of Rakhine State: in the north, central and southern Rakhine, and included at least one township in each part: Rathedaung and Maungdaw in northern Rakhine; Mrauk-U, Sittwe and Kyaukphyu in central Rakhine; and Thandwe in southern Rakhine (Map of study sites).

At a general level, state officials described Rakhine State as having poor infrastructure, especially in relation to transportation and communications, with a heavy reliance on waterways. Those from central Rakhine in particular emphasised that development, economic opportunity and education levels were lower in comparison to the “mainland”. Some officials explained that the level of development had begun to improve over the past couple of years, with connection to the national electricity grid in 2014 and road construction resulting in better communications.

## Demographic Composition

In terms of demographic diversity, study sites that were further south were generally more heterogeneous, with a more diverse mix of ethnicities and religions.<sup>18</sup> Study sites in the remaining townships in central and northern Rakhine were much more homogenous, with rural areas (i.e., villages) in particular clearly segregated into Buddhist and Muslim communities.

## Socio-Economic Observations

On the whole, most rural study sites had low income levels. Urban study sites generally fell within middle-income categories. However, the urban study site in Rathedaung Township is as poor as its rural counterpart –both rural and urban study sites in Rathedaung Township included communities surviving at subsistence levels. It may be concluded that some urban wards have much higher income levels than others.

## Cultural Observations

There were observable cultural differences among both Muslim and Rakhine populations in different parts of Rakhine State.

## Muslim Population

“The general categorisation, “Muslim”, is made on the basis of those who self-identified as Rohingya or Muslim or Islam or Bengali, as well as those who were not asked about their ethnicity in Rathedaung, Maungdaw and Mrauk-U Townships. For those who were not asked about their ethnicity, responses are inferred from their answers in relation to the main language spoken in their household.”

## Rakhine Population

Rakhine communities in Maungdaw Township were conversant in the local language and were able to communicate with their Muslim neighbours.

In southern Rakhine, both Rakhine and Muslim communities communicated in the Myanmar language. For this and other reasons, Rakhines

<sup>18</sup> It should also be noted, however, that study sites in Kyaukphyu Township previously included Muslim residents, who, by the time the research was conducted, were displaced into camps and elsewhere following the 2012–2013 communal violence.



# UNDP A2J-IJS Study Sites (Rakhine)



in the south reported being perceived by those in central Rakhine as not “real Rakhines”.

## Communal Relations

In northern and southern Rakhine, Rakhine and Muslim communities co-existed to a greater degree than in central Rakhine.

In Maungdaw Township (where the population is predominantly Muslim) and Thandwe Township (which respondents explained was much more influenced by Yangon than Sittwe), Rakhines and Muslims interacted more freely with each other. The Thandwe Township Administrator emphasised the diversity of his community, and the importance of paying attention to small cases to prevent them erupting into bigger problems.

In contrast, in Sittwe and Mrauk-U Townships there appeared to be minimal interactions between Rakhine and Muslim villages, and they only took place when absolutely necessary for economic reasons. In Kyaukphyu Township, where study sites previously included Muslim residents who were now displaced to camps and elsewhere, Rakhine respondents generally expressed a preference for the Muslim community to be separated from the Buddhist community. One township administrator in central Rakhine commented that there was “some hatred” among people and that “people [were] a bit racist”, which impacted on his work “like a shadow”.

## RESEARCH RESPONDENTS

This section describes the demographic and socio-economic background of respondents to the household structured interview questionnaire.

A total of 332 adult respondents (166 females and 166 males) were interviewed across 10 wards and villages in five townships of Rakhine State. The median age of the respondents was 40 years; the youngest was aged 18 and the oldest 67. Almost three quarters (74.4%) of the respondents were married, at the time of the interview.

## Cultural Characteristics

Respondents identified their ethnicity and religion.<sup>19</sup> With regards to ethnicity, respondents' answers were reclassified into nine categories: Rakhine, “Muslim”<sup>20</sup>, Maramagyi, Rohingya, Kaman, Chin, Bamar, Indian/Hindu, Daingnet and “Mixed”<sup>21</sup>. The distribution of respondents by ethnicity and sex is presented in Table 2.1.

19 In response to open-ended questions, with no prompting.

20 In addition to those who self-identified as Rohingya or Muslim or Islam or Bengali, for analysis purposes this category, “Muslim”, includes respondents who were not asked about their ethnicity in Rathedaung, Maungdaw and Mrauk-U Townships. For those who were not asked about their ethnicity, responses are inferred from their answers in relation to the main languages spoken in their household.

21 This category includes: Rakhine-Kaman, Bamar-Rakhine, Mon-Bamar-Pahtan, Mon-Kaman, Rakhine-Maramagyi and Rakhine-Mon.

Table 2.1 Respondents by Ethnicity and Sex

Ethnicity	Sex		TOTAL
	F	M	
Rakhine	90	91	181
Rohingya	39	51	90
Maramagyi	9	8	17
Kaman	12	4	16
Chin	3	3	6
Bamar	1	4	5
Indian/Hindu	4	1	5
Daingnet	2	2	4
Mixed	6	2	8
<b>TOTAL</b>	<b>166</b>	<b>166</b>	<b>332</b>

In relation to religion, respondents identified themselves variously as Buddhist, Muslim, Christian and Hindu. The distribution of respondents by religion and ethnicity is presented in Table 2.2 and by religion and township in Table 2.3.

Table 2.2 Respondents by Ethnicity and Religion

Ethnicity	Religion				TOTAL
	Buddhist	Islam	Christian	Hindu	
Rakhine	163	18	0	0	181
Rohingya	0	90	0	0	90
Maramagyi	17	0	0	0	17
Kaman	0	16	0	0	16
Chin	1	0	5	0	6
Bamar	4	1	0	0	5
Indian/Hindu	4	0	0	1	5
Daingnet	4	0	0	0	4
Mixed	4	4	0	0	8
<b>TOTAL</b>	<b>197</b>	<b>129</b>	<b>5</b>	<b>1</b>	<b>332</b>

Table 2.3 Respondents by Religion and Township

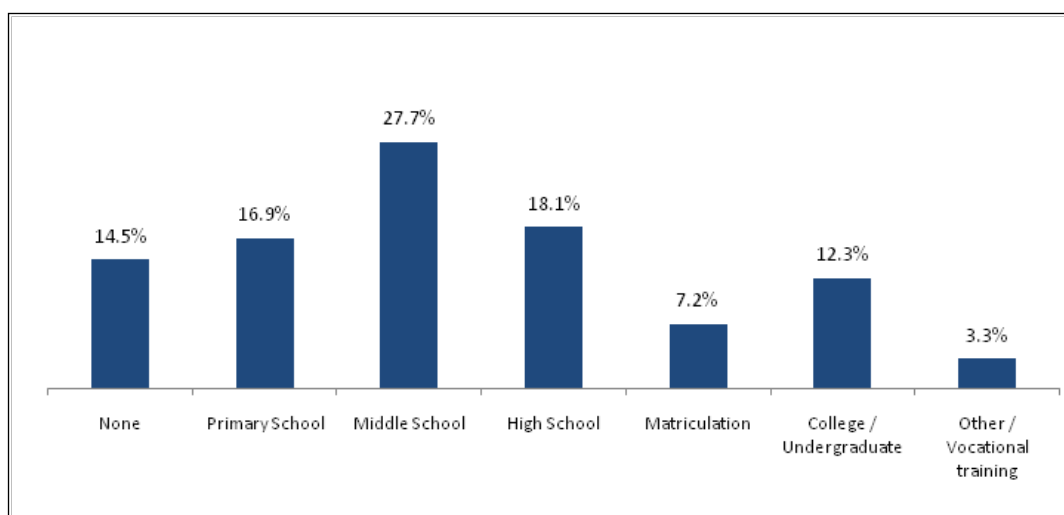
Township	Religion				TOTAL
	Buddhist	Muslim	Christian	Hindu	
Rathedaung	34	23	--	--	57
Maungdaw	34	25	--	--	59
Mrauk-U	40	35	--	--	75
Kyaukphyu	64	--	5	1	70
Thandwe	25	46	--	--	71
<b>TOTAL</b>	<b>197</b>	<b>129</b>	<b>5</b>	<b>1</b>	<b>332</b>

## Education Levels and Myanmar Language Literacy

For purposes of analysis, respondents' answers regarding their completed levels of education were reclassified into seven categories: None, Primary school<sup>22</sup>, Middle School<sup>23</sup>, High School

<sup>24</sup>,Matriculation<sup>25</sup>, College/Undergraduate<sup>26</sup> and Other/Vocational Training<sup>27</sup>. The distribution of respondents across all education levels is presented in Figure 2.1.

Figure 2.1 Levels of Education



22 Defined to include having passed any level between grades 1 and 4.

23 Defined to include having passed any level between grades 5 and 8.

24 Defined to include having passed any level between grades 9 and 10.

25 Defined as having passed grade 11.

26 Defined to include those currently at, and those graduated from, a tertiary education institution at undergraduate level.

27 Defined to include non-formal education.

Among all respondents, 14.5% had never had any formal or non-formal education, and only 16.9% had had some level of primary education. The largest single group of respondents (27.7%) had completed middle school. Fewer than one in five (18.1%) had had some level of high school education and 7.2% had matriculated from high school.

There was a much higher proportion of Muslim respondents without any formal or non-formal education (40.0%) than Rakhine respondents (3.3%). At every other education level, with the exception of other/vocational training, the proportion of Muslim respondents was lower than that of Rakhine respondents (Figure 2.1(a), Annex II).

Respondents indicated whether they were able to read a newspaper and write a letter in the Myanmar language. Over three quarters (76.2%) reported that they were able to do both. More than one in five (21.4%) indicated they were unable to either read or write in the Myanmar language.

A lower proportion of female (69.3%) than male (83.1%) respondents reported being literate (by these measures) in the Myanmar language (Figure 2.1(b), Annex II).

Of all respondents who reported being unable to either read or write in the Myanmar language, almost three quarters (73.2%) were Muslim, compared with 18.3% of Rakhine respondents. A small number of Maramagyi and Indian/Hindu respondents also reported not being literate (by these measures) in the Myanmar language (Table 2.4, Annex II).

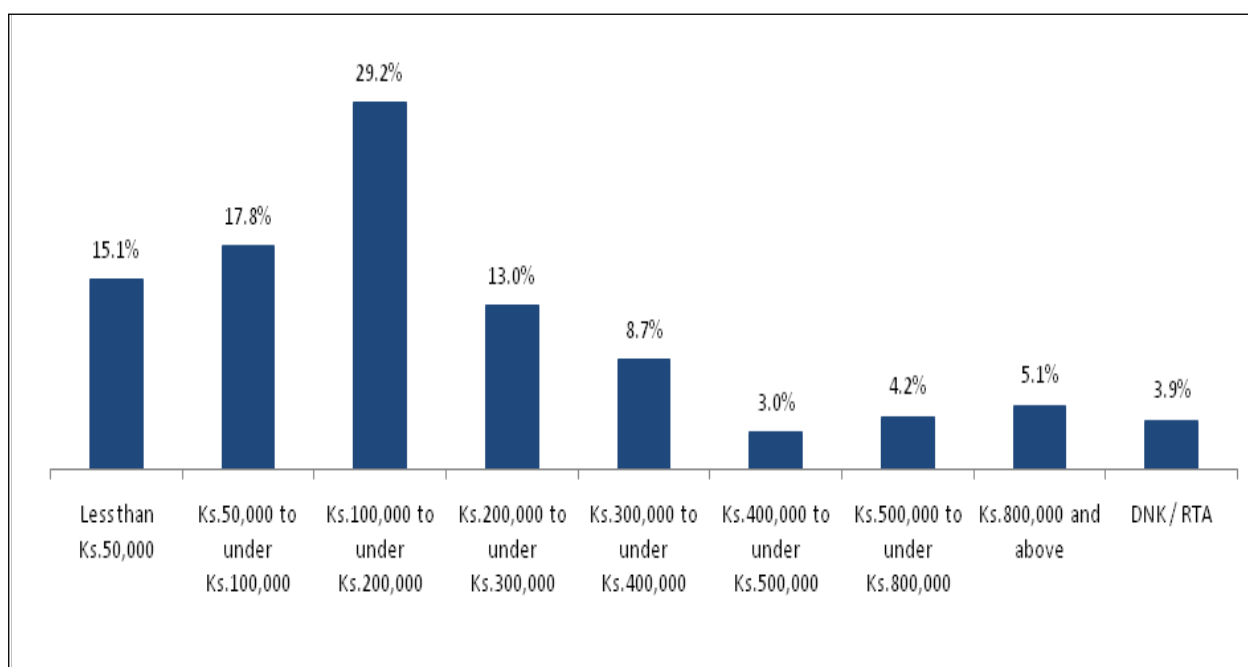
### Persons with Disability

A minority of respondents (9.0%) reported having a person with at least one type of disability within their household. These included physical, visual, hearing, speech and/or mental disabilities or impairments.

### Income and Household Assets

The approximate monthly household incomes of respondents were generally rather low (Figure 2.2).

Figure 2.2 Monthly Household Income Levels





It is worth noting that monthly household income levels diverged according to ethnicity, with Rakhine households generally better off, and at higher levels significantly better off. A significant proportion (62.2%) of Muslim respondents reported the lowest levels of household income: more than one third of them (38.9%) had less than Ks.50,000 and another 23.3% had between Ks.50,000 and Ks.100,000 per month. In contrast, just 26% of Rakhine respondents reported the lowest levels of household income: 7.2% had less than Ks.50,000 and 18.8% had between Ks.50,000 and Ks.100,000 per month. Conversely, household income of more than Ks.100,000 was reported by 31% of Muslim respondents and well over twice as many (70.8%) Rakhine respondents (Figure 2.2(a), Annex II).

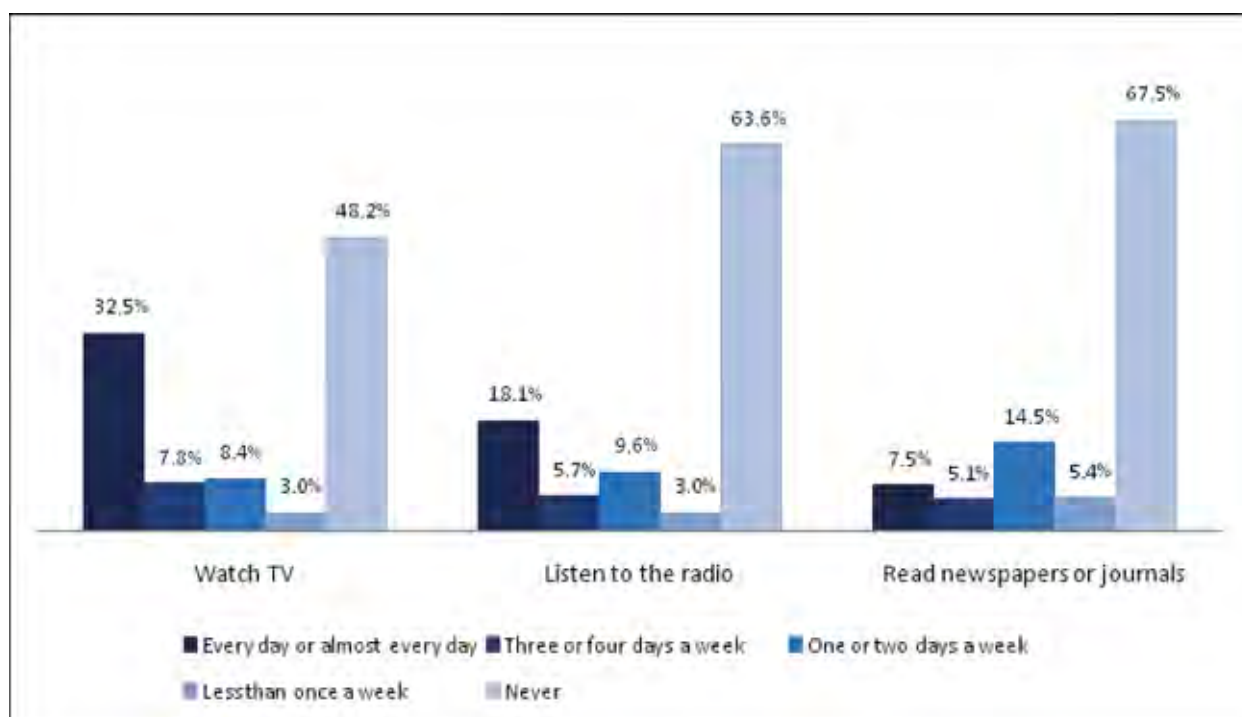
The primary sources of household income were small business (trading, buying, selling) (23.2% of respondents), agriculture (18.7%) and casual labour (17.8%). More than three fifths (63.6%) of respondents reported not having secondary sources of household income.

A very large majority of respondents' households did not have trilogies<sup>28</sup>, cars/trucks/vans, boats, motorboats, bullock carts, power tillers, threshing machines or power generators. Among household assets, a majority (70.8%) of respondents possess a mobile phone, about half (50.3%) own a television set and more than one third have a radio (38.6%) and motorcycle/tuktuk (38.6%). Ownership of television sets, radios and mobile phones disaggregated by monthly household income level and ethnicity are presented in Figures 2.2(b) and 2.2(c) respectively (Annex II).

### Mass Media Exposure and Access to Information

Respondents indicated their levels of exposure to mass media by stating how often per week they watched television, listened to the radio and read newspapers or journals (Figure 2.3). A sizeable minority never watched television and very large majorities never listened to the radio or read newspapers or journals.

Figure 2.3 Mass Media Exposure

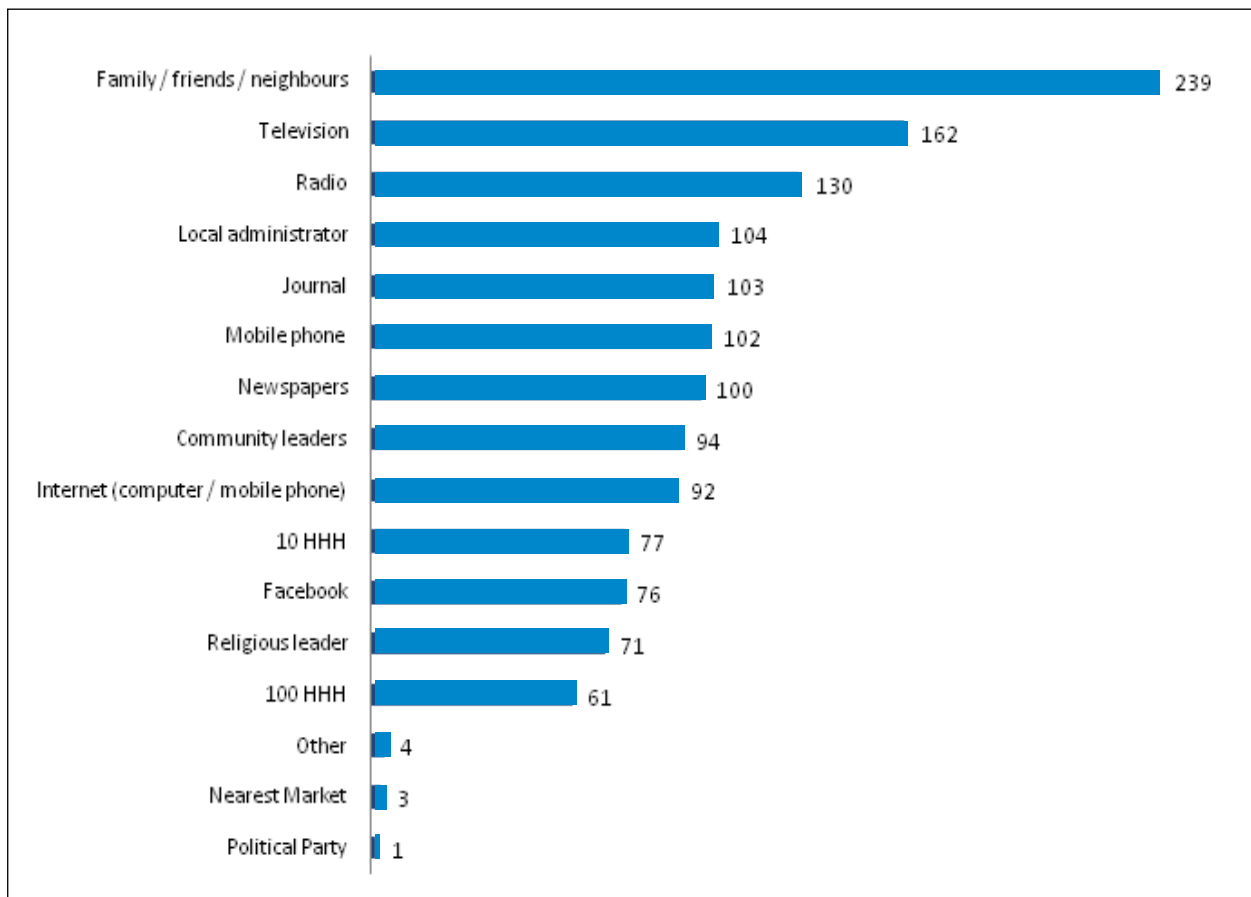


28 A trilogary is a type of vehicle typically used to transport agricultural produce or livestock.

On a weekly basis, almost one third (32.5%) of respondents watched television every day or almost every day, less than one fifth (18.1%) listened to the radio every day or almost every day, and a very small minority (7.5%) read the newspapers or journals every day or almost every day.

Almost half (48.2%) the respondents never watch television, and almost two thirds (63.6%) never listen to the radio (this finding corresponds with respondents' ownership of television sets and radios, described above). More than two thirds (67.5%) of respondents reported that they never read newspapers or journals.

Figure 2.3(a) Access to Information



The single most common source of information was family/friends/neighbours (80.5% of respondents). Many also relied on television (54.5%) and radio (43.8%). Other important sources of information include: the local administrator (35.0%), journals (34.7%), mobile phones (34.3%) and newspapers (33.7%) (Figure 2.3(a)).

These results suggest that, for some respondents, other people who own televisions and radios are important intermediaries in the dissemination of information.

It appears that female and male respondents access information in different ways (Figure 2.3(b), Annex II). Among female respondents, the most common way of learning about what is happening in the country was through family/friends/neighbours (85.7%). The next most common sources were television (57.8%), radio (38.8%) and journals (31.3%).

Male respondents appear to have more diversified sources of information. They too rely most commonly on family/friends/neighbours (75.3%, a lower proportion than of females)

for information about developments in the country. This source was followed by television (51.3%), radio (48.7%), local administrators (41.3%), mobile phones (39.3%), newspapers and journals (38.0% each), community leaders (35.3%) and the Internet (34.7%).

Muslim and Rakhine respondents appear to access information differently: the former appear to rely primarily on other people or intermediaries for information whereas the latter generally have greater exposure to mass media (Figure 2.3(c), Annex II).

For Muslim respondents, family/friends/neighbours are the most significant source of information (72.1%). Other important sources are radio (44.1%), local administrators (41.2%), community leaders (36.8%) and 10-household heads (26.5%), as well as 100-household heads and religious leaders (both 25.0%). For Rakhine respondents, family/friends/neighbours are even more significant (82.7%), and other important sources of information are television (61.9%), radio (48.2%), newspapers (38.7%), mobile phones (38.1%), journals (36.9%), local administrators (36.3%), the internet (35.1%) and community leaders (33.3%).

Other differences (by ethnicity and religion) emerged from the main languages in which respondents received information. Two thirds (66.9% of respondents) reported that this was in Bamar. Others received information primarily in Rakhine (13.9%), the local language of Muslims in northern Rakhine (7.5%), “Muslim/ Islam” Kaman (2.1%) and Indian and Daingnet (0.3% each). This pattern diverges from the distribution of primary languages spoken in respondents’ households: almost half (47.9%) of respondents reported speaking Rakhine, followed by Bamar (23.2%), the local language of Muslims in northern Rakhine (19.3%), “Muslim/ Islam” Kaman (7.2%), Daingnet (1.2%), Indian (0.9%) and Chin (0.3%).

With respect to secondary languages in which respondents received information, 44.9% of respondents reported that they did not receive information in a second language, and another 30.1% said that they did so in Rakhine. Interestingly, 5.7% of respondents reported English as the second language in which they received information (Figure 2.3(d), Annex II). This suggests either a continuing linguistic legacy of colonial rule or (perhaps less likely) that these respondents had accessed higher education in an international context.

It is important to note that about 9.0% of respondents stated that they do not receive any information on what is happening in the country. A majority (21 of 30) of these respondents are from study sites in Mrauk-U, with the remainder from Maungdaw and Rathedaung. A majority (21 of 30) are Muslim, the remainder being Rakhine.

## Access to Services

Respondents had relatively easy access to their nearest ward and village tract administrators (W/VTAs). A majority (81.0%) of respondents reported that it took them 15 minutes or less to reach their W/VTAs. Another 17.8% estimated that it took them up to half an hour. In terms of cost, a large majority (91.9%) stated that visiting their local administrators was cost free, and 6.9% indicated that such a visit would cost them Ks.500 or less. Close to two thirds (62.7%) of respondents stated that, over the course of a year, they had never visited their ward or village tract administration office to seek help, and less than one third (30.4%) estimated that they had visited it between one and five times. Few respondents reported fortnightly (4) or weekly (1) visits.

To reach the police post closest to their household, 30.1% of respondents said that it would

take them 15 minutes or less, and another 44.9% said that it would take up to half an hour. Few (4) respondents stated that they did not know where the police post nearest to their home was. More than one third (38.3%) of respondents said that visiting the police post would be cost free, whereas 45.8% estimated that a visit would cost them more than Ks.500. A large majority (84.9%) of respondents stated that they had never visited the local police post for help during the course of a year; 12.3% indicated they had visited it between one and five times in a year. Two respondents reported fortnightly visits, and one had visited the local police post 70 times in a year.

With respect to services at the township, between one fifth and one quarter of respondents reported that it would require 15 minutes or less to reach the General Administration Department (GAD) in the township (24.4%), the township police (24.7%) and the township court (21.4%). A slightly higher proportion of respondents estimated that it would take up to half an hour (township GAD: 28.9%; township police: 30.7%; township court: 30.4%), and similar proportions indicated that it would require more than an hour (township GAD: 28.9%; township police: 28.0%; township court: 28.3%). Small minorities stated that they did not know the location of the township GAD (7.2%), township police (6.6%) and township court (7.5%). Respondents' estimates of the costs associated with accessing these services are presented in Table 2.5 (Annex II). It is worth noting that significant majorities of respondents reported never to have visited the township GAD (91.9%), township police (93.7%) and township court (95.8%) for help over the course of a year.

## Main Sources of Support

When they need help, almost half (49.4%) the respondents seek help from their families.

Small minorities seek help from friends and colleagues (14.2%) and neighbours (7.5%). Significantly, more than one in five respondents (21.4%) reported that they had no one from whom they could receive assistance. A large majority of those who stated they did have sources of help (88.5%) indicated that those sources were not affiliated with a political party, and a clear majority (57.5%) reported that their sources of support were people of relatively higher wealth.

It appears that female and male respondents have slightly different support networks. Somewhat more male (51.2%) than female (47.6%) respondents identified family and relatives as a source of support. Male respondents identified as other sources of help local administrators (6.6% of male respondents; 2.4% of female respondents), "elderly and respected persons" (0.6% of males; 0.0% of females) and the police (0.6% of males; 0.0% of females). In contrast, more female than male respondents identified neighbours (10.2% females; 4.8% males) and community social groups (1.8% females; 0.0% males) as sources of help. A higher proportion of female (22.9%) than male respondents (19.9%) reported that they had no one from whom they could seek and receive assistance (Table 2.6, Annex II).

*In summary, overall, respondents' monthly household incomes were generally rather low, and respondents in most rural study sites had lower income levels than those in urban study sites. In central Rakhine in particular, development, economic opportunity and education levels were lower in comparison with other areas.*

*Study sites towards the south were generally more heterogeneous. In northern and southern Rakhine, Rakhine and Muslim communities co-existed to a greater degree than in central Rakhine. Muslim populations in the north were more culturally conservative than their counterparts in other parts of Rakhine State.*

*As a group, Muslim respondents had the lowest levels of education. Forty percent of Muslim respondents had no formal or non-formal education (compared with 3.3% of Rakhine respondents).*

*The most common source of information for respondents was family/friends/neighbours. It is likely that people who own televisions and radios are important intermediaries in the dissemination of information. Muslim and Rakhine respondents appear to access information differently, the former relying primarily on other people or intermediaries for information, whereas the latter generally have greater exposure to mass media. About 9.0% of respondents stated that they do not receive any information on what is happening in the country. Two thirds of these are Muslim.*

*Female and male respondents have slightly different support networks. A higher proportion of female than male respondents reported that they had no one from whom they could seek and receive assistance.*



## CHAPTER 3

# PERCEPTIONS OF JUSTICE AND LAW

Photo: Man selling dried fish in Thar Yar Kone Village, Sittwe Township, Rakhine State

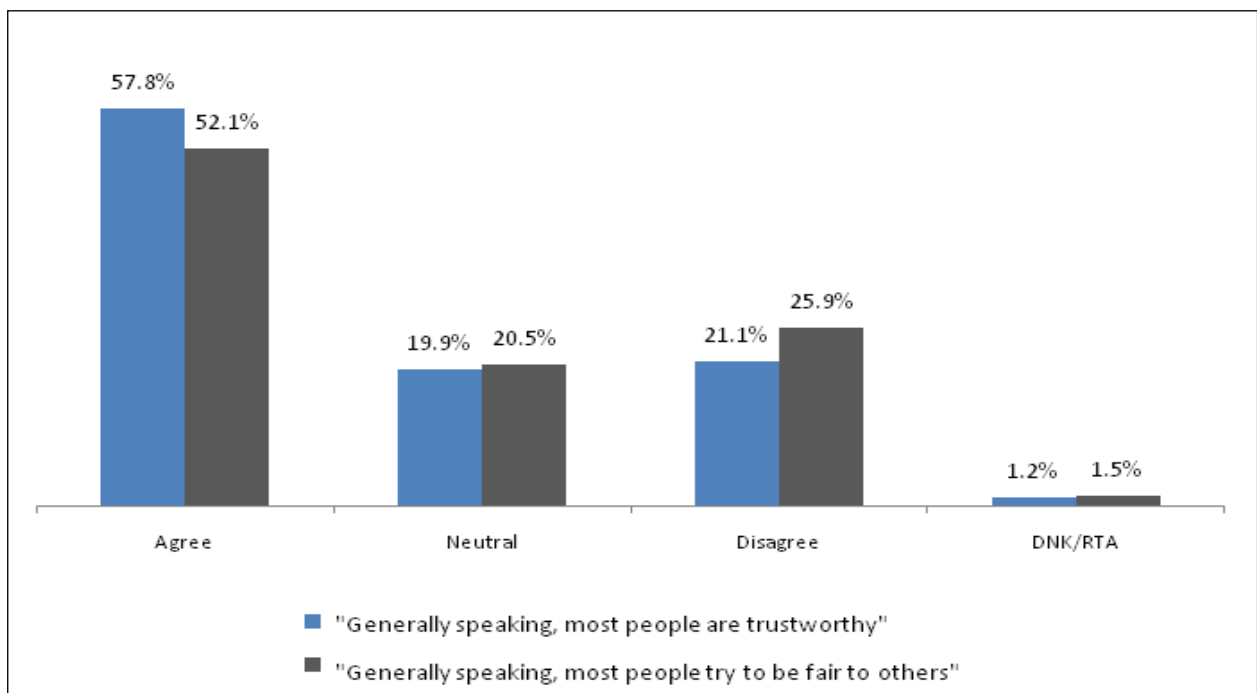
This chapter first reports on levels of social trust among respondents. Social trust was explored in terms of: (i) respondents' perspectives on how trustworthy and how fair people generally are, and (ii) the degree to which respondents trust people other than themselves. The chapter also examines respondents' perceptions of certain dimensions of justice and law. This provides some context to the study's enquiry into why and how people seek access to justice (as outlined in the following chapters).

## SOCIAL TRUST

Respondents indicated their perceptions of two characteristics associated with social value: trustworthiness and fairness (Figure 3.1).<sup>32</sup>

More than half the respondents agreed that, "Generally speaking, most people are trustworthy" (57.8%) and that, "Generally speaking, most people try to be fair to others" (52.1%). However, sizeable minorities disagreed: more than one fifth (21.1%) disagreed with the proposition that most people are trustworthy and just over one quarter (25.9%) disagreed with the proposition that most people try to be fair to others.

Figure 3.1 Social Trust: Trustworthiness and Fairness

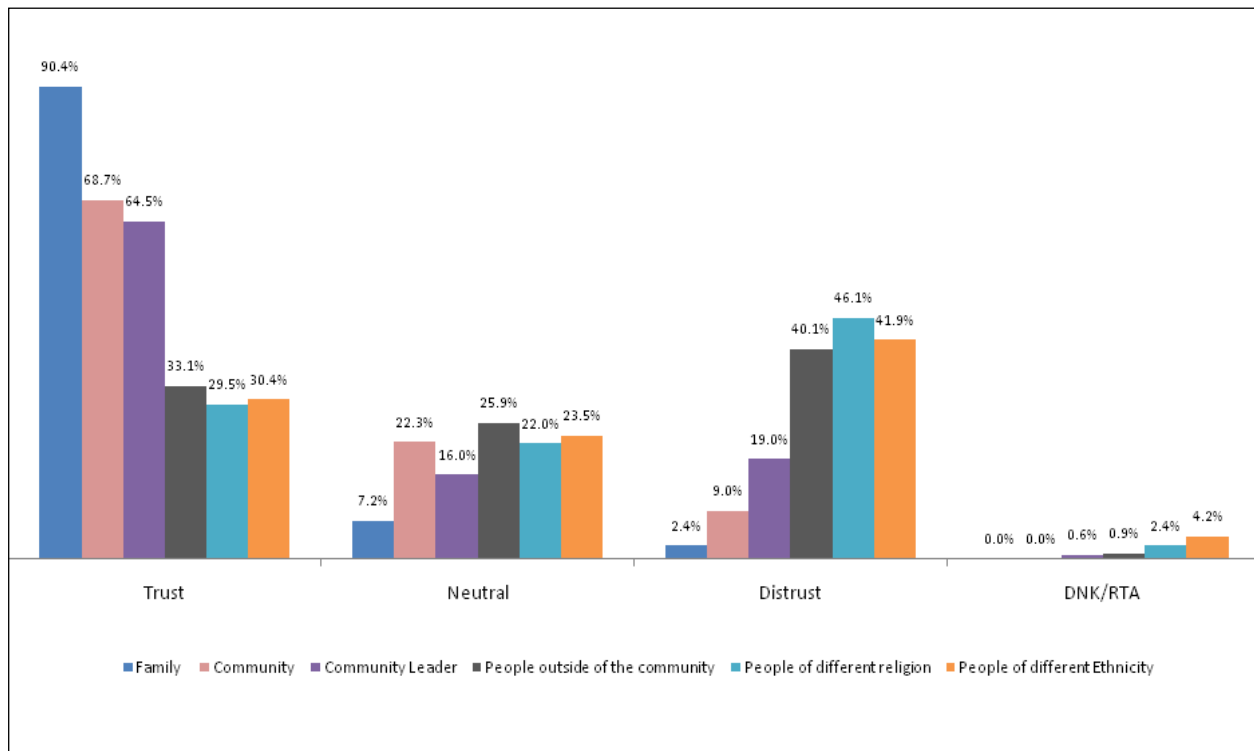


32 Respondents were asked the extent to which they agreed or disagreed with two statements on trustworthiness and fairness. Their responses were recorded on a seven-point Likert scale: "Agree strongly"; "Agree somewhat"; "Agree a little"; "Neither agree nor disagree"; "Disagree a little"; "Disagree somewhat"; "Disagree strongly". To simplify analysis, the responses "Agree strongly", "Agree somewhat" and "Agree a little" are combined as "Agree", and the responses "Disagree a little", "Disagree somewhat", and "Disagree strongly" are combined as "Disagree".

It is particularly interesting that significantly higher proportions of those who self-identify as Muslim, compared with those of other ethnic groups, reported that they agreed with the two statements (Figure 3.1(a), Annex II).

Respondents also indicated the extent to which they trust or distrust various categories of people: family and relatives; neighbours, friends and people within the community; community leaders; people outside the community; people of a different religion; and people of a different ethnicity (Figure 3.2).<sup>33</sup>

Figure 3.2 Social Trust: Trust in Others



Female respondents indicated lower levels of trust than did males, and Buddhist respondents indicated lower levels of trust than did Muslim respondents, towards those who are typically considered to belong to “outgroups” – people outside the community, people of a different religion and people of a different ethnicity (Figures 3.2(a) and 3.2(b), Annex II).

of distrust towards “outgroups” (Figures 3.2(c) to 3.2(e), Annex II).

Higher levels of education correlated with higher levels of neutral perception and lower levels

*In summary, one of the most interesting findings was that Muslim respondents were significantly more likely than others to consider most people generally to be trustworthy and fair. In addition, people with higher levels of education were less likely than others to distrust “outsiders”.*

<sup>33</sup> Respondents were asked the extent to which they trusted each of the given categories of people. Their responses were recorded on a seven-point Likert scale: “Trust very much”; “Trust somewhat”; “Trust a little”; “Neither trust nor distrust”; “Distrust a little”; “Distrust somewhat”; “Distrust very much”. To simplify analysis, the responses “Trust very much”, “Trust somewhat” and “Trust a little” are combined as “Trust”, and the responses “Distrust a little”, “Distrust somewhat” and “Distrust very much” are combined as “Distrust”.



## PERCEPTIONS OF JUSTICE

While the study did not explore respondents' understanding of justice as a concept, it sought their perspectives on eight important dimensions of justice (as expressed in a series of given statements):

- informal vs. formal pathways to justice;
- the principle of equality, and the State's responsibility to protect and defend human rights;
- the right to seek remedy;
- private vs. public authority;
- transitional justice (in a conflict-affected society);
- due process;
- gender equality;
- individual rights in relation to communal harmony and cohesion (Table 3.1).

More than fourfifths of respondents indicated a preference for disputes to be settled locally (85.5%), and agreed that men and women have equal value and equal responsibility for caring about culture and tradition (84.6%), that people are able to seek help, and obtain a remedy and fair outcome for injustices (83.4%), and that procedural justice is more important than obtaining a favourable outcome (82.8%).

Clear majorities of respondents agreed that everyone deserves equal care and concern by the government regardless of religion or ethnicity (69.9%), that matters within a family are

private, and that a married man has complete authority over his family (60.2%), that individual rights are as important as communal harmony (60.2%) and that transitional justice is important in building a new Myanmar (57.2%).

Male and female respondents perceived the various dimensions of justice very similarly; there were almost no discernable differences between them (Table 3.1(a), Annex II).

Table 3.1 Perceptions of Justice

Dimensions of Justice	Statements	Agree*
<b>FORMAL vs. INFORMAL</b>	(a) Some disputes are best settled in the courts.	9.9%
	<b>(b) It is better for most disputes to be settled within the community.</b>	<b>85.5%</b>
<b>EQUALITY</b>	<b>(a) Every person deserves equal care and concern by the government regardless of religion or ethnicity.</b>	<b>69.9%</b>
	(b) The majority ethnic or religious population should receive more care and concern from the government than minority ethnic or religious groups.	24.7%
<b>FATE vs. REMEDY</b>	(a) Injustices can befall people, and there is nothing they can do about it because it is their fate.	12.7%
	<b>(b) When injustices befall people, they can get help from others to obtain a remedy and to ensure a fair outcome.</b>	<b>83.4%</b>
<b>PRIVATE vs. PUBLIC</b>	<b>(a) Matters within a family are private and internal to it, and a married man has complete authority over his spouse and children.</b>	<b>60.2%</b>
	(b) A community sometimes has the responsibility in certain circumstances to intervene in the household matters of others.	33.7%
<b>TRANSITIONAL JUSTICE</b>	(a) Old problems that happened in the past should not be revisited, and everyone should focus on building a new Myanmar.	38.0%
	<b>(b) Old problems that happened in the past must be addressed, so that we can build a new Myanmar.</b>	<b>57.2%</b>
<b>PROCESS vs. OUTCOME</b>	<b>(a) Being fairly treated throughout a process is more important than obtaining a favourable outcome.</b>	<b>82.8%</b>
	(b) Obtaining a favourable outcome is more important than being treated fairly during a process.	13.3%
<b>GENDER</b>	(a) Men and women have equal value, but women have greater responsibility to care about culture and tradition.	14.2%
	<b>(b) Men and women have equal value, and both have equal responsibility to care about culture and tradition.</b>	<b>84.6%</b>
<b>INDIVIDUAL vs. COMMUNITY</b>	<b>(a) Individual rights must be as respected as communal harmony.</b>	<b>60.2%</b>
	(b) Asserting individual rights is selfish, and maintaining communal harmony and agreement must be prioritised.	34.3%

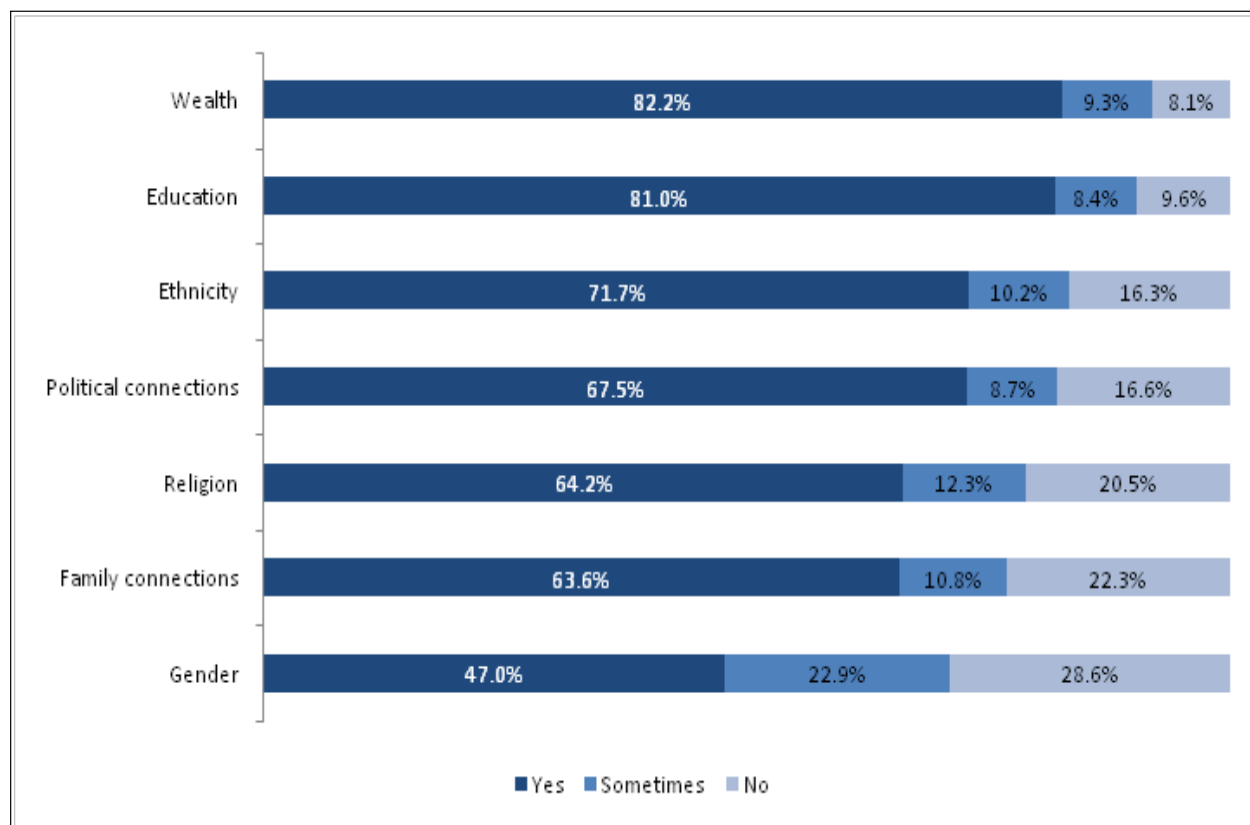
\* The totals of each pair of statements do not add up to 100% as some respondents chose “both” statements, some chose “neither”, others refused to answer, and some others indicated that they did not know which statement was more aligned to their personal views.

In general, a greater proportion of respondents from rural study sites than from urban study sites adhered to the more conservative positions: 33.2% of rural (and 12.9% of urban) respondents agreed that the majority ethnic or religious population should receive more care and concern from the government than minority ethnic or religious groups; 66.3% of rural (and 51.8% of urban) respondents agreed that a married man has complete authority over his family in private and internal family matters; 18.7% of rural (and 7.9% of urban) respondents agreed that women have greater responsibility than men to care about culture and tradition; and 38.3% of rural (and 28.8% of urban) respondents agreed that asserting individual rights is selfish, and maintaining communal harmony

and agreement must be prioritised. Interestingly, a higher proportion of rural (61.1%) than urban (51.8%) respondents agreed that “Old problems that happened in the past must be addressed, so that we can build a new Myanmar”. This perspective might be related to land-related disputes that remain unresolved (Table 3.1(b), Annex II).

Respondents also indicated what they thought about factors that might be considered to determine how well a person is treated in Myanmar society: education, wealth, ethnicity, gender, religion, family connections and political connections (Figure 3.3).

Figure 3.3 Treatment Factors



People overwhelmingly cited wealth (82.2%) as a factor that determines how well a person is treated in society. Large majorities also believed that education (81.0%), ethnicity (71.7%), political connections (67.5%), religion (64.2%) and family connections (63.6%) determine how well people are treated. A sizeable minority (47.0%) believed that gender determines how well a person is treated in Myanmar society.

In summary, overall, respondents clearly preferred disputes to be settled locally. Large majorities agreed that men and women have equal value and equal responsibility for caring about culture and tradition, that people are able to seek help and obtain a remedy and fair outcome for injustices, and that procedural justice is more important than obtaining a favourable outcome. Clear majorities agreed that everyone deserves equal care and concern by the government regardless of religion or ethnicity. More rural respondents than urban re-

spondents adhered to the more conservative positions.

People overwhelmingly cited wealth, education and ethnicity as the main factors that determine how well a person is treated in society.

## PERCEPTIONS OF LAW

While the study did not seek to test respondents' legal knowledge, it sought to understand their perceptions of how the justice system functions, or how it would work in given circumstances. Respondents indicated how often they heard or used certain words – "law", "police", "judge", "law officer", "court" and "lawyer" – in day-to-day conversation. The results (Figure 3.4) give some indication of respondents' relative engagement with the formal justice system (on this basis). They also illustrate "gaps", to the extent that they exist, be-

Figure 3.4 Words in Daily Conversation



tween provisions of the law in Myanmar and perceived reality.

The word “police” was heard or used by the highest proportion of respondents: 63.9% reported its regular or occasional use in day-to-day conversation. Just over half (53.3%) of the respondents indicated that “law” was heard or used regularly or occasionally in daily conversation. Majorities of respondents reported that they had rarely, or never, heard or used the words “law officer” (57.0%), “lawyer” (54.0%), “court” (52.7%) or “judge” (51.8%).

In general, more respondents with higher levels of education reported having heard or used these six words than did those with lower levels of education. Male respondents reported

much higher levels of exposure to these words than did female respondents (Figure 3.4(a), Annex II).

Respondents then indicated their understanding of three propositions regarding particular legal provisions (as expressed in a series of given statements) (Table 3.2). This cast some light on their perceptions of the law and how it operates in Myanmar.

Consistently, 5% to 6% of respondents did not know how (or refused) to answer to each of these propositions. However, it is important to note that it is not possible on the basis of the results to disentangle respondents’ (presumed) lack of legal knowledge from a lack of implementation of the law.

Table 3.2 Perceptions of Law

Dimensions of Justice	Statements	Agree*
CHILD LABOUR	(a) In Myanmar, it is illegal for children under 12 years of age to be working in teashops.	27.7%
	<b>(b) In Myanmar, children who are 12 and above can choose and decide to work in teashops.</b>	<b>53.3%</b>
EQUALITY BEFORE THE LAW	(a) In Myanmar, every person has equal rights before the law.	24.7%
	<b>(b) In Myanmar, not all people have equal rights before the law.</b>	<b>69.0%</b>
VIOLENCE AGAINST WOMEN	(a) According to national law, only when a woman has experienced physical violence can she report it to the police.	34.3%
	<b>(b) According to national law, women who receive threats to their safety can also report to the police.</b>	<b>52.1%</b>
LAND RIGHTS	<b>(a) When pursuing a land claim, the strongest claim is an official paper land certificate.</b>	<b>47.9%</b>
	(b) When pursuing a land claim, an official paper land certificate is not regarded as a stronger claim than a community-recognised ancestral land claim.	43.4%

\* The totals of each pair of statements do not add up to 100% as some respondents chose “both” statements, some chose “neither”, others refused to answer, and some others indicated that they did not know which statement was more aligned to their personal views.

On the issue of child labour, over half (53.3%) the respondents agreed that children aged 12 or older can “choose and decide” to work in tea-shops. This perception reflects a common phenomenon of children working in teashops that has its causes in poverty. The 1951 Shops and Establishments Act(s. 8) stipulates that “no person who has not attained the age of 13 years shall be required to work in any shop, commercial establishment or establishment for public entertainment”.

More than two thirds (69%) of the respondents perceived that not all people have equal rights before the law in Myanmar. In this regard, the 2008 Constitution contains potentially contradictory provisions: on the one hand, the rights of equality, liberty and justice are guaranteed only to citizens (Art. 21(a)), and on the other, equal rights before the law and equal legal protection are guaranteed to any person in the Union (Art. 347).

In relation to violence against women, more than half (52.1%) the respondents agreed that women who receive threats to their safety can report to the police<sup>34</sup>, whereas more than one third (34.3%) believed that a woman could only do so when she has experienced physical violence.

Almost half (47.9%) the respondents believed that an official paper land certificate is the strongest piece of ownership documentation to have when pursuing a land claim; a smaller proportion (43.4%) believed that a community-recognised ancestral land claim provides an equally strong claim.

## Legal Awareness

All Rakhine State officials involved in this study considered the issue of legal awareness to be important. With greater public awareness of the law, they reasoned:

- There would be less crime;
- People would be aware of the penalties and consequences of their own actions (i.e. possibly going to prison, bringing suffering to their family, suffering in the afterlife);
- People would understand what not to do (e.g. not leave their daughters alone at home in order to prevent sexual assault);
- People would know their rights and duties;
- There would be better cooperation between people and the justice system;
- There would be increased public trust in judicial institutions;
- People would know how to access the justice system;
- People could participate in the checks and balances of the justice sector, etc.

State officials, and law officers in particular, described the work they do to raise legal awareness. It almost always involves personal communication and addresses a range of topics, including human trafficking, violence against women, child protection, drugs, crime rates, drunk driving, traffic accidents and election laws. Specific activities included cooperating

34 Penal Code, 1861, s. 503.

with the Township Crime Reduction Committee and delivering speeches on commemorative days such as the International Day for the Elimination of Violence against Women, or as a part of cultural and literary talks. Such activities took place in schools, at township meetings to which local administrators and GAD clerks were invited, or when officials travelled to villages.

Most officials wanted to engage in legal awareness activities more often, but the lack of human resources and the difficulty of travelling, particularly to remote areas, presented challenges. Several officials noted the challenge of having to use alternative means of communicating information when encountering high levels of illiteracy and, in some areas, the lack of reliable electricity. Others noted a relationship between the lack of legal awareness and the generally low levels of education in Rakhine State. Officials suggested that legal awareness activities could be made more effective by, for example:

- Adapting talks to the local context;
- Conducting training in a friendly, family atmosphere;
- Sending messages through social media;
- Providing state officials with incentives to conduct legal awareness activities.

*In summary, if respondents' everyday conversation is an indication of their relative engagement with the formal justice system, it is clear that, generally, they are not engaged. They are more familiar with the police than with law officers, lawyers, courts and judges.*

*Respondents often did not know or misunderstood the law. Nonetheless, more than two thirds perceived that not all people have equal rights before the law in Myanmar.*

*Most officials wanted to increase their legal awareness activities but were hampered by having insufficient human resources, the difficulty of travelling and the low education and literacy levels of remote populations they sought to assist.*



# CHAPTER 4

## DISPUTES AND CONCERNS ABOUT JUSTICE

Photo: Rathaedaung Police Station with their dictum "Crime-free Zone"



The first research question was: How do people seek access to justice?

The previous chapter indicated that respondents are not engaged with the formal justice system, although they are familiar with the role and activities of the police in an everyday context. How, then, do they go about seeking resolution to their disputes and concerns about justice?

This chapter identifies the main disputes and concerns about justice that arose at both the individual/household and community levels, and describes respondents' involvement in them. It begins the discussion of how respondents went about resolving the issues and grievances they identified as being of greatest concern to them, and how successful they were (see also Chapter 5).

## INDIVIDUAL/HOUSEHOLD LEVEL

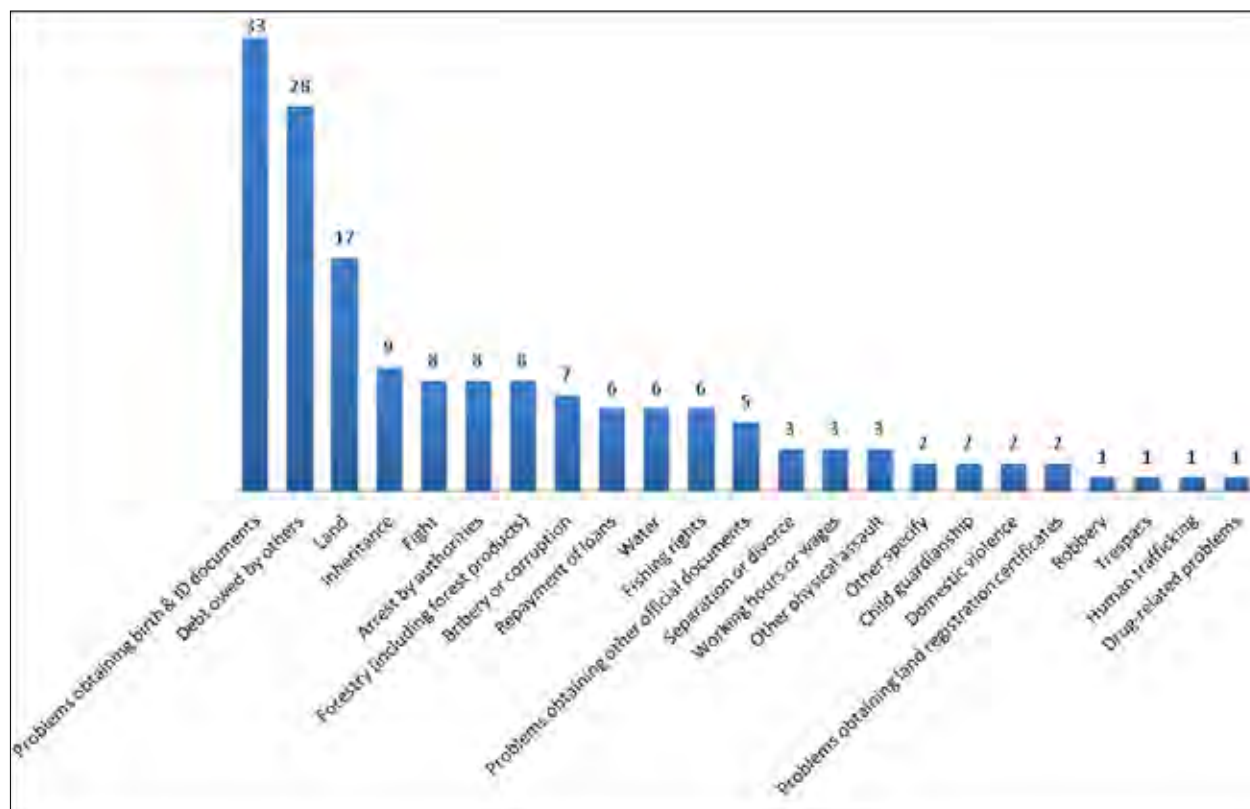
In order to understand the nature of people's concerns about justice, the study first investigated the range and incidence of disputes that had taken place (or were ongoing) in the local area over the preceding 12 months.

### Types of Disputes

Just under one third (102) of the 332 respondents said their household had experienced at least one dispute in the course of the previous 12 months. These disputes related to a wide range of matters, including 22 from a given list – with the striking exception of sexual assault.<sup>35</sup>

The most common disputes related to problems obtaining birth and identity documentation (33 respondents). Also relatively common were disputes related to debts owed by others (28 respondents) and land disputes (17 respondents) (Figure 4.1).

Figure 4.1 Types of Disputes

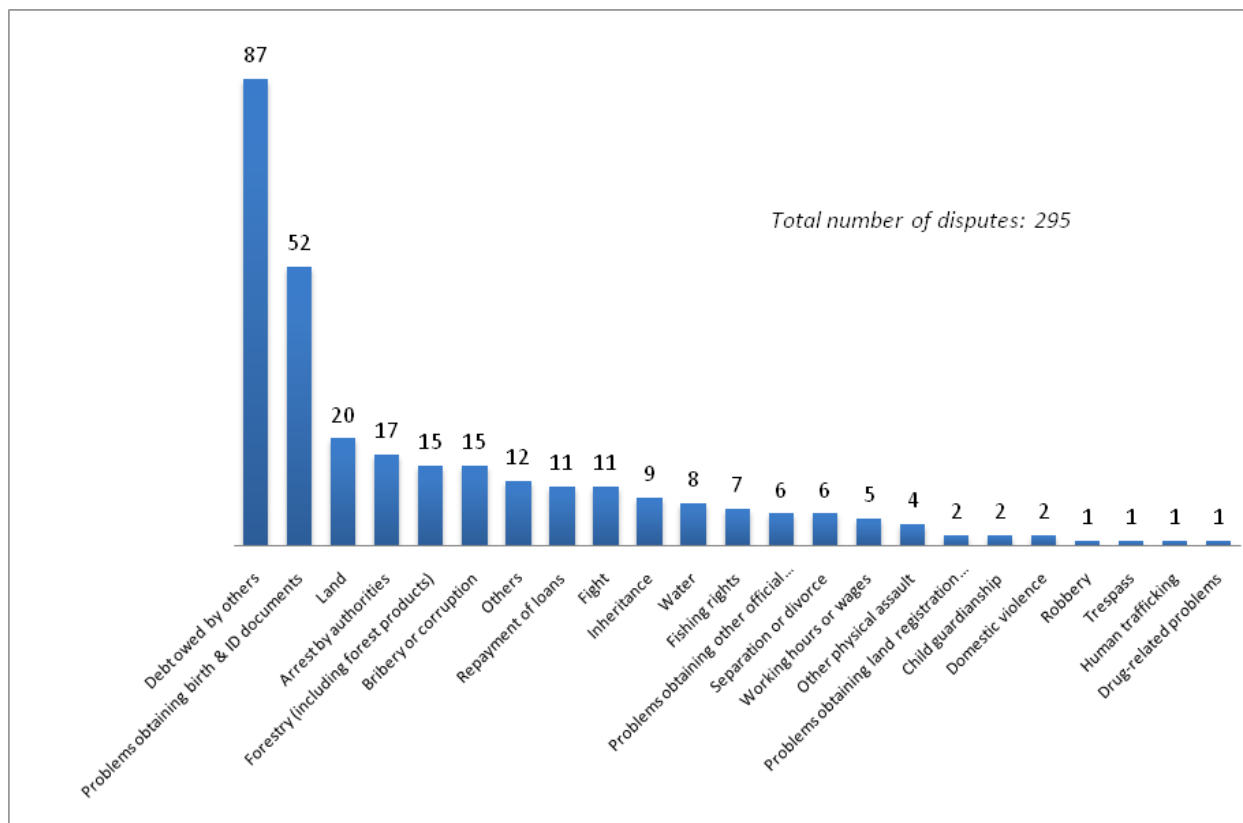


35 Such disputes are likely to be underreported, given their nature.

## Incidence of Disputes

These 102 respondents reported having been involved in 295 disputes (Figure 4.2).

Figure 4.2 Incidence of Disputes



Disputes over debts owed by others occurred significantly more often than any other type of dispute, accounting for 29.5% (87 of 295) of all disputes reported. Problems with obtaining birth and identity documentation accounted for 17.6% (52 disputes). Other disputes occurred less frequently: land-related disputes (6.8%; 20 disputes), arrests by authorities (5.8%; 17 disputes), bribery or corruption (5.1%; 15 disputes) and forestry-related disputes (5.1%; 15 disputes). These six most frequent types of dispute together accounted for 206 of the 295 disputes.

Respondents experienced financial loss in 143 of those 206 disputes. There were 31 instances of property damage (across all categories of the 206 disputes, except bribery or corruption)

and 11 cases of physical injury (arising from forestry-related disputes, and disputes relating to arrests by authorities and identity documentation). Just over half (113) of the 206 disputes were with private persons, and the remaining problems (93 of 206 disputes) arose with public officials.

In relation to debts owed by others, respondents mostly (78 of 87 disputes) identified other individuals (from within either their own or other communities) as the opposite party to the dispute. They also cited groups from within their own communities and family members.

Two other observations merit attention. First, Buddhist and Muslim respondents are almost equally involved in disputes relating to debts

owed by others (44 and 43 disputes, respectively). Second, despite the high incidence of reported disputes over debt owed, disputes over loan repayment were reported much less frequently (3.7%). This suggests the issue of non-payment of debt is prevalent but likely to be underreported.

With respect to problems with obtaining birth and identity documentation, respondents most often (35 of 52 disputes) identified the township Immigration Department as the party with whom the dispute occurred. Other disputing parties identified by respondents included the state government, the township GAD, hospitals, the local administration, the government school, the local police post, other government staff, individuals from other communities and family members. Of 52 disputes relating to civil documentation, Muslim respondents reported 44, with the remaining 8 identified by Buddhist and Hindu respondents.

The majority of land-related disputes appear to be in the nature of private disputes primarily involving other individuals and family members (17 of 20 disputes). In a few cases, the state government or the township Land Records Office was identified as the opposing party. Buddhist respondents reported 15 of the 20 land-related disputes, with the remainder identified by Muslim and Christian respondents.

In 13 of the 17 instances of arrest by authorities, security officials – including Border Guard Police (BGP), military officials and officers from the local police post – had made the arrest. Other parties cited included the township GAD or the Municipal Office. Fifteen of the 17 instances

of arrest were reported by Muslim respondents and 2 by Buddhist respondents.

Of the 15 alleged instances of bribery or corruption, 6 involved the township Immigration Department; the others involved the state government, businesses, the township GAD and the township Forestry Department. Muslim respondents reported 11 of the 15 instances of bribery or corruption.

The township Forestry Department was named as the other party in 12 of the 15 forestry-related disputes. Other forestry-related disputes were with the military, the local administration and individuals from the respondent's community. Muslim respondents reported 13 of the 15 disputes.

## Priority Concerns About Justice

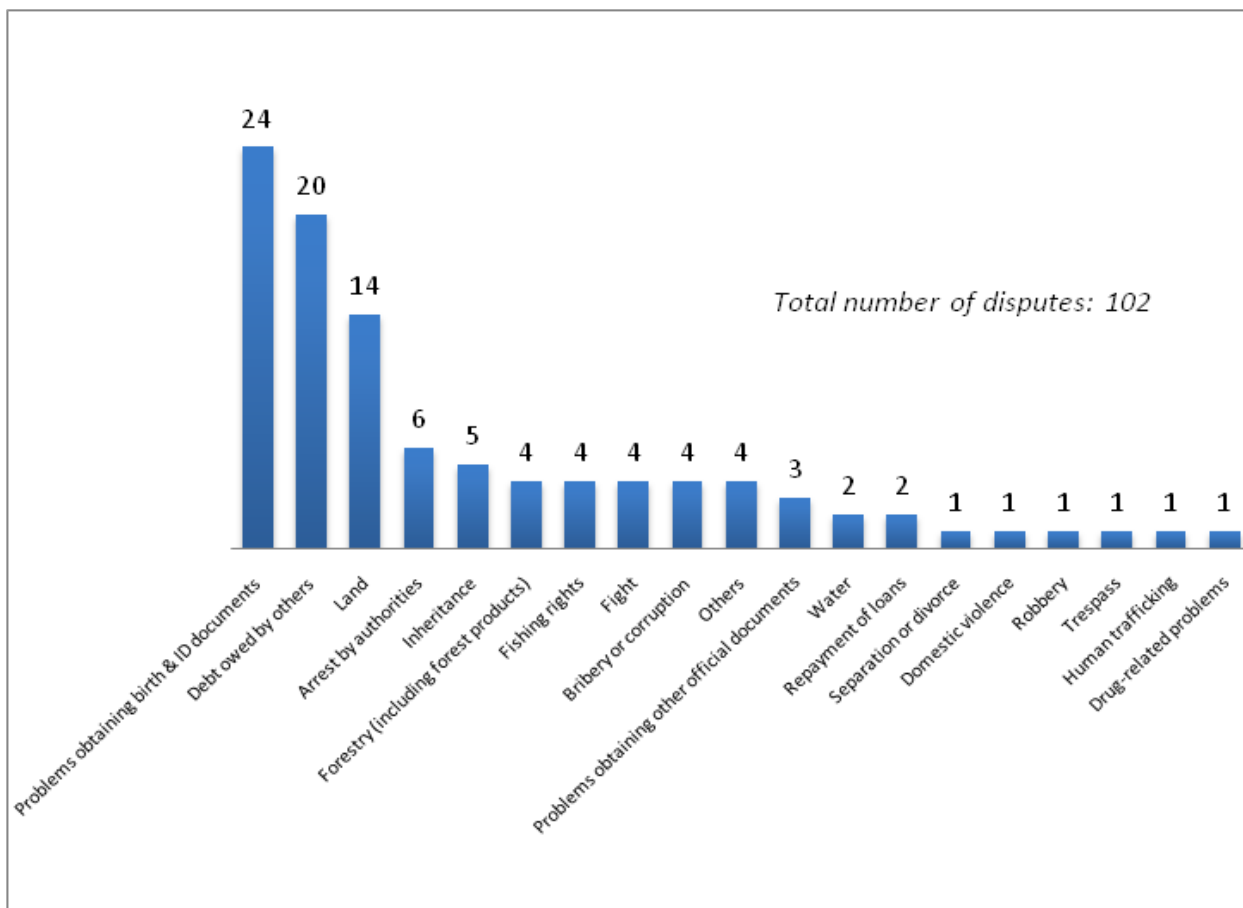
The 102 respondents who had been involved in a dispute during the previous 12 months indicated which they considered to be the most important (Figure 4.3).<sup>36</sup> This information was used to track the settlement trajectories of the disputes causing the greatest concern (Chapter 5, Figure 5.1). Unsurprisingly, the three most commonly reported types of dispute were also considered the most important.

A comparison between types and incidence of disputes and priority concerns (Table 4.1, Annex II) indicates that certain respondents experienced multiple types of disputes, although they nominated a single concern as being of priority.

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<sup>36</sup> For the 64 respondents who identified only one dispute experienced over the previous 12 months, the single dispute was recorded as their greatest concern.

Figure 4.3 Priority Concerns About Justice



In summary, one in three respondents had been involved in at least one dispute in the course of the year. The most common disputes, and those of greatest concern, related to problems obtaining birth and identity documentation, debts owed by others and land.

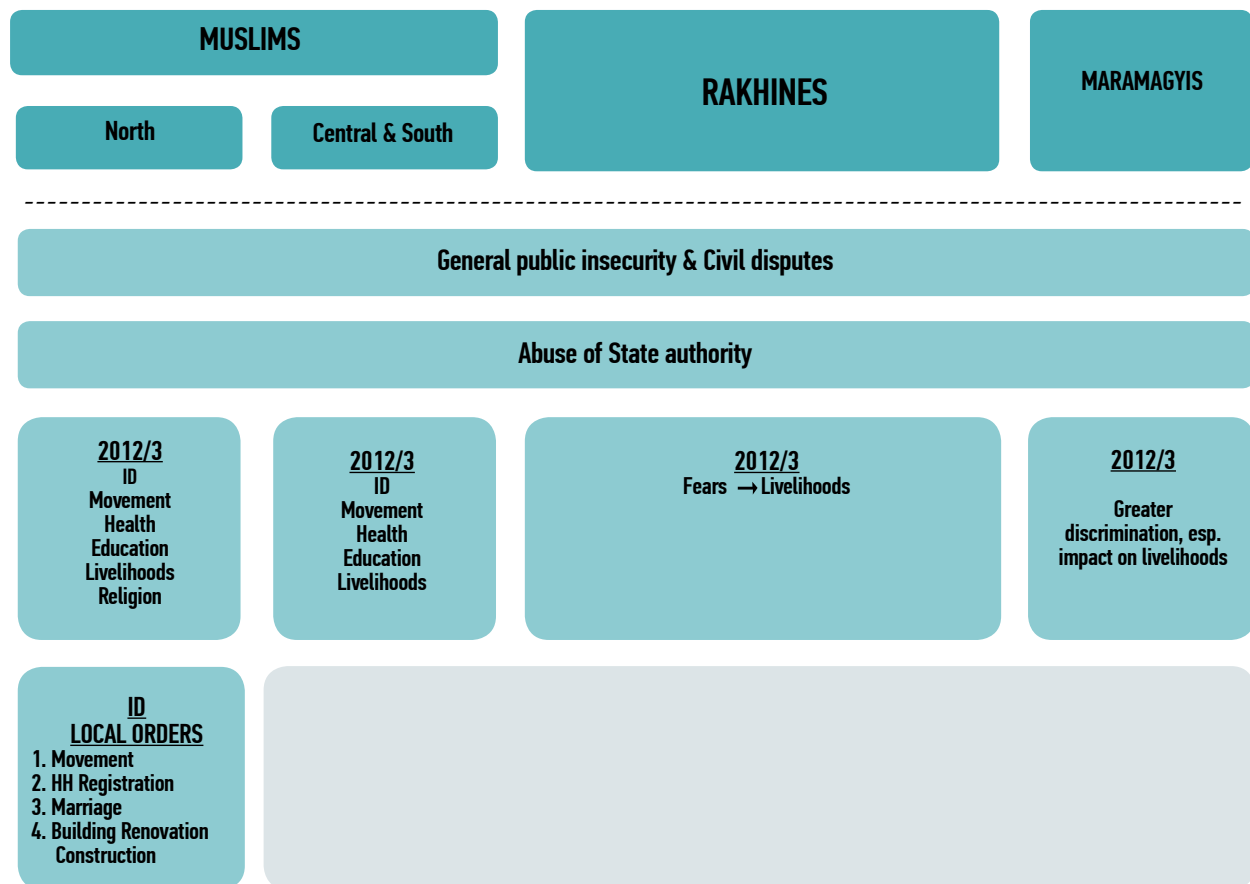
Disputes over debts owed by others occurred significantly more often than any other type of dispute, and mostly occurred between individuals. It appears that non-payment of debt is prevalent but likely to be underreported.

It appears that Muslim respondents are disproportionately involved in disputes and concerns about justice. Muslim respondents reported 44 of the 52 disputes relating to civil documentation, 15 of the 17 reported arrests by authorities, 11 of the 15 instances of bribery or corruption and 13 of the 15 forestry-related disputes.

## COMMUNITY LEVEL

Broadly speaking, respondents and/or community leaders articulated the same concerns as did individuals. These concerns may be regarded as being sufficiently significant, from the respondents' perspectives, to have become a community issue or problem, rather than isolated incidents that affected only individuals and/or households. Figure 4.4 presents these concerns in relation to different ethno-religious groups in different areas of Rakhine State.

Figure 4.4 Community Concerns About Justice



## General Public Insecurity and Civil Disputes

Across the state, respondents generally reported problems relating to public insecurity and public nuisance. Public insecurity was largely attributed to alcohol consumption and intoxication, which led to rowdy behaviour such as shouting, verbal assaults and fights.

In one ward, respondents identified the lack of adequate policing and corruption as contributing to public nuisance:

“There is a lack of law enforcement on illegal liquor shops. Now the liquor shops in the ward are open overnight, and people get drunk. The drunken people are shouting, quarrelling and cursing in the ward, even

late at night. When fighting occurs, the police come when called but they never settle the case. Both sides just need to pay money to the police.”

One “elderly and respected person” in the same ward also alleged that these illegal liquor shops paid money to law enforcement officers so that they could remain open.

Respondents also reported small-scale disputes between individuals in a community, such as debt-related and private land-related disputes. Typically, private land disputes involved disagreements over land boundaries and inheritance of land.

## Abuse of State Authority

Respondents described having to negotiate arbitrary conduct by public officials on a regular basis. In study sites under BGP jurisdiction, these complaints were heard most frequently, though not exclusively, in relation to BGP officials. Elsewhere, respondents complained about the township police, municipal officials and Immigration Department officials.

In one village, respondents described being detained and extorted for money by BGP and customs officials, despite paying a monthly “tax” to the Forestry Department for which they received a “receipt” that permitted villagers to log in the forest nearby. Respondents reported that loggers caught in the woods were often beaten and forced to sit in the forest until the loggers, or someone from their village, paid a certain sum of money. The amounts ranged from Ks.10,000 to Ks.30,000 depending on the physical appearance of the individual logger. Where possible, the loggers negotiated with the officials to allow them to pay the amount after they managed to sell the wood. Respondents who engaged in such logging activities reported experiencing these types of extortion about three times in a year.

In the same village, respondents also reported having to pay significant amounts of money to different levels of the BGP for reporting the deaths of children, in order for burials to be carried out. Respondents stated that they had to pay Ks.100,000 to officials at the local post, and another Ks.200,000 to Ks.300,000 to officials at the next level. The situation was described as *mi aye hniqkhana* (မိအေးနှစ်ခါနာ; literally, Ms Aye gets hurt twice), having to experience sadness twice.

In a separate village, vendors complained about the BGP regularly taking a portion of their goods without making any payment, as well as being harassed and assaulted at various checkpoints along transportation routes.

Residents in another village reported being obliged to provide meals to BGP officers who visited the village. Given their reliance on the officers for security, the residents said they were unable to do anything when the officers got drunk and created nuisance within the community.

In one ward, vendors reported that a higher than stipulated rate had to be paid to municipal officials in order to sell their goods in the market. This applied even to those who carried their wares or balanced them on their heads, and did not occupy a market stall. Additionally, respondents alleged that collection of such payments was outsourced by municipal officials to a private third party, who charged three times more than the stipulated rates.

In the same study site, the police allegedly charged a “fixed rate” for responding to cases of verbal and physical assault as well as allegations of gambling: each person involved in the situation, including the person lodging a complaint or asking for help, was required to pay the police Ks.5,000. “If someone is cursing in front of my house, I don’t want to call the police because it will cost me,” said one resident.

In certain areas, the police were also known to residents as having coercive authority that could sometimes be put to use to solve their problems (Boxes 1 and 2).

### Box 1

An intoxicated man verbally assaulted another. The man who was verbally assaulted was angry and wanted the drunkard imprisoned, so he and the former village administrator reported the incident at the police station. A police officer told the complainant that the police should not be involved in the matter as it was a small case. After the complainant gave the police chief some money, however, the police took the intoxicated man to the station, beat him and detained him for about a week.

### Box 2

An employee in one village took advance wages from his employer but repeatedly failed to turn up to work. Eventually, the employer reported the matter to the police and told the police officer that if he could recover the wages, half of it would be given to him. The police officer located the employee and assaulted him. The employee agreed to return the advance wages, of which half was kept by the police officer.

Respondents also reported discriminatory practices against ethno-religious minorities. A particular Maramagyi community alleged abuse of authority by Immigration Department officials in relation to applications for Citizenship Scrutiny Cards (CSCs). Maramagyi respondents reported having to pay between Ks.100,000 and Ks.200,000 per person in order to obtain a CSC, whereas non-Maramagyi only had to pay between Ks.7,000 and Ks.10,000 per person. The respondents thought that the extra charges were for Immigration Department staff to check their records as part of the citizenship scrutiny process. Maramagyi respondents also reported having to wait a year and a half to obtain their identity documentation, whereas Rakhine applicants only had to wait for one month.

## Impact of 2012–2013 Violence

It is clear that the inter-communal violence that occurred in 2012 and 2013 had a significant impact on all communities in the study. Respondents reported heightened levels of fear and insecurity and indicated that strained relationships between Buddhist and Muslim communities have resulted in adverse consequences on livelihoods and economic activity.

Ethnic and religious minority groups were disproportionately affected as they suffered both the impact of official state response to the vio-

lence, including the imposition of restrictions on movement, and higher levels of general discrimination.

Respondents in all study sites reported heightened fear and greater concern about their personal and community security following the violence. This has given rise to a variety of coping mechanisms, such as community-organised patrols and self-imposed movement restrictions.

## Imposition of Movement Restrictions

Curfews were imposed in much of Rakhine State immediately following the 2012 conflict; the curfew in Sittwe was officially lifted in 2014. However, Muslim respondents in different parts of the state reported additional restrictions on their freedom of movement following the conflict. Muslim respondents consistently reported that the numerous restrictions on movement had negative impacts on their lives.

In northern Rakhine State, where local orders in place since the 1990s already required Muslims to apply for special permissions to travel outside their village and township of residence<sup>37</sup>, Muslim respondents reported even stricter movement restrictions after the communal violence. In Rathedaung Township they reported that, from the time of the violence until the end of 2013, they were unable to leave their village without a letter from the village tract administrator (VTA), which had to be negotiated with the help of their village administrator (VA). Since the beginning of 2014, they were able to move within their village tract without a permission letter, but were still not allowed to travel to Rathedaung Township. In Maungdaw Township, Muslim respondents were also required to obtain and carry with them a permission letter from the VTA when travelling to neighbouring villages and into town. In addition, they were no longer allowed to stay in town overnight.

In central Rakhine, Muslim respondents in Mrauk-U Township reported facing similar restrictions to those in northern Rakhine. Before 2012, villagers were free to travel into town, but had to apply for special permission to travel beyond Mrauk-U Township. Immediately after the violence, Muslims were not allowed to leave their village without a permission letter from the BGP. Since 2014, they were able to travel to neighbouring Muslim villages and to the Rakhine village within their village tract, but they were not allowed to stay overnight in the Rakhine village nor travel to Mrauk-U Township.

The inability of Muslims to travel to Rathedaung and Mrauk-U Townships has had the secondary effect of making authorised travel to other townships also very difficult. Villagers could no longer physically get the necessary Form-4 authorisation as application forms could only be obtained at the township Immigration Department. Instead, respondents described looking for other ways of obtaining Form-4s, or, in extreme cases, travelling without permission. In one instance, a mullawi in Rathedaung Township obtained a Form-4 for travel to Maungdaw Township by paying a Rakhine agent from his village tract Ks.30,000 to help him do so.

In southern Rakhine before 2012, Muslims living in Thandwe Township were able to travel freely throughout the country as long as they had a CSC. However, after 2012, even Muslims with CSCs were not permitted to travel beyond their township without a Form-4 authorisation from the Immigration Department. To apply for a Form-4 authorisation, applicants needed to include, at a minimum, a letter of recommendation from their ward administrator, a letter of recommendation from the police and a guarantee from a property owner within the ward. Respondents said that the guarantor was arrested if the person travelling did not return

before the Form-4 authorisation expired. They also reported sometimes being required to furnish a letter from a person at their destination, explaining the purpose of travel. If travelling for health reasons, the applicant was required to include a letter of recommendation from the medical superintendent of the Thandwe Township hospital; a letter from an ordinary doctor would not suffice.

## Impact on Livelihoods

In Maungdaw Township, where the Rakhine community is a minority, Rakhine respondents said they no longer felt safe to go out of their village in the evening as they feared large groups of thieves who crossed over from the other side of the border with Bangladesh. As a result, they could no longer sleep outside the village at their shrimp farms to guard against theft, leading to reduced profits due to stolen shrimp. In addition, they were no longer able to fish in the evenings or search for lost cows as they did before 2012.

Similarly, Muslim respondents reported feeling insecure and fearful of going into Rakhine-majority areas even though they faced no official restrictions. In southern Rakhine, for example, Muslim respondents expressed the need to “act carefully” for fear of future conflict. Although they used to be able to travel freely throughout different parts of the ward, they now felt too afraid to go into Rakhine-majority areas to collect money owed to them by Rakhines living there.

Increased mistrust between the two communities has also had a negative impact on economic activities and livelihoods. Muslim respondents reported that it was more difficult for them to find work, including with Rakhine

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37 “Village departure certificates” were required for travel outside an applicant’s village of residence; “Form-4” authorisations were required for travel outside an applicant’s township of residence. Form-4 authorisations only allowed travel for up to one month. In addition to movement restrictions, Muslim respondents in northern Rakhine State described the impact of local orders in relation to household registration, marriage, and building construction and renovation (Table 4.2).



employers, due to this mistrust. In Thandwe Township specifically, Muslim respondents stated that they were no longer hired to work in any of the hotels in Ngapali. In central Rakhine, a stone-trading company owned by a Muslim lost a large number of customers, resulting in a two-thirds decrease in profits, forcing him to lay off some workers.

In areas where previously there was trade and cooperation in economic activities between the two communities, heightened tensions and deteriorated relationships have decreased inter-communal activities such as joint investments in shrimp farms and trading in markets, negatively affecting the economic opportunities of both communities.

The imposition of restrictions on movement had immediate impact on Muslims' livelihoods. In certain situations, economic opportunities were effectively denied. In Rathedaung Township, respondents explained that they were no longer allowed to fish in the river beyond their village. In Mrauk-U Township, where Muslims were not permitted to leave their village tract, farm labourers could no longer go to Rakhine villages to find work. In the period during which Muslims were not allowed to leave their village, the only employment opportunity for labourers in their own village was work for a stone company. Vendors could not sell their goods in the Mrauk-U town market and could only sell them for lower prices within their village tract. Residents struggled to earn a living and support their families under these restrictions (Box 3).

### Box 3

As the primary breadwinner of her family, a 40-year-old Muslim woman with five children used to sell home-made snacks at the town market, making a profit of at least Ks.5,000 per day. She was able to support her family and pay for three of her children's education.

After 2012, she could no longer go to town to sell snacks. Her only option was to sell the snacks at the primary school in her village tract, where she earned Ks.2,000 a day. At the same time, as she could not go into town to buy the raw ingredients necessary for producing the snacks, she was forced to ask Rakhine friends to buy them for her. She reported having to pay 30% more for the raw ingredients when buying through intermediaries, but she had no other way of obtaining them.

As a result, her two eldest daughters have had to start working, earning Ks.2,000 per day carrying stones. One of these daughters had been attending school but dropped out because her mother could no longer afford her tuition. The mother was regularly forced to borrow small amounts of money from neighbours in order to feed her family.

In other cases, movement restrictions caused difficulties that closed off economic opportunities. The restrictions against staying overnight in Maungdaw Township meant that Muslim villagers from a community two hours away would have to pay Ks.2,000 for transportation to and from town each day. As the pay for a day's work in town was only Ks.4,000, few people continued to work in town. The curfews also meant that trishaw peddlers and fishermen could no longer work in the evenings. The severe lack of employment opportunities has pushed some people to attempt to leave their village without authorisation, at the risk of arrest, in order to seek employment in urban areas (Box 4).

#### Box 4

In 2013, with limited employment opportunities in his own village and unable to travel to other villages to work, a 30-year-old villager decided to travel to Yangon in search of work. Since he was not able to travel into town to apply for a Form-4 authorisation, he travelled without permission and was detained by authorities en route near Thandwe Township. He was eventually brought to court in Sittwe Township, tried and sentenced to two years in prison. The maximum sentence was seven years; his family felt that he was very lucky to receive a two-year sentence.

## Impact on Access to Health and Education

Movement restrictions have also limited access to healthcare services, leading to adverse, and at times even fatal, consequences. After the violence in 2012, Muslim villagers in Rathedaung and Mrauk-U could no longer receive care from clinics or hospitals in town, and were forced instead to rely on clinics in areas where they were allowed to travel. Although urban Muslim residents in Thandwe Township could receive care from the township hospital, they sometimes needed to go to Yangon for specialised care. Following the 2013 violence, they could not travel without going through the complicated process of applying for Form-4 authorisation. The time for processing the authorisation, which was not guaranteed, took between two weeks and two months; several people in the ward had died, or their condition had seriously worsened, while waiting for travel authorisation.

Movement restrictions also curtailed students' ability to pursue higher education. After the 2012–2013 violence, students studying at universities in townships other than their own had to suspend their studies and return to their villages. In many areas, movement restrictions meant that students resident in townships

without a university had no opportunity to study beyond grade 11.

The violence had another impact on children's access to education. Muslim respondents in Rathedaung and Maungdaw Townships reported that, following the violence, government schoolteachers, who were Rakhine, stopped coming to teach at schools. The villagers were forced to raise money and hire the relatively more educated persons in their communities to teach their children. In Mrauk-U Township, a schoolteacher told Muslim students to stop attending the primary school located within in their village tract, for fear that any potential fights between Muslim and Buddhist students would lead to greater conflict between the parents. As a result, the Muslim primary school students had to walk two miles each day to attend school in another Muslim village.

## Restrictions on Freedom of Religion

After the 2012 conflict, official orders were given to close the mosques in Rathedaung and Maungdaw Townships. Gatherings of five or more people were prohibited; a breach was punishable with imprisonment according to section 144 of the Penal Code. Muslim respondents in Rathedaung and Maungdaw Townships reported that they could no longer play the call to prayer over loudspeakers, and that they either went in threes and fours to the mosque, or quietly gathered in people's houses instead of going to mosques, for fear of being arrested. All Islamic religious schools were also closed, and some mullawis reported difficulty earning a living as they could no longer teach.

## Increased Discrimination

### *Experiences of Muslims*

In addition to the difficulties described above, Muslim respondents reported facing increased

discrimination at an individual, as well as community, level. One important aspect of such discrimination related to the acquisition of civil documentation.<sup>38</sup>

Particularly in central and southern Rakhine State, where Muslims were able to obtain pink CSCs prior to the 2012–2013 violence, respondents elaborated on their experiences of anti-Muslim discrimination. Respondents in Sittwe and Thandwe Townships stated that applicants seeking to acquire or renew identity documentation who reported themselves as belonging to the Islamic faith would generally, though not always, be subjected to a long review process. While there were certain instances of Rakhine Muslims who were government schoolteachers successfully obtaining civil documentation, there were more instances of both Rakhine Muslims and Kamans being required to wait for prolonged periods for theirs.

One Kaman respondent expressed great frustration at the impacts of discrimination on his community. A combination of movement restrictions impacting on livelihoods and difficulties in acquiring civil documentation were prompting Kamans to convert to either Buddhism or Christianity. He also explained that Rakhines perceived Kaman to be “kala”<sup>39</sup> and “kala” perceived Kamans to be Rakhines and not true Muslims. He stated that both communities advocated violence against Kamans, including the taking of lives.

One particular Kaman community was insistent that Kamans were “Islam”, and not “Muslim”, to differentiate themselves from the “kala” whom they perceived as “Muslim”.

At a different level, and not dissimilar to the impact of official restrictions, higher levels of

general discrimination created additional challenges to movement, pursuance of livelihoods and access to services for Muslim respondents.

Even where no official movement restrictions existed, Muslim respondents reported difficulties going to Rakhine-majority areas for fear of being harassed or detained. One Kaman Muslim described the situation in his community thus:

“We will surely suffer if we go into town, and we may be beaten or detained by the police. Now we can no longer work in town. Trishaw drivers cannot drive trishaws in town like they used to. Now we all must rely on masonry work from an army major. Otherwise we wouldn’t have anything to eat.”

Women respondents in the same study site also reported having to disguise themselves as Rakhine because they were afraid of being recognised as Kaman in town: “We go around like crows pretending to be peacocks (ဒေါင်းယောင်ဆောင်သောကျီးလိုပဲသွားလာနေရတယ်; daung yang hsaung thaw kyee lo beh thwa la nay yadeh),” one respondent remarked. They no longer felt safe going to town to sell vegetables and goods in the market. After the conflict, they could only sell their vegetables to residents of nearby Rakhine villages, for which they received lower prices than in the market.

Respondents also reported targeted acts of discrimination that made their lives more difficult. In Thandwe Township, the main highway express bus company, owned by a Buddhist, no longer sold tickets to Muslims. As a result, Muslims in the area who needed to travel had to organise private modes of transportation or travel by air. In one Muslim community in Rathedaung Township, respondents reported being informally “taxed” between Ks.200 and

38 Muslim respondents from northern Rakhine reported having experienced discrimination in relation to civil documentation since 1996; they described various forms of identity documentation (e.g. Foreigner Registration Cards and National Registration Cards) being confiscated by NaSaKa (Border Immigration Headquarters) officials, and some people being forced to accept white Temporary Registration Cards instead. Some respondents also described the confiscation of white Temporary Registration Cards, beginning in March 2015.

39 A derogatory term, initially applied to anyone with South Asian features but now also applied to Muslims.

Ks.500 by the gatekeeper of a nearby large Rakhine village whenever they entered the village to sell goods.

Some respondents also felt that they were discriminated against when seeking health treatment. Muslim respondents in Rathedaung Township reported being refused treatment by most of the doctors and staff at a health facility in their village tract; only one Rakhine nurse would administer injections or tend to small injuries. In Thandwe Township, where residents could still seek medical treatment from the township hospital, respondents reported being asked their religion, and then being given little or delayed treatment after stating that they were Muslim.

### ***Experiences of Maramagyi***

Maramagyi respondents in one study site also reported increased discrimination from Rakhines after the 2012 violence “because of [their] features.”<sup>40</sup> They explained that they have long been discriminated against in schools, and when applying for CSCs or government jobs. Following the communal violence, respondents described now being called “kala” (ကလာ, a derogatory term previously reserved for Muslims in their ward (Box 5). After the Muslims were displaced by the conflict, the term “kala” was applied to Maramagyi shopkeepers, and Rakhine customers began to avoid shops owned by Maramagyi, harming their business.

#### **Box 5**

A 14-year-old Maramagyi student and some of her classmates were playing and making noise inside their classroom. The schoolteacher came into the classroom, scolded everyone, and specifically referred to the Maramagyi girl as “kala ma”. The girl asked the teacher not to call her “kala”, to which the teacher responded by slapping her in the face.

## **Local Orders**

Muslim respondents in northern Rakhine have also experienced negative impacts from the imposition of local orders – in addition to their experiences described above. Local orders affecting movement, household registration, marriage, and building construction and renovation have been in place since the 1990s. Table 4.1 summarises the impact of local orders on Muslim respondents in two study sites in northern Rakhine.

<sup>40</sup> The Maramagyi are an officially recognised Buddhist ethnic minority group in Rakhine State, whose features are perceived to be South Asian.

Table 4.1 Impact of Local Orders in Northern Rakhine (as of November 2015)

ISSUE	RESEARCH SITE A	RESEARCH SITE B
<b>HOUSEHOLD (HH) REGISTRATION</b>	<ul style="list-style-type: none"> <li>• Respondents reported not being allowed to register separate HH lists, or to create new HH lists, following marriage. As a result, HH lists included 40 to 60 persons, and comprised intergenerational and extended family members.</li> <li>• Officials, including those from the Immigration Department, visited every six months to check on the HH list. This exercise required the presence of every person listed; any member who was absent during these visits, and whose absence had not been approved by the local administrator, would be crossed off the HH list. Should the absentee be located at a later stage, he/she was likely to be prosecuted under the Immigration Law.</li> <li>• Respondents described having to pay Ks.30,000 to Ks.40,000 to (re-)include or remove a name on the HH list.</li> <li>• Respondents described having to register births and deaths within their HH with Immigration Department officials, and being prohibited from having more than two children (in each family).</li> <li>• Respondents reported having to pay Ks.5,000 to register the births of their first two children, and having to pay Ks.10,000 to Ks.15,000 to report any additional child.</li> </ul>	<ul style="list-style-type: none"> <li>• Following a hiatus between 2012 and 2014, respondents reported the resumption of HH list checks in 2014.</li> <li>• Respondents reported not being allowed to register separate HH lists, or to create new HH lists, following marriage. As a result, HH lists included 50 to 60 persons, and comprised intergenerational and extended family members.</li> <li>• Respondents described having to pay to register births and deaths within their HH with Immigration Department officials; the payment required depended on the individual family's economic status.</li> <li>• Respondents reported being prohibited from having more than two children (in each family). In practice, respondents described having to pay extra amounts in order to have the additional children included on the HH list.</li> </ul>
<b>MARRIAGE</b>	<ul style="list-style-type: none"> <li>• Respondents reported requiring the approval of Immigration Department officials for marriage. An application for such permission involved a letter of recommendation from the VTA, which cost Ks.10,000.</li> <li>• The processing period for marriage approval ranged from two weeks to a year.</li> <li>• Respondents reported paying Ks.50,000 to Ks.100,000 to Immigration Department officials, depending on their economic status.</li> <li>• Respondents reported that a couple under 18 years of age may be married by a religious leader, but would be subject to arrest if discovered by authorities.</li> </ul>	<ul style="list-style-type: none"> <li>• Respondents reported that, since 2014, the approval of Immigration Department officials was not required for marriage. Couples could be married by the VTA, with a duly filled-out Immigration Department form, along with a letter of recommendation by the VTA.</li> </ul>
<b>BUILDING CONSTRUCTION AND RENOVATION</b>	<ul style="list-style-type: none"> <li>• Officials, including those from the Immigration Department, visited every six months to check on the number of buildings/structures registered to each HH (as part of conducting the HH list-checking exercise).</li> <li>• Respondents described not being able to obtain permissions for building construction and renovation since 2012, despite following the stipulated processes. As a result, respondents were not allowed to build or repair buildings, even those within their own HH compounds.</li> <li>• Respondents described those having built without obtaining prior approvals having to pay officials in order to avoid being arrested.</li> </ul>	<ul style="list-style-type: none"> <li>• Respondents reported being unable to obtain permissions for building construction or renovation, despite applying to the GAD at the township and district levels and providing between Ks.200,000 and Ks.300,000.</li> <li>• Respondents reported that about 70 houses have been built without official approval, and that they had to pay GAD and municipal officials to avoid arrests.</li> </ul>

## CRIMINAL JUSTICE SYSTEM

In all townships in the study, justice sector officials – judges, law officers and the police – at the township level mostly described dealing with civil disputes and cases that related primarily to general public insecurity (e.g. verbal assaults, physical assaults, thefts, fights, traffic accidents, trespass and public nuisance). This is consistent with problems that respondents generally reported as arising at the community level. The caseload for Maungdaw Township was distinctive, with about one third of cases at the township level relating to the Immigration Law.

At the district level, law officers described dealing with murder, rape and other crimes that attracted a sentence of more than seven years in prison.

Notably, justice sector officials explained that the criminal matters that they dealt with were largely attributable to harsh economic conditions, which led to alcohol intoxication and provocation, resulting in crime.

In summary, at a community level, alcohol is a contributing factor to public insecurity and public nuisance. Some consider inadequate policing and corruption as also contributing to public nuisance. Justice sector officials largely attribute criminal behaviour to the harsh economic conditions.

Abuse of authority by public officials is apparently pervasive. Respondents reported having to regularly negotiate officials' arbitrary conduct, bribery, other corrupt practices, coercive authority and discrimination against ethno-religious minorities.

The inter-communal violence of 2012–2013 has had a significant impact on all communities in the study. People are more fearful and insecure. Strained relationships between Bud-

dhist and Muslim communities have reduced livelihoods and economic activity. Ethnic and religious minority groups have been disproportionately affected with a general increase in discrimination.

The restrictions on movement imposed on Muslims have had severe impacts on their lives and livelihoods, reducing their access to health and education and restricting their religious practice. Such restrictions have been exacerbated by the imposition of local orders in the north.



Photo: Raft transporting bamboos is floating down the Maru River, Rakhine State



# CHAPTER 5

# DISPUTE SETTLEMENT

# TRAJECTORIES

Photo: Local women learning sewing in Thar Yar Kone Village, Sittwe Township, Rakhine State



The third research question was: What is the range of informal justice processes that exist in the local area, and how do they operate?

This chapter is concerned with the 102 disputes respondents identified as being of priority concern. It describes how settlement of those disputes was attempted, and sometimes achieved. It also considers the roles and responsibilities of third-party actors at the local and district levels who can assist in the settlement of people's disputes and concerns about justice.

## DIRECT NEGOTIATIONS AND THIRD-PARTY ASSISTANCE

In almost two thirds (67 of 102; 65.7%) of cases, respondents negotiated directly with the other party to the dispute. One third (26) of these matters were settled through negotiation, with or without the assistance of a third party.

The five types of dispute of greatest concern (Figure 4.3)<sup>41</sup> together accounted for more than two thirds (69 of 102; 67.5%) of all priority concerns. Figure 5.1 summarises the settlement trajectories of these 69 disputes. In a majority of these cases (42 of 69), complainants attempted to settle the dispute by direct negotiations in the first instance; only 12 of the disputes were settled.

Where initial negotiations were not attempted or unsuccessful (57 disputes), just 23 complainants went on to seek assistance from one or more third parties, which led to the settlement of four more disputes. Twelve respondents sought assistance from community leaders such as local administrators and religious leaders. Others relied on friends, township officials or, very occasionally, a member of the Myanmar

Women's Affairs Federation or a political party representative, to help resolve their concerns.

No settlement was reached in 53 cases –nearly 77% of the 69 disputes of greatest priority concern.

Even where respondents reported settlement of disputes through initial negotiations, not all resulted in favourable and/or satisfactory final outcomes. Most of the respondents involved in the 12 priority matters settled through initial negotiations stated that their rights had been restored, their problems had been solved or obligations owed to them had been discharged. In a few cases, respondents also reported that new promises had been pledged to discharge obligations owed to them. One respondent, however, clearly identified an unjust outcome: "We logged with the permission of the authorities, and I also paid Ks.10,000 per month [for the permission]. But I was arrested ... I was beaten and had to pay ..."

Second, where disputes were not settled through initial negotiations, or where direct negotiations were not attempted, some respondents reported resorting to third parties for help. In relation to the top five priority dispute types, less than a majority (23 of 57; 40.4%) of such cases were referred to third parties. Among these 23 cases, just under half (12 of 23) were referred to community leaders such as local administrators and religious leaders (see Chapter 5). Other than community leaders, respondents also reported relying on friends, township government staff or, very occasionally, a member of the Myanmar Women's Affairs Federation or a political party representative. Of the 23 cases that were taken to third parties for help, only four were settled with third party assistance. In four (of 19) instances where respondents went on to seek further third-party assistance, there were no successful outcomes (Figure 5.1).

41 Problems relating to birth and identity documentation (24 of 102); debts owed by others (20 of 102); land-related disputes (14 of 102); arrests by authorities (6 of 102); and inheritance disputes (5 of 102).

Significantly, in 34 of the 57 priority cases not negotiated to a conclusion, the complainant did not seek help from anyone or did not take any action. These respondents gave various reasons, including:

- Seeking help or taking action would only be a waste of time (10 instances);
- They did not know what to do, or who could be of help (7 instances);
- They were fearful, which included feelings of hopelessness, shame, and that seeking help would result in communal violence (7 instances);
- Seeking help or taking action would damage the relationship with the other party (including attempts to empathise with the other party) (5 instances);
- The problem was not sufficiently important (4 instances);
- Help was too far away (3 instances);
- Movement restrictions (2 instances);
- The other party has more money (2 instances);
- Seeking help or taking action would cost too much (1 instance);
- Lack of a formal contract or agreement (1 instance).

Respondents also considered six hypothetical disputes (involving theft of fruit from the garden, debt, domestic violence, traffic accident, human trafficking and a boundary-related dispute) and indicated how they would resolve them. Their responses to the first four scenarios (Figures 5.2(a) to 5.2(d), Annex II) were generally consistent with their general inclination towards self-reliance in the first instance (i.e. direct negotiation) to settle actual disputes.

In the hypothetical situation involving human trafficking, respondents generally said they would first seek assistance from the township police and local administrators. If they were unsuccessful, a majority of respondents indicated that they had no one else to turn to (Figure 5.2(e), Annex II). In the hypothetical boundary-related dispute, a majority of respondents said they would first seek help from the VA or the Land Records Department. If they were unsuccessful, half the respondents would then approach the Land Records Department or no other party (Figure 5.2(f), Annex II).

In summary, in almost two thirds of cases, complainants first tried to settle the dispute by direct negotiations. After direct negotiations and/or the assistance of third parties, nearly 77% of the 69 disputes of greatest priority concern remained unresolved. Not all settlements resulted in favourable and/or satisfactory final outcomes.

Some complainants did not seek help from anyone or did not take any action after unsuccessful negotiations, for reasons including resignation, lack of knowledge of sources of help, and feelings of fear, resignation or shame.

## LOCAL ADMINISTRATORS

Local administrators – including ward, village tract and village administrators – emerged as the most prominent third parties seeking to help settle respondents' day-to-day problems. They represent a common pathway for people seeking justice when mutually acceptable outcomes could not be reached by parties to a dispute, or on issues for which local administrators have an explicit mandate.

The ward (for urban areas) and village tract (for rural areas) administrations are the lowest tiers of the government administrative structure in Myanmar.<sup>42</sup> Previously appointed by township

42 UNDP, Local Governance Mapping in Myanmar: Background and Methodology (2014), p. 35.

administrators, ward and village tract administrators (W/VTAs) are now indirectly elected by their constituencies pursuant to a process set out in the 2012 Ward or Village Tract Administration Law.<sup>43</sup> Under this law, W/VTAs are officially assigned 32 duties, among them responsibilities relating to law and order and community peace and tranquillity in the ward/village tract, disciplinary matters and development projects. As part of their duties, W/VTAs also attend regular meetings at the township level in order to transmit information back to their communities. In some instances, W/VTAs have used this mechanism to raise the concerns of their communities to the township level. W/VTAs receive a monthly stipend from the State and work with a paid GAD clerk, but they are not considered civil servants or employees of the government.

There are also village administrators (VAs) in non-tract villages. They generally manage one village and report directly to the VTA. Unlike W/VTAs, VAs are not formally recognised under the Ward or Village Tract Administration Law; they do not receive a stipend from the government, and they are usually not elected. In reality, however, there appeared to be few differences in the practical day-to-day roles of VAs and W/VTAs.

Across the study sites, local administrators who were considered legitimate and respected by their communities were observed to be important actors in settling disputes related to such matters as verbal assault, physical assault, public nuisance, theft, divorce and inheritance, by mediating or negotiating between the parties. In a case relating to debt, for example, the administrator would help negotiate a plan for the debtor to repay the amount owed in instalments, if the full amount could not be repaid immediately. In some areas, local administrators required a debtor to sign a *khan wun* (ခံဝန်) promising to repay the debt. Local administrators also frequently collaborated with “elderly and respected persons” within the community

to settle problems. This happened more commonly if an administrator was young, or considered less influential for other reasons.

Respondents relied heavily upon W/VTAs for letters of recommendation when there was a need to interact with other government administrative bodies. For example, a letter from the W/VTA was required when applying for identity documentation, when making a complaint at the township level (Box 6), and, in the case of Muslims, when applying for Form-4 authorisation for travel outside their township.

#### Box 6

About six to eight years ago, large fishing boats that are supposed to stay 10 miles offshore began operating closer to shore where local fishermen fished. As a result, local fishermen’s catch declined significantly.

The large boats frequently damaged the locals’ fishing nets and would also collide with the small fishing boats. In one instance, a local fisherman died after his boat was hit. The large boats also illegally fished at night without lights, further endangering the local fishermen.

The local fishermen complained to the Department of Fisheries (DoF), but it did not take any action as the local fishermen were not able to provide evidence of the large boats’ activities. As mobile phones became more easily available over the past three years, the fishermen began to take pictures of the large boats using their mobile devices. With photographic evidence, they were able to submit a letter of complaint via their local administrator, and obtained letters of recommendation from the township administrator to support their claims at the DoF.

The DoF helped to negotiate a compensation package, but the local fishermen received only one third to two thirds of the value of their actual losses. Most of the fishermen have given up trying to get help from the DoF because it would not be worth the time they would have to spend negotiating the compensation for the small amount they would receive.

43 For each ward and village tract within the township, the township administrator appoints five respected elders to a Supervisory Board, which in turn forms groups of 10 households (10 HH). Each 10 HH leader is entitled to cast a vote for its preferred candidate from a list of nominees. The Supervisory Board is also responsible for overseeing the election process. The winning candidate must meet a number of criteria, and must be approved and officially appointed by the township administrator.

In most areas studied, the local administrators and communities appeared to enjoy good relationships. As well as being an important link for conveying information from the government to their community, local administrators generally perceived their role as representing the interests of their communities. In some instances local administrators helped to negotiate on behalf of their communities when interacting with the State (Box 7).

### Box 7

In one village, where part of a road located near a BGP outpost was damaged (due to natural causes), a BGP officer asked the VTA to inform the shrimp farmer who owned the area that he must repair the road. The VTA responded that since the road was required for the activities of the BGP, the shrimp farmer should not have to be responsible for the repairs.

The BGP officer returned with a higher ranking officer, who again told the VTA to ask the villagers to repair the road. The VTA replied that the villagers could not afford to repair it, but that they could do it if the BGP paid the costs.

The ranking officer assessed the situation and estimated the repairs would take 10 labourers half a day, and would cost Ks.50,000. The officer offered to contribute three workers. The VTA again pleaded with the officer, stating that the villagers faced economic difficulties due to damage of their shrimp farms, and that they could not afford to pay for the road repairs. The ranking officer finally agreed to contribute Ks.20,000 and five workers. The VTA accepted this offer and agreed to ensure the contribution of his villagers.

Similarly, due perhaps to the recent introduction of indirect elections, communities also expected their local administrators to represent

their interests. In two study locations respondents dissatisfied with their W/VTAs stated that they would not re-elect them. Local administrators who were perceived to act only according to self-interest, or in the interests of their friends and relatives, lacked the legitimacy to make decisions on behalf of their communities. One “elderly and respected person” explained:

“The administrator [here] just refers all the cases to the police. But it is not because he does not want to deal with them or because of bad intention. It is because the villagers do not respect him. They won’t listen to his decisions, so that is why he refers all cases to the police.”

One quality that confers legitimacy on W/VTAs is fairness. For example, one local administrator, who was neither wealthy nor particularly well educated, was selected because he was perceived to be fair, and had good relationships with both Rakhines and Muslims in his community. He stated that his approach led him to be greatly relied upon by members of his community, and that he received over 200 calls each day related to affairs in the community. He explained:

“I value transparency. People criticise me and say that I am protecting “kala” people. Let them think as they like. I am just engaging people. All are humans. I am treating humans like humans.”

## OTHER COMMUNITY LEADERS

### “Elderly and Respected Persons”<sup>44</sup>

Most of the communities in the study had elderly and respected persons (yamiyahpa; ရေမိရေမိ) who were influential in their villages or wards. The yamiyahpa are distinct from the elders appointed by the township administrator to oversee the W/VTA elections. Rather, the

44 The Myanmar term most commonly used to describe a group of elderly and respected persons is yamiyahpa (literally, mother and father figures of the ward). Two communities in the study used the term yaqlugyi, and one Muslim community used the term murabi. For the purposes of this report, the term yamiyahpa is used to refer to the group of elderly and respected persons, regardless of geographic location.

yamiyahpa are recognised by their communities as having legitimate authority to make decisions on behalf of the community. In the study sites, the yamiyahpa were generally men of advanced age who tended to have one or more of the following characteristics: higher wealth, education and personal connections. Only one study site has female yamiyahpa. These women gained their status as a result of their experience interacting with international donors.<sup>45</sup>

The yamiyahpa mediated small disputes over matters such as theft, fights, debts, private land disputes, inheritance and public insecurity, either alone or together with local administrators or religious leaders. In such cases, the yamiyahpas' knowledge of community affairs, by virtue of their intimacy within the community, were considered important. While most cases were settled through mediation or negotiation, one instance demonstrated creative dispute settlement (Box 8).

#### Box 8

In one village where women used to always fight while picking vegetables, two female yamiyahpa would dance around the arguing women, banging on water jugs and rice pots, until the women who were fighting would also join in the dancing. In this way, they were able to diffuse a tense situation and turn the atmosphere into one of dancing and laughter.

Along with local administrators, the yamiyahpa were one of the few parties women turned to for help in cases of domestic violence. One yamiyahpa explained:

“The women in the village especially rely on my mediation when they suffer during family quarrels, or when a drunken husband beats his wife. I usually admonish the husbands; I tell them that divorcing or beating their wives is similar to beating a dog raised by oneself, and that couples are the ones who should love each other most in the world.”

In another village, the yamiyahpa intervened in cases of domestic violence by bringing along three to four strong young men to intimidate drunken husbands and to warn them to stop.

The yamiyahpa also helped manage community affairs – sometimes giving advice to local administrators – and led social activities such as festivals, fundraising, religious ceremonies and funerals. Not every yamiyahpa in a community was involved in all the various responsibilities; certain characteristics sometimes led them to be relied upon for certain issues. For example, in one Muslim community, an elderly and respected person who was able to read and write Myanmar helped members of his community write letters to the government. In another community, a wealthy elderly and respected person supported his community financially by providing jobs and loans to his neighbours during the floods in August 2015.

## Religious Leaders

Religious leaders in minority communities were commonly involved in settling disputes between individuals within their community, as well as those involving people from outside the community. Rakhine respondents, on the other hand, rarely reported reliance on Buddhist monks to settle individual disputes. Only two cases emerged in which monks worked with local administrators on development projects or relief distribution.

## Mullawis

In most of the Muslim communities in the study, Islamic religious leaders – mullawis – were considered influential figures by their communities. Larger communities often had multiple mullawis (the study site in Maungdaw Township had over 100). In these areas, respondents singled out specific mullawis as being more respected and influential because of their advanced age and years of experience as religious teachers and leaders.

45 However, as yamiyahpa, these women only mediated disputes between women in their village.

In addition to teaching in mosques and religious schools, mullawis were often the first third party whom Muslims respondents turned to for help with dispute settlement. After mediation, few cases seemed to go on to other third parties. One mullawi stated he was able to resolve 80% of all cases that came before him. Cases were resolved by either one mullawi individually, several mullawis making a collective decision, or local administrators and mullawis together.

The mullawis interviewed reported dealing mainly with religious and family issues such as quarrels between couples, divorce and inheritance cases. They also settled verbal fights between neighbours and small theft cases, referring cases resulting in physical injury to the police.

Mullawis described mediating cases according to religious rules and teachings. A mullawi in Rathedaung Township explained how he solved inheritance cases, including inheritable land:

“Our religious rules prescribe how to divide inheritance among the family members of a deceased person. For example, if a man passes away, 1/8 of the inheritance goes to his wife. The rest is divided into three portions, with the son receiving two portions, and the daughter receiving one.”

In disputes between husbands and wives, mullawis encouraged couples to “understand each other” and to stay together. Philandering husbands had to make a promise “before Allah” not to repeat their actions. Divorce could usually be completed by the mullawi using religious rules, or by local administrators under government provisions. Religious rules relating to divorce seemed to vary, with varying levels of protections for the women. In one community in Rathedaung Township, the mullawi stated that a couple could not divorce without the husband’s consent. In Maungdaw Township, one influential mullawi emphasised that the husband needed to return the bride dowry.

One mullawi interviewed in Thandwe Township took a more pragmatic approach to his role as a leader in his community. He regularly read newspapers and listened to the radio in order to relay news back to members of his community. When solving inheritance disputes, he allowed people to choose whether they wanted to follow religious rules or to settle the case in a way that satisfied everyone. In one instance, he set aside half of the inheritance for the widow and the other half for the children, explaining that the widow needed the income. He also advised members of his community on how to live in ways that would make it easier for them to get along with people of other ethnicities and religions in the ward. He explained,

“I am a mullawi so I should dress like one and maintain a beard. My wife also wears a scarf to cover her hair. She is a mullawi’s wife so she should look a little different. But I encourage my people to dress like everyone else. There’s no need to look different. Look at that girl there. It’s even fine for her to wear short pants and look like a Rakhine girl. I allow them to dress like this.”

## Maramagyi Monks

In one study site with a sizeable Maramagyi population, the head monk of a Maramagyi monastery was particularly active in helping solve problems faced by his community. As a leader of the local Mahar Baw Di, a Maramagyi cultural association, this monk was outspoken about the discrimination that Maramagyi people faced, and advocated for their interests. He stated:

“I tell my people they should not just accept discrimination. I tell them to let me know when they have a problem, and I will address it.”

The monk explained that one challenge that Mahar Baw Di has worked to address related to the Maramagyi people’s difficulty obtaining

identity documentation. Through collaboration with an U Maung Nu Nu, an affluent Maramagyi with connections to individuals in Naypyidaw and the Rakhine State Government, Mahar Baw Di – led by this monk – has helped several hundred Maramagyi obtain identity documentation. The monk also assisted Maramagyi members of his community deal with household registration issues by calling and personally referring them to U Maung Nu Nu or immigration officials with whom he was acquainted.

## Youth Leaders

In one study site, the community did not have yamiyahpa, and instead had youth leaders (ကာလသားခေါင်း; ka la tha khaung or ကာလသားအဖွဲ့; ka la tha ah hpweh) who filled an important decision-making and mediation role. In most other communities in the study, youth leaders generally helped to organise the cooking, fundraising and other activities associated with social and religious affairs, but did not play a role in decision-making on community issues. In this particular community, however, the youth leaders actively participated in the Mahar Baw Di and village development activities, and also mediated cases related to fighting, inheritance, theft and divorce. The youth leaders of this community were also instrumental in helping Maramagyi people apply for CSCs and advocating on their behalf when they faced discrimination in schools. Most of these youth leaders were between 30 and 35 years old, fairly wealthy and educated to high school level.

## TOWNSHIP ADMINISTRATORS

Some administrators at the township level reported handling an increasing number of complaints, received in the form of letters.

One township administrator described their intermediary role as follows:

“GAD does not make decisions. [We] just bring [the] respective government committee and parties together. ... [We] explain the law, but do not make decisions or judgments [and] respect the role of the judicial branch. For criminal cases, [we] bring [them to the attention of the] police branch and do not mediate.

“If any claims or problems come to our department, our role is to bring in the respective government [department that] has their specific laws. We are an intermediary with the respective government department and the parties. The aim of GAD is to try to decrease tension between the individuals. The dispute comes to GAD, we bring the parties together and explain the provisions of the law and try to reach a satisfactory resolution. We are the guarantor for the agreement. We make sure both parties are satisfied with the agreement.

“For example, you put nets into the water and it disrupts the waterways. It is a dispute about the area. But the Department of Fisheries has a specific law. They can take legal action against the individual. With us as intermediary, we explain the law, dos and don'ts. We GAD consider the livelihood of people in dispute. If they face legal action their livelihoods will be interrupted. So we explain to them why they should comply [with the law]. If they agree, the DoF will not pursue action. But if they don't, DoF will sue them.”

In one township, the township administrator described an incident on which his office took a proactive approach to mediation rather than waiting for complaints to arise. When GAD officials saw on a local news Facebook page a disagreement over bus departure times, the township administrator called a meeting with interested parties and stakeholders to form a group that would discuss the merits of different departure times and make a consensus decision.

*In summary, local administrators – including ward, village tract and village administrators –*

*were the most prominent third parties involved in attempts at dispute resolution. In doing so, they frequently collaborated with “elderly and respected persons” (yamiyahpa) within the community – one of the few parties women victims of domestic violence would turn to. Religious leaders are also involved in dispute settlement.*

*In most areas studied, the local administrators and communities appeared to enjoy good relationships. Communities expected their local administrators to represent their interests.*

## CRIMINAL JUSTICE SYSTEM

Across the board, state officials concurred that “small cases” involving “minor injuries” that arose at the local level could be settled by local administrators and/or yamiyahpa within the community. Only when mutual agreement between the parties could not be reached would a “small case” be referred to the formal justice system. One township judge explained:

“Serious cases that require police intervention are physical hurt or assault where the victim has to go to the clinic or hospital. These cases obviously require police intervention. These cases and murder cases cannot be solved at the community level. ... At the community level, [community leaders] have no judiciary power. They can only bring two parties together to discuss, and if in front of [them], they reach an agreement, [the community leaders] are like witnesses. Reaching agreement depends on the consent of both parties. If one party does not agree, even for small cases, they are referred to the formal system.”

One law officer, however, noted that if a party to a dispute that was previously settled at the local level was dissatisfied with the outcome and wanted to pursue a remedy through the formal justice system, they might not be able to do so if a statute of limitations applied.

A few officials also explained that, in certain circumstances, parties to a dispute could make a request to the court for withdrawal of their case upon reaching an out-of-court agreement and settlement.

## Crime Reduction

With respect to criminal acts, state officials viewed legal awareness as an important strategy in crime reduction (see Chapter 3). Promoting legal awareness is a component in five police functions that are targeted at reducing crime.

## Legal Representation

Judges and law officers at the township level estimated that between 25% and 50% of defendants were unrepresented. At the district level, officials indicated that most defendants had legal representation, given the gravity of the crimes dealt with at that level.

Some officials personally welcomed any expansion of legal aid to include either the 10 most serious crimes or civil cases. One noted that legal aid would be helpful as many defendants did not understand legal language.

Most other officials, however, considered legal aid to be “not necessary”, especially for “small cases” that are tried at the township level. Judges and law officers in general spoke about their efforts at making the legal process “easy” for unrepresented defendants, by explaining the relevant procedures, allowing defendants to ask questions and cross-examine, and helping defendants call witnesses. One township judge explained that “winning or losing a case does not depend on whether [the defendant] has legal representation”. Another stated that there are no differences in outcomes between cases where parties have and do not have legal repre-



sentation, as cases are decided on the basis of evidence and witness testimony.

*In summary, various pathways through the formal justice system are available to those involved in a dispute, including judicial review of settlement terms (subject to a statute of limitations) and application for withdrawal on reaching an out-of-court settlement.*

*At the district level, most defendants have legal representation. Although some justice officials advocated the expansion of legal aid, most considered legal aid to be unnecessary, especially at the township level.*



Five Functions to Reduce Crimes: (1) To look after an area by patrolling; (2) To monitor and detain habituated perpetrators and potential bad people and thieves; (3) To crush criminal activities; (4) To eliminate crimes through awareness/education; (5) To work towards ensuring effective and deterrent sentences.



## CHAPTER 6

# ATTITUDES TOWARDS THE JUSTICE SYSTEM AND JUDICIAL ACTORS

Photo: Local open-source library in Sittwe Township, Rakhine State

The second research question was: What are people’s perceptions of, and trust and confidence in, the formal justice system?

It has been established that, overwhelmingly, respondents in Rakhine State opted not to use the formal justice system but to attempt to resolve their disputes locally – largely without success. With this in mind, this chapter revisits the matter of shared values and touches on that of public accountability by officials.

The chapter first describes respondents’ attitudes towards the formal justice system, and perceptions of those who have a role in the provision of justice services – judges, law officers, the police and community leaders.<sup>46</sup> It proposes an indicator of public trust in these key

judicial actors and considers how respondents would respond if judicial officers behaved in a discriminatory manner. It concludes by reporting on respondents’ expectations and perceptions of accountability by public officials.

## ATTITUDES TOWARDS THE JUSTICE SYSTEM

To gauge respondents’ attitudes towards the justice system generally, the study sought their perspectives on three indicative matters, which related to bribery or corruption, access to the formal court system and the function of the law in a specific context (Table 6.1).

Table 6.1 Attitudes Towards the Justice System

Subject	Statements	Agree*
BRIBERY OR CORRUPTION	(a) Public officials are not paid enough, so it is acceptable for them to ask for additional payments.	24.7%
	<b>(b) Public officials are meant to serve the public, and it is not acceptable for them to ask for additional payments.</b>	<b>69.6%</b>
ACCESS TO FORMAL COURTS	<b>(a) Having knowledge will increase people’s access to the (government) courts.</b>	<b>53.9%</b>
	(b) Having personal connections with officials will increase people’s access to (government) courts.	37.7%
FUNCTION OF THE LAW	(a) The law protects the interests of the rich and powerful.	33.4%
	<b>(b) The law prevents abuses by the rich and powerful.</b>	<b>59.6%</b>

\* The totals of each pair of statements do not add up to 100% as some respondents chose “both” statements, some chose “neither”, others refused to answer, and some others indicated that they did not know which statement was more aligned to their personal views.

46 Note that ward and village tract administrators have formal dispute settlement roles, as provided in the 2012 Ward or Village Tract Administration Law (see Part III).

More than two thirds (69.6%) of respondents agreed that it is not acceptable for government officials to ask for additional payments. Almost one quarter (24.7%) thought it acceptable, because public officials are not sufficiently remunerated.

A majority (53.9%) agreed that having knowledge will increase people’s access to the formal courts. More than one in three (37.7%) agreed that having personal connections with officials, rather than having knowledge, will increase people’s access to the formal courts. However, nearly 6% of respondents did not know, or refused to opt for one of these statements. This might indicate that they (at least some of them) do not expect ever to be involved in formal proceedings.

A clear majority (59.6%) stated that the law prevents abuses by the rich and powerful. More than one in three (33.4%) agreed that the law protects the interests of the rich and powerful. Very few (0.6%) opted for both. Both statements could be interpreted as demonstrating the belief that legislation, properly administered, can or should protect the rights of ordinary people. If so, a potential 93% of respondents could be said to hold such a view.

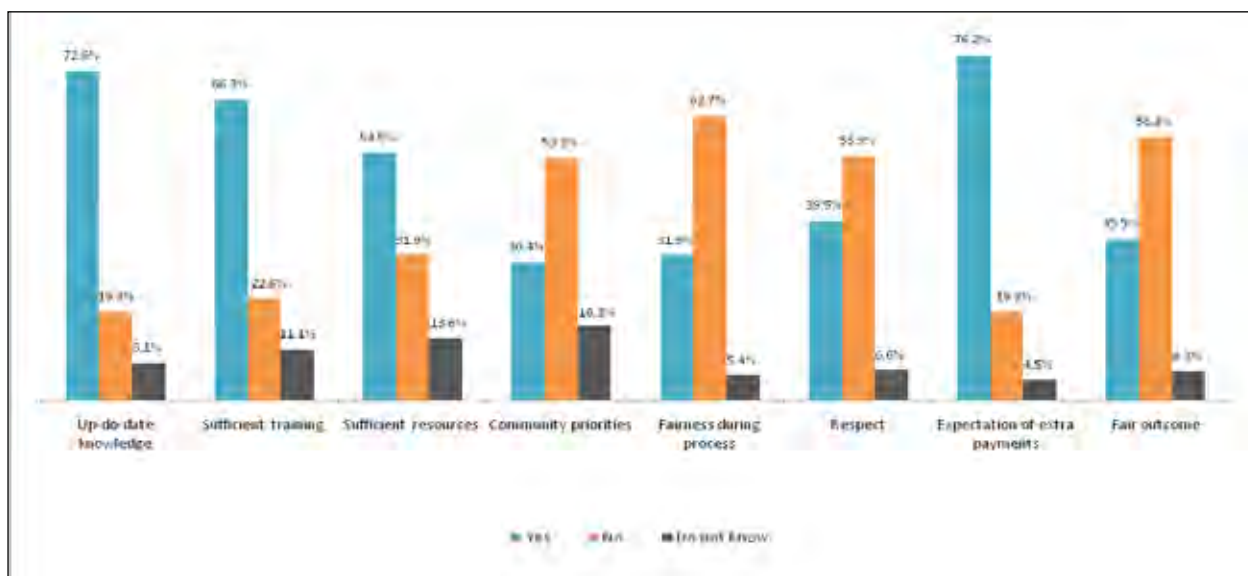
## PERCEPTIONS OF JUDICIAL ACTORS

The study also explored respondents’ perceptions towards those with a role in the formal justice sector – specifically, judges, law officers and the police – as well as community leaders.<sup>47</sup> In this context, competence was defined to include up-to-date knowledge, sufficient training and adequate resources, and whether such people had the right intentions to do what the public trusts them to do. The notion of right intention or shared values included alignment with community priorities, respectful treatment, fair treatment and outcomes and no expectation of additional payments for services (see Chapter 1).

### Judges

Overall, respondents expressed confidence in the competence of judges, but were less assured that judges’ values aligned with shared values such as fairness, respect and a lack of corruption (Figure 6.1). It should be noted that respondents’ perceptions of judges might be explained in part by their relative lack of exposure to the formal justice system (see Chapter 3).

Figure 6.1 Perceptions of Judges



47 Note that Ward and Village Tract Administrators have formal dispute settlement roles, as provided in the 2012 Ward or Village Tract Administration Law. See also Chapter 5 on the roles of local and township administrators.

A majority of respondents perceived judges to be competent: almost three quarters (72.6%) thought that judges have up-to-date knowledge, about two thirds (66.3%) believed them to be sufficiently trained and over half (54.5%) perceived judges to have sufficient resources to carry out their responsibilities.

In relation to shared values, over half the respondents perceived that judges are not aligned with community priorities (53.3%), that judges would not treat respondents with respect (53.9%) and that judges would not come to a fair outcome if a dispute were brought before them (58.1%). Almost two thirds (62.7%) believed that judges would not be fair when resolving disputes, and more than three quarters (76.2%) thought that judges would expect additional payments for their services.

## Law Officers

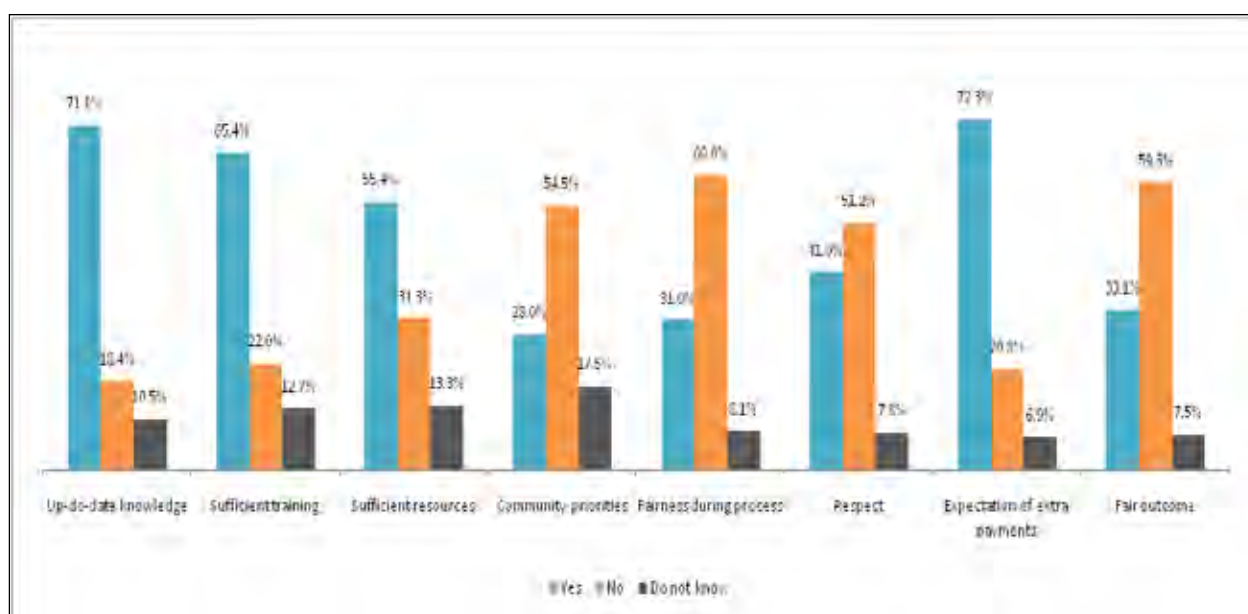
Respondents' perceptions of law officers were similar to their perceptions of judges (Figure 6.2).

Respondents generally perceived law officers to be competent, with up-to-date knowledge (71.1% of respondents), sufficient training (65.4%) and sufficient resources (55.4%) to carry out their responsibilities.

In relation to shared values, respondents' perceptions of law officers reflected their perceptions of judges. Over half the respondents thought that law officers are not aligned with community priorities (54.5%), that they would not treat respondents with respect (51.2%) and that they would not come to a fair outcome if a dispute were brought before them (59.3%). Three fifths (60.8%) of respondents perceived that law officers would not be fair when resolving disputes and almost three quarters (72.3%) thought that law officers would expect additional payments for their services.

Again, respondents' perceptions of law officers might be explained in part by their relative lack of exposure to the formal justice system (see Chapter 3).

Figure 6.2 Perceptions of Law Officers

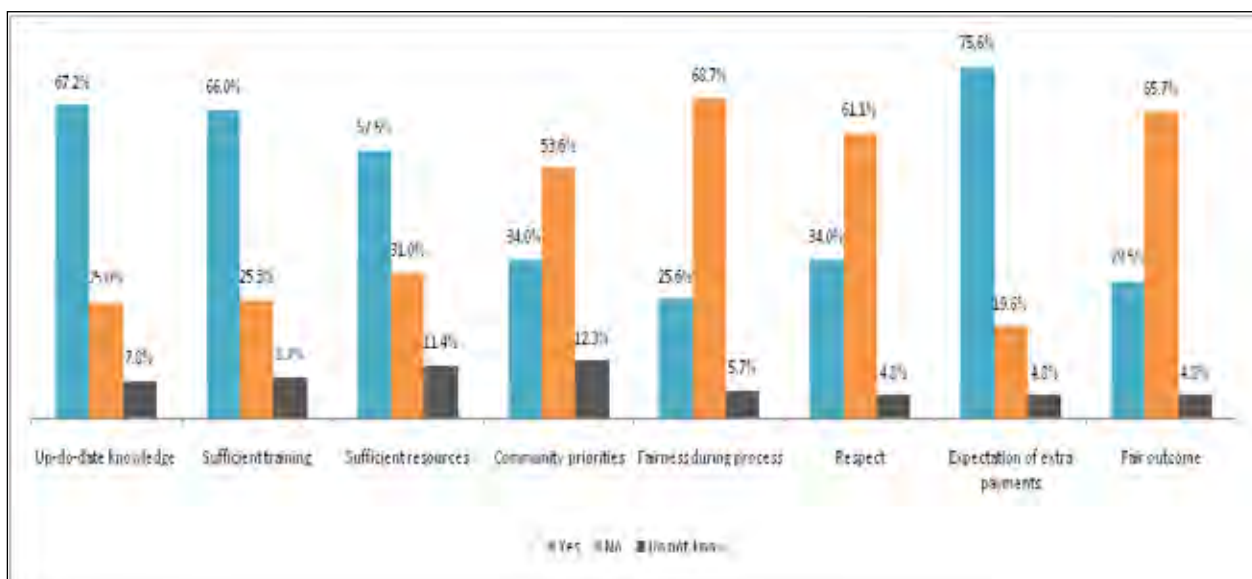


## Police

Respondents are generally more familiar with the police and their role than they are with judges and law officers (see Chapter 3). None the less, their perceptions of the police were broadly similar to their perceptions of judges and law officers (Figure 6.3). It should be noted that, for three study sites in Rathedaung and Maungdaw Townships, reference to the police indicates the Border Guard Police (BGP), rather than the normal township police force.

respondents with respect (61.1%) and that they would not come to a fair outcome if a dispute were brought before them (65.7%). More than two thirds (68.7%) of respondents perceived that the police would not be fair when resolving disputes and three quarters (75.6%) thought that the police would expect additional payments for their services.

Figure 6.3 Perceptions of the Police



Around two thirds of respondents generally perceived the police to be competent, with up-to-date knowledge (67.2% of respondents) and sufficient training (66.0%), although fewer (57.5%) thought they had sufficient resources to carry out their responsibilities.

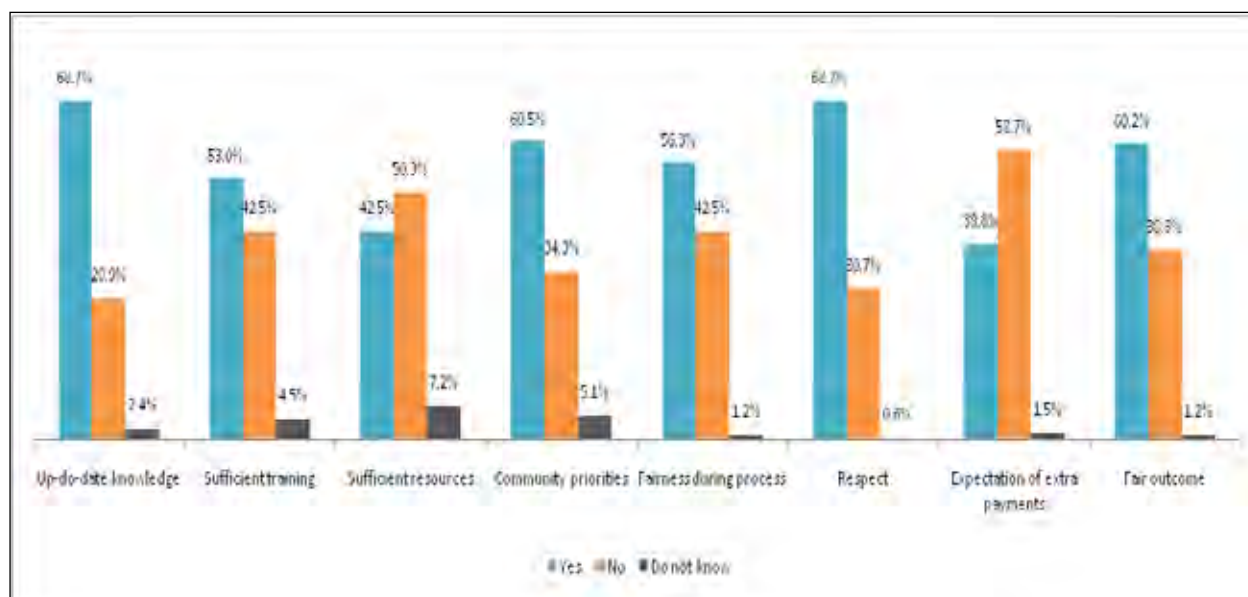
In relation to shared values, respondents' perceptions of the police reflected their perceptions of judges and law officers. Over half the respondents (53.6%) thought that the police are not aligned with community priorities. Nearly two thirds thought that they would not treat

## Community Leaders

Respondents' perceptions of community leaders<sup>48</sup> differ quite significantly from their perceptions of judges, law officers and the police (Figure 6.4).

48 The Myanmar version of this term translates to ward and village leaders, and was otherwise not defined for respondents. It would, however, be understood to include local administrators.

Figure 6.4 Perceptions of Community Leaders



It is worth noting that respondents’ perceptions of community leaders’ competence were mixed. More than two thirds (68.7%) thought that they have up-to-date knowledge and just over half (53.0%) thought that they are sufficiently trained to carry out their responsibilities. At the same time, significant minorities thought the opposite: that community leaders do not have up-to-date knowledge (28.9%) and that they are not sufficiently trained (42.5%). Half (50.3%) the respondents also thought that community leaders do not have sufficient resources to carry out their responsibilities (42.5% thought that they did).

Significantly, and unsurprisingly, respondents had more positive views of community leaders than they did of judges, law officers and the

police regarding shared values and right intentions. A majority of respondents perceived that community leaders are aligned with community priorities (60.5%), that respondents would be treated with respect (68.7%), that community leaders would be fair when resolving a dispute (56.3%) and would come to a fair outcome (60.2%), and that community leaders would not expect extra payments for their services (58.7%).

## Public Trust in Judicial Actors

A composite trust indicator was constructed (on the basis of responses represented in Figures 6.1 to 6.4) to indicate respondents’ trust in judges, law officers, the police and community leaders<sup>49</sup> (Table 6.2).

Table 6.2 Trust in Judicial Actors

Actors	Trust Indicator
Judges	27.1%
Law officers	27.4%
Police	22.6%
Community leaders	43.4%

49 A respondent was considered to trust a particular justice sector actor if she/he answered “Yes” to at least two of the three questions relating to the actor’s competence, and to at least three of the five questions relating to the actor’s right intentions.

The police were the least trusted by respondents, and notably less trusted than judges and law officers. Community leaders were most trusted, by a considerable margin. The trust indicator for community leaders, 43.4%, broadly corresponds to the 47.9% of respondents who elsewhere indicated that they trust community leaders either “somewhat” or “very much” (Figure 3.2).<sup>50</sup>

*In summary, nearly 70% of respondents agreed that it is not acceptable for government officials to ask for additional payments.*

*Respondents’ perspectives on the law’s relation to persons with wealth and power could be interpreted as indicating a widespread belief that legislation, properly administered, can or should protect the rights of ordinary people.*

*Respondents expressed confidence in the competence of judges, law officers and the police, but were less assured that their values aligned with shared values such as fairness, respect and a lack of corruption. This might reflect respondents’ relative lack of exposure to the formal justice system.*

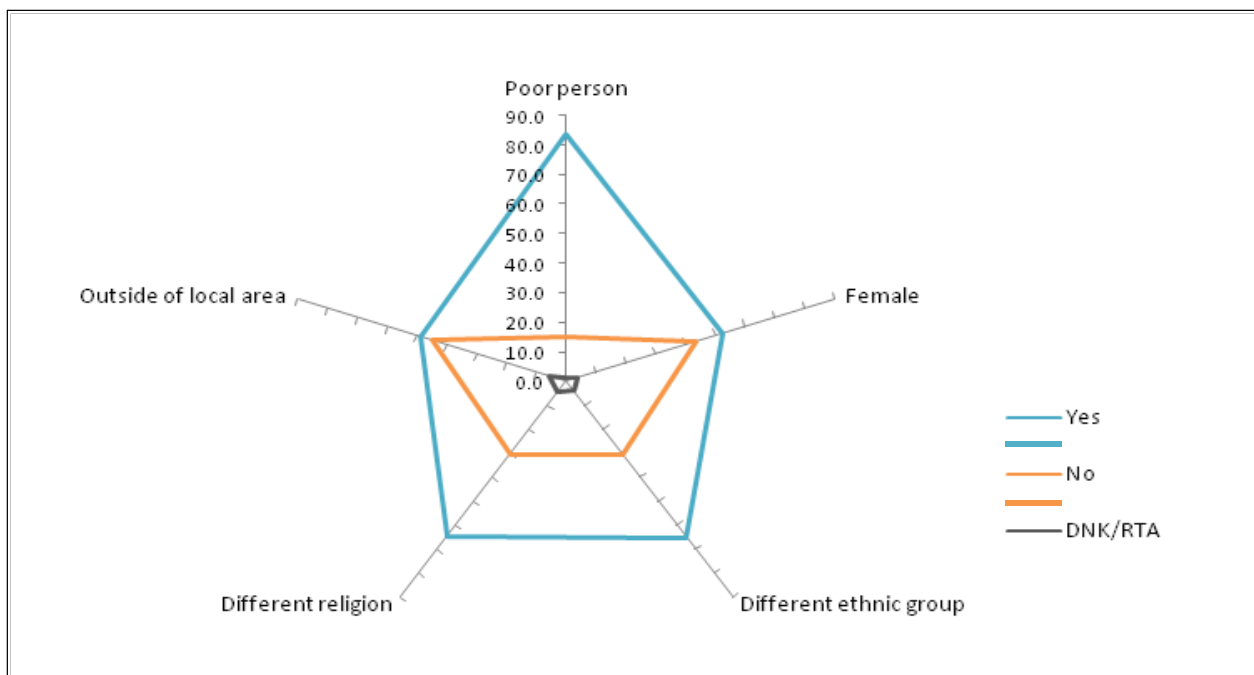
*Although respondents’ perceptions of community leaders’ competence were mixed, the majority believed that community leaders are aligned with community priorities and ascribe to shared values.*

*Overall, the police were the least trusted judicial actors, and notably less trusted than judges and law officers. Community leaders were the most trusted, by a considerable margin.*

## PERCEPTIONS OF UNEQUAL TREATMENT

The study sought to gauge the extent to which respondents believed that people would or would not be treated equally in the justice system. Respondents were asked to imagine a scenario in which two suspects who are equally suspected of committing a crime have been detained and charged by the authorities. They were then asked whether, if one of the suspects had certain characteristics, it would place them at a disadvantage (Figure 6.5).

Figure 6.5 Perceptions of Unequal Treatment



<sup>50</sup> The proportion rises to 64.5% when the scale is recategorised to combine the responses “Trust very much”, “Trust somewhat” and “Trust a little” as “Trust” (Figure 3.2).



The characteristic of being poor was considered much more disadvantageous than any other in respect of a person's treatment by authorities when charged with a crime. A large majority (83.7%) of respondents thought that a suspect who was poor would be placed at a disadvantage.

Around two thirds of respondents thought that a suspect who was of a different ethnic group (65.7% of respondents) or a different religion (65.1%) than that of the public official would be at a disadvantage. Just over half (52.7%) the respondents believed that a female suspect would be at a disadvantage. These responses suggest a prevalent perception that officials in the justice system do not act in a non-discriminatory manner.

These perceptions are consistent with those presented in Chapter 3 in relation to broader factors that determine how well a person is treated in Myanmar society.

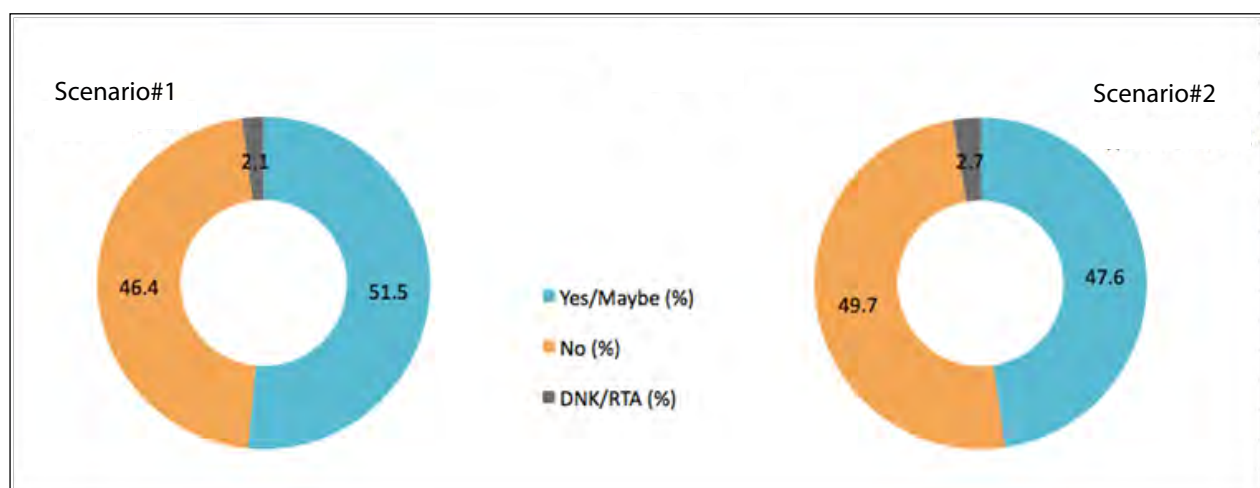
*In summary, it is widely perceived that officials in the justice system do not act in a non-discriminatory manner. Respondents believe that the poor are most at risk of not being treated equally with others under the law when charged with a criminal offence.*

## ATTITUDES TO ACCOUNTABILITY

The study explored respondents' attitudes to holding government officials to account, by testing their tendency to report or not report corrupt practice. Respondents were asked what they would do in two hypothetical situations in which officials asked for extra payment: (i) a local official asking Ks.300,000 of a person wishing to register their land; and (ii) a township official asking Ks. 150,000 of a person wishing to renew their identity documentation.

In both scenarios, respondents were almost evenly split between those who would or might report the incident, and those who would not (Figure 6.6).

Figure 6.6 Attitudes to Accountability



Those who would or might report the hypothetical incidents would take almost identical action in response to each: most would report the incident internally to the parent department. Over one third (39.2%; 67 of 171) of “reporting” respondents would report the first situation to the township Land Records Department, and over half (53.2%; 84 of 158) would report the second situation to the township Immigration Department. The remaining “reporting” respondents would report to the township GAD (Scenario 1: 17.0%; Scenario 2: 14.6%) or the village administrator (Scenario 1: 12.3%; Scenario 2: 9.5%).

“Reporting” respondents also had very similar expectations of the outcomes of their reporting in each scenario. In both instances, the highest proportion of respondents would expect to not have to pay the sum demanded, after reporting the incident (Scenario 1: 36.8%; Scenario 2: 40.5%). It would seem that these respondents had little expectation of official accountability: only a minority expected that action would be taken against the offending official (Scenario 1: 28.7%; Scenario 2: 27.8%). Even fewer expected that reporting the incident would have no impact on the outcome (Scenario 1: 12.9%; Scenario 2: 12.0%), and that the complaint would lead to negotiations between the parties for more acceptable outcomes (Scenario 1: 12.9%; Scenario 2: 10.1%).

The reasons given by respondents who indicated they would not report such incidents are presented in Figure 6.6(a) in Annex II. In respect of both hypothetical scenarios, a significant proportion of these respondents identified corruption as a factor that inhibited attempts to secure accountability (Scenario 1: 40.9%, 63 of 154; Scenario 2: 46.4%, 76 of 164). Some recognised a structural dimension to the issue – that civil servants are economically dependent on such extra payments (e.g. “The local government employees should also get money”; “I will not report so as to not ruin the government employee”). Others commented on the entrenched nature of the problem (e.g.

“We have to pay in order to obtain the [land] certificate”; “We have to pay as the government demands”; “We are the people, we have to pay what they want”; “The local official tends to demand bribes. As such, action will not be taken when we report about it, and so we will not report”; “I will not report as the complaint will not be accepted as they are all of the same flock”). Among respondents who identified corruption as a problem, about one third or more characterised it as a barrier that would prevent them from obtaining land registration or renewing identity documentation in the two hypothetical situations (e.g. “I will not report it and I will not acquire it”; “We will acquire the certificate only when we do not need to pay”), whereas the remainder would pay the amount asked of them in order to secure what they required (e.g. “I know this is injustice, but I have to pay as I need the identity documents”; “We will pay if we will get the [land] certificate, we have to pay in this era”).

Another reason cited by respondents for not reporting the hypothetical incidents was that they were fearful of doing so (Scenario 1: 24.0%; Scenario 2: 46.4%). The first and most significant dimension of such fear was that complaining about being asked for extra payments would only lead to more problems for the complainant (e.g. “The process will take longer if we report”; “It will cost even more if we report”; “I am afraid that the land registration [certificate] will not be issued if I report”; “We are worried that our lands will be lost if we report, so we will pay what they demand”). Second, respondents were apprehensive about having to deal with the law, legal procedures and formal government bureaucracy (e.g. “I do not want to have anything to do with laws”; “I do not want to go to [government] offices, nor have to deal with them”; “I do not want to speak with [those in government] offices”; “We will pay if we can afford it, otherwise we have to face complicated matters”). The third dimension of fear was generally expressed as: “I dare not report.” Fourth, some respondents were in fear of actual violence.

Another factor that influenced “non-reporting” respondents was their expectation that complaining would not change anything (e.g. “Nothing will change even if we report”; “The land certificate will not be acquired by reporting, so I will not report”; “Reporting does not produce ID cards”). A general refusal to report such incidents was also evident. Others demonstrated self-reliance, especially insuggesting they negotiate with the officials for lower sums. Some cited discrimination (e.g. “We neither report nor pay; we do not report as we are not entitled to do anything”) and specific cultural barriers (e.g. “We cannot report as we cannot go outside because we are women”) as factors in not reporting. A small minority of respondents also identified a lack of knowledge as to what could be done and who could provide assistance; only one respondent specifically identified a lack of knowledge about the law.

Four other points merit attention. First, female respondents were more likely than male respondents to say they would report the incidents – although a majority of female respondents would not report them.

In respect of the first scenario, more than half (53%) the female respondents (compared with 39.8% of male respondents) said they would not report being asked for extra payment for land registration. Conversely, 43.4% said they would report it (compared with 57.2% of male respondents). In respect of the second scenario, 55.4% of female respondents (compared with 44.0% of male respondents) said they would not report being asked for extra payment for renewal of identity documentation. Conversely, only 39.2% of female respondents said they would report it (compared with 54.8% of male respondents) (Figure 6.6 (b), Annex II).

Second, urban and rural respondents tended to demonstrate different perspectives on the issue of corruption by public officials. A majority of urban respondents said that they would not report being asked by public officials to make extra payments (Scenario 1: 55.4%; Scenario

2: 54.7%). The opposite tendency was indicated by rural respondents: only 39.9% of rural respondents would not report Scenario 1 and 46.1% would not report Scenario 2 (Figure 6.6 (c), Annex II).

Third, different perspectives were indicated by respondents of different religions in respect of the second scenario – but not of the first. A majority (58.9%) of Muslim respondents said that they would not report being asked for extra payments in relation to identity documentation and only 38.0% would report it. Conversely, 52.3% of Buddhist respondents would report such an incident and 44.2% would not (Figure 6.6 (d), Annex II).

*In summary, respondents were almost evenly split between those who would or might report an incident involving corruption, and those who would not. Rural respondents would tend to report corrupt practice, while urban respondents would tend not to.*

*Those likely to report corrupt practice had little expectation of official accountability. A significant proportion of those unlikely to report corrupt practice cited corruption itself as inhibiting attempts to secure accountability. Many of those attributed their reluctance to report to fear or apprehension about having to deal with the law, bureaucracy and the judicial system.*



## CHAPTER 7

# CONCLUSIONS AND RECOMMENDATIONS

Photo: Village administrator's office in Thin Ga Net Village, Sittoung Township, Rakhine State

The research findings give some indication of the perspectives of respondents in 10 wards and villages in Rakhine State in relation to access to justice and the rule of law, including public accountability. The study identified the basis for the disputes respondents have experienced, respondents' concerns about justice, the impact such problems have had on them, the ways in which they have sought to settle such disputes and resolve their concerns, and the challenges they have encountered in doing so.

The socio-economic characteristics of the respondents (Chapter 2) provide an important context to this research, revealing some of the factors shaping the environments in which the concerns about justice arise. Those factors also influence how and to what extent individuals and communities are able to seek help to access justice in response to their concerns.

To reiterate the conceptual discussion presented in Chapter 1, this study revealed shared values to be central to the exercise of access to justice. These shared values also inform people's expectations of judicial processes, whether in formal, quasi-formal/administrative or informal contexts. These values include equality before the law, non-discrimination, respect for others, fairness and a lack of corruption in society. At community level, they relate to equality and non-discrimination in social affairs, and transparency, independence and fairness in judicial processes. These values relate to fundamental principles of human rights. They also imply a common expectation of accountability, one of the prerequisites of good governance.

The research confirmed these conceptual underpinnings of the quest for access to justice. The findings also illuminated four overarching thematic issues: (i) formal versus substantive equality; (ii) administrative justice and public accountability; (iii) public trust in the justice system; and (iv) civic knowledge and its relationship to social cohesion.<sup>51</sup> The key findings

summarised below, and the consequent recommendations for justice sector actors and policy-makers and Development Partners, are presented within this framework.

## SUBSTANTIVE EQUALITY

More than two thirds of respondents perceived that not all people have equal rights before the law in Myanmar. Respondents overwhelmingly cited wealth, education and ethnicity as the main factors that determine how well a person is treated in society.

It appears that Muslim respondents are disproportionately involved in disputes and concerns about justice. At the level of households, three issues resulted in the highest incidence of disputes: debts owed by others, problems obtaining birth and identity documentation, and land. While disputes over debts owed by others were experienced almost equally by Buddhist and Muslim respondents, the other disputes appear to fall along religious lines: land-related problems were largely faced by Buddhist respondents; all remaining concerns were mostly experienced by Muslim respondents.

At the ward/village level, respondents and/or community leaders generally identified four distinct, but interrelated, layers of concern about justice. Both Buddhist and Muslim respondents generally described having to negotiate arbitrary conduct by public officials on a regular basis. In study sites where the BGP exercise jurisdiction, these complaints were heard most frequently, though not exclusively, in relation to them.

Respondents felt more fearful and insecure as a result of the 2012–2013 inter-communal violence, and indicated that strained relationships between Buddhist and Muslim communities have resulted in adverse consequences on livelihoods and economic activity. Although the

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51 It is important to recognise that these themes often merge and intersect in complex ways.

violence impacted on all communities, ethnic and religious minority groups were disproportionately affected as they suffered both the impact of the official state response of imposing movement restrictions, and increased levels of general discrimination. For Muslim respondents in northern Rakhine, these concerns have added to the negative impacts of local orders that have been in place since the 1990s. These local orders may explain in part the significantly lower levels of education, Myanmar language literacy and household incomes of this group in comparison with Rakhine respondents.

The nature of these concerns about justice, and respondents' experiences, indicate that not all people in Rakhine State enjoy the same rights and protections. There is a need to ensure that the constitutional principles of equality and justice – as enshrined in Articles 6 (e) and 347 – are upheld in practice. There is an urgent need to look beyond formal, *de jure*, equality and at the notion of substantive equality.

Various groups in Rakhine State live in a social, cultural and political environment that is shaped by the persistent practice of differential treatment of citizens. Constitutional and legal provisions enshrining the principle of equal treatment of all citizens under the law are essential. However, the richness and complexities of social relations in Rakhine State are perhaps unique in Myanmar and give rise to particular problems that are evidently based in discrimination. Addressing these problems requires nuanced and multifaceted approaches that go beyond the blunt instrument of legislation, in order to counter discrimination and ensure consistent treatment of people based on the principle of substantive equality.

This means that, even as attention is paid to ensuring consistent treatment, focus must also be directed towards the treatment of people as equals, which translates to having equal con-

cern and respect for individuals, including taking into account different initial perspectives and positions. All this implies the fundamental need to address the root causes of the evident differential treatment of people.

## SUBSTANTIVE EQUALITY: KEY RECOMMENDATIONS

- Review all local orders through a transparent and public-participatory process, with the goal of revoking all orders that violate constitutional rights of persons in Rakhine, or that are discriminatory in design or effect.
- Introduce and adopt policing concepts that promote the Myanmar Police Force and all other law enforcement agents as effective, unbiased and fair.
- Support the provision of legal aid to better ensure due process and constitutional guarantees are provided by the justice system.
- Uphold the commitment – pledged in a 2014 Ministerial Declaration on civil registration and vital statistics<sup>52</sup> – to achieve universal and equitable civil registration of births, deaths and other vital matters in Rakhine State by: (i) registering the births of all children; and (ii) providing all individuals with legal documentation, as necessary, allowing them to claim their identity and civil status and to ensure their rights.
- Create an independent and competent process for advancing a universal and equitable civil
- Clarify the legal framework for citizenship and residency to bring it into line with Myanmar's Constitution and obligations under international human rights treaties and instruments.

52 Ministerial Declaration to "Get Every One in the Picture" in Asia and the Pacific, in ESCAP, Report of Ministerial Conference on Civil Registration and Vital Statistics in Asia and the Pacific, 10 Dec 2014, E/ESCAP/MCCRVS/4.

- Establish an independent mechanism to ensure that civil registration is equitable, rights based and enforceable
- Support livelihoods and promote economic opportunity in Rakhine State in an equitable manner.
- Undertake further studies to better understand the causes, consequences and varied impacts on different populations of debt and debt-related issues.
- On the basis of extant studies of debt and debt-related issues, design and implement measures to address these issues in an equitable manner.

## ADMINISTRATIVE JUSTICE AND PUBLIC ACCOUNTABILITY

The respondents in this study were clearly not engaged to any meaningful extent with the formal justice system.

When respondents attempted to settle the disputes of greatest concern to them, a majority began by attempting direct negotiations with the other party to the dispute. Those few who achieved settlement through direct negotiation did not always achieve a favourable and/or satisfactory final outcome. Where initial negotiations were not attempted or unsuccessful, some respondents sought assistance from a third party. Only a very low proportion of disputes were settled using these methods: 77% of the matters of greatest concern remained unresolved. This indicates that most respondents had extremely limited access to justice, in the sense of effective pathways to dispute resolution.

In certain circumstances, such as disputes between neighbours, direct negotiation is one of a range of options in the quest for resolution, whether the respondent chooses to exercise it or not. In particular circumstances, however, entering direct negotiations with the other party is the only option available in the quest for justice.

Abuse of authority by public officials is apparently pervasive. Many respondents were involved in disputes as a consequence of discrimination (in law and in practice) or abuse of authority by state authorities, for which they have no recourse within the formal justice system. Given the prevalence of discriminatory attitudes and practices among state authorities, such negotiations, if they are entered into at all, are likely to be inflected by the complainant's economic status, level of education, ethnicity, religion and gender, among other factors, and the outcomes tainted accordingly.

Such matters impose severe restraints on access to justice. This is evident in respondents' responses to hypothetical situations in which they encounter corrupt practice by state officials. It is encouraging that the majority of respondents indicated that they would report instances of abuse of authority by public officials. More troubling is that many identified the existence of corruption and their own fear as important factors that would inhibit attempts to secure the accountability of public officials. Hence, ensuring administrative justice – broadly construed to include all legitimate means of seeking redress in relation to abuse of public authority and quasi-judicial decision-making by officials of government agencies – is a clear priority.

## ADMINISTRATIVE JUSTICE AND PUBLIC ACCOUNTABILITY: KEY RECOMMENDATIONS

- Ensure that all formal justice sector actors, including incumbent local administrators, are sufficiently equipped to carry out their functions, including by providing the necessary training on: substantive equality; gender sensitivity and gender equality; rule of law principles; fair trial and due process; accountability; mediation principles; international standards related to the administration of justice; etc.
- Encourage the Office of the Supreme Court of the Union to direct all courts to publicise reasoned court decisions.
- Ensure that the costs and expected time schedules for judicial proceedings are posted in the public lobby of all courts.
- Increase the accountability and transparency of all government ministries/departments/agencies, particularly in Rakhine State, by making publicly accessible information available on:
  - How administrative decisions are made and which government agency is responsible for making them;
  - Existing internal oversight structures, and information on how people can formally file complaints about abuse of authority and how they can follow up on their complaints;
  - How to appeal administrative decisions made by government officials, and how to get information on the appeal once filed;
  - All relevant official fee schedules and processing times for government services at the township and ward/village tract administration offices;
  - Disciplinary measures taken against any public official, including the reason for disciplinary action having been taken.

- Develop and implement a comprehensive plan for police reform, encompassing and sequencing the interrelated areas of: law and policy framework; oversight and accountability mechanisms; recruitment and training; and infrastructure and facilities.
- As a priority, increase the accountability and transparency of all Border Guard Police operations by making publicly accessible information on: the command and oversight structure; role and functions; standard operating procedures; locations of outposts; and recruitment and training policies.
- Publicise disciplinary measures taken against Border Guard Police officers, including the reason for disciplinary action having been taken.

## PUBLIC TRUST

Where third parties (beyond immediate family and friends) were involved in dispute settlement, local administrators – including ward administrators, village tract administrators and village administrators – emerged as the most prominent actors. This was a common situation where mutually acceptable outcomes could not be reached by parties to the dispute, or in relation to issues where local administrators have an explicit mandate, such as issuance of letters of recommendation for travel purposes. Other community leaders who were identified to have a role in dispute settlement in Rakhine State included “elderly and respected persons”, religious leaders and youth leaders.

Respondents indicated that they have significantly higher levels of trust in their community leaders than in actors within the formal justice sector. Respondents perceived judges, law officers and the police to be competent but did not believe them to ascribe to shared values such as fairness and respect. This lack of trust in justice



sector actors is reflected in the relatively low levels of social trust.

Given that enhancing public trust in the justice system is a priority for those with a role in the sector, policies that are directed towards promoting shared values (such as fairness, respect, equality before the law, etc.) in communities, especially in the form of increasing transparency, independence and fairness in the adjudication process, will be important.

## PUBLIC TRUST: KEY RECOMMENDATIONS

- Assure the independence and accountability of the judiciary in line with international standards, including by ensuring financial autonomy and adequate resources, objective and transparent appointment criteria, judicial accountability and security of tenure.
- Improve any existing continuous professional training and skills development across the justice sector, with an emphasis on ethics and equitable conduct.

## CIVIC KNOWLEDGE AND SOCIAL COHESION

State officials regarded raising the public's awareness of the law as a clear priority, even though justice sector officials explained that the criminal matters that they dealt with were largely attributable to harsh economic conditions, which lead to alcohol intoxication and provocation, resulting in crime. Even beyond this, encouraging general civic knowledge about the Myanmar State and society, and fostering the development of a national Myanmar identity, would do much to develop social co-

hesion based on an informed, tolerant and engaged citizenry.

## CIVIC KNOWLEDGE AND SOCIAL COHESION: KEY RECOMMENDATIONS

- Develop a civic education and public awareness campaign encompassing topics on the Myanmar State and society, which will also serve to foster the development of a national identity that embraces the country's cultural, ethnic and religious diversity, and that promotes fairness, respect and tolerance.
- Ensure that a national civic education curriculum is taught in schools to all children at an appropriate age and in an appropriate ethnic language.
- Fulfill the constitutional guarantee of free and compulsory primary education for all children in Rakhine State.

# ANNEX I

## RESEARCH METHODOLOGY

In light of the current limited state of knowledge relating to access to justice issues in Myanmar, the complexities and sensitivities of the research locations, and the lack of reliable sampling frames, the research exercise proceeded with a qualitative methodology.

### Research Questions and Instruments

The research sought to answer three main questions:

1. How do people seek access to justice?
2. What are people's perception of, and trust and confidence, in the formal justice system?
3. What is the range of informal justice processes that exist in the local area, and how do they operate?

The study adopted mixed approaches, using a structured interview questionnaire at the household level, which was supplemented by focus group discussions at the village/ward level and key informant interviews at the individual level.

In parallel to the research instruments administered at the local level, a separate set of semi-structured interviews were carried out with judges, law officers, police officers and GAD officials at township and district levels. These interviews sought the perspectives of formal justice sector actors in relation to local priority concerns about justice, institutional roles in addressing these concerns, and institutional needs and challenges encountered by these actors when carrying out their respective duties and responsibilities.

All research instruments were developed in English and translated into Myanmar. The household structured interview questionnaire was shared with an advisory group for comments and feedback, which were incorporated where relevant and applicable. Translation of the structured interview questionnaire into Myanmar language took place alongside a series of discussions with Myanmar colleagues to ensure clarity of language, ideas and concepts. The instrument was revised following a pre-test.

### Study Sample

The study was conducted in five selected townships (one per district) across Rakhine State: Rathedaung, Maungdaw, Mrauk-U, Kyaukphyu and Thandwe. With the exception of Rathedaung in Sittwe district, all the townships also host their respective district-level offices.

In each township, two wards and/or villages – one Rakhine and one non-Rakhine – were purposively selected in close consultation with GAD officials. Of the 10 study sites, six were rural villages and four were urban wards. The study did not include internally displaced populations.

A quota based on respondents' sex (50:50 ratio) was also imposed for the structured interviews.

Table 1 Sample Size

Township	Household Structured Interviews		Focus Group Discussions		In-depth Interviews		Semi-structured Interviews with State Officials*
	F	M	F	M	F	M	
Rathedaung	21	36	14	12	--	7	4
Maungdaw	28	31	12	25	--	9	6
Mrauk-U	34	41	12	19	2	8	5
Kyaukphyu	40	30	27	16	3	10	6
Thandwe	43	28	17	12	3	7	5
<b>TOTAL</b>	<b>166</b>	<b>166</b>	<b>82</b>	<b>84</b>	<b>8</b>	<b>41</b>	<b>26</b>

\* Including officials at both township and district levels.

## Data Collection

Field research was carried out between 18 October and 20 November 2015, with a break of a week and a half in early November for the 2015 general elections.

Two international consultants led the field work and also carried out interviews with state officials. A Myanmar research organisation, Enlightened Myanmar Research Foundation (EMReF), which had some prior experience on rule of law/access to justice/plural legal systems studies, was contracted by UNDP to carry out research at the ward and village levels.<sup>53</sup> The EMReF team spent two and a half days in each township conducting interviews and discussions with local communities.

Five students from Sittwe University were hired and trained as Rakhine language interpreters, and they travelled together with the EMReF team for the entire duration of the field research. With the exception of fieldwork in Maungdaw,

it was not possible to hire and train Muslim<sup>54</sup> interpreters in advance for work in Rathedaung and Mrauk-U Townships, due to travel restrictions faced by these speakers.

## Ethical Considerations

Research ethics, including voluntary participation and informed consent, confidentiality, safety, neutrality and objectivity, conflict sensitivity and do no harm, were maintained throughout the study.<sup>55</sup>

Recognising the fluidity – due in large part to pre- and post-election dynamics – of both the national and local contexts in which field research was carried out, the research team adopted an explicitly conflict-sensitive/do-no-harm approach. A range of research tools was developed for approaching difficult contexts, in which keeping discussions within “safe” boundaries was considered important. Adaptation of

53 The EMReF team (nine females and four males) received a week and a half’s training on key concepts and issues, as well as orientation on the Rakhine context.

54 See footnote 3.

55 Over the course of field research in Rakhine, 12 respondents withdrew from completing the household structured interview. The wishes of these respondents were respected, and interviews were terminated.

tools, where necessary, to suit the local context ensured that the research was carried out in a conflict-sensitive manner, and that it did not exacerbate local tensions or risk the safety of researchers and respondents alike.

## RESEARCH CHALLENGES AND LIMITATIONS

### Research Preparation

Preparation for the research – including study design, development and translation of research instruments, and training of the research team – was carried out in less than two months, so as to enable the bulk of fieldwork for Rakhine to be completed before the general election to be held on 8 November. While the aims of the research have been met in Rakhine State, the process would have benefited from a lengthier preparation period, including more time for revision of research instruments after the pre-test.

### Research Format, Data Collection and Subject Matter

Respondents were not familiar with the structured interview questionnaire format. Particularly in relation to a subject such as access to justice, the rigidity of the format presented a challenge in terms of managing conversation flows and building rapport and trust with respondents.

Although efforts were made to ensure the reliability and validity of responses, the possibility of underreporting of disputes and concerns about justice cannot be eliminated, given the potentially sensitive nature of the subject matter and the relatively short period of two and a half days for data collection at each study site (which presented a challenge in terms of

trust-building with communities), thus potentially biasing the findings in any of several directions.

### Education Levels

Education levels in Rakhine State were lower than expected, which may have had an impact on some respondents' ability to answer certain questions that were asked of them.

### Language and Cultural Barriers

Administering the household structured interview questionnaire was a major challenge in Muslim villages. At one level, the EMReF team was entirely dependent on the availability of a very small number of relatively more educated villagers in each study site who could act as interpreters. At another level, conservative Islamic culture presented the research team with significant difficulties in speaking with female respondents.

### Representativeness

Given purposive selection of study sites and respondents, the findings describe only the study sample. Statistically significant comparisons cannot be made among research respondents, and the findings cannot be generalised to any wider population.

# ANNEX II

## SUPPLEMENTARY FIGURES AND TABLES

### CHAPTER 2: CHARACTERISTICS OF STUDY SITES AND RESPONDENTS

Figure 2.1(a) Levels of Education by Ethnicity

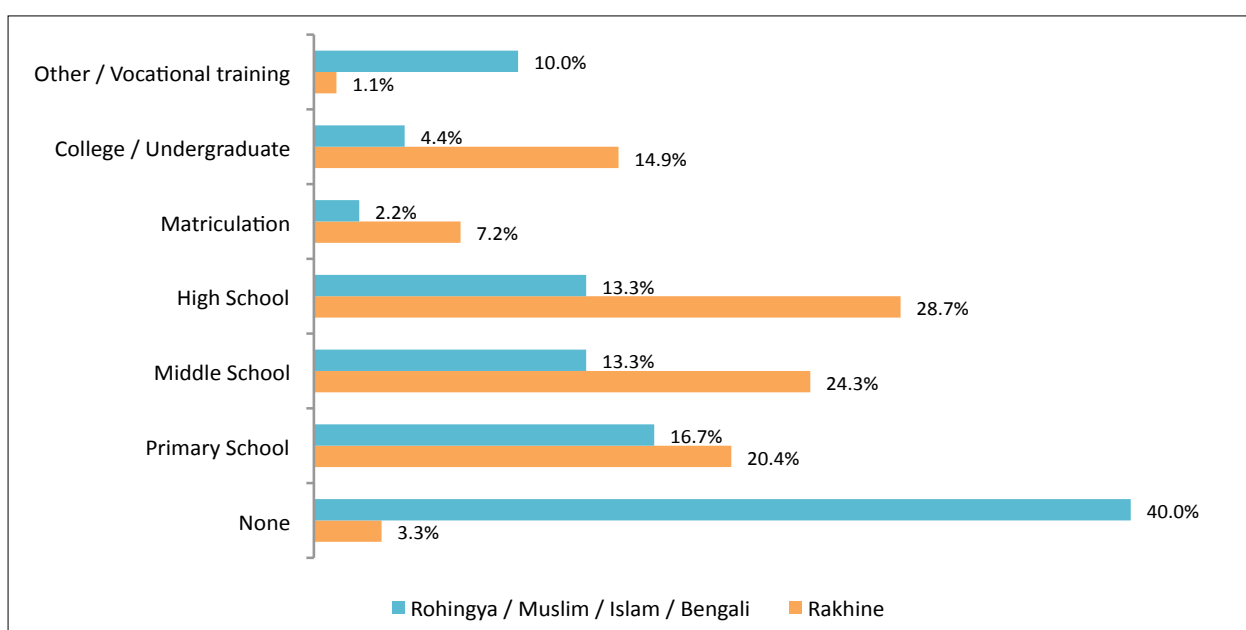


Figure 2.1(b) Myanmar Language Literacy by Sex

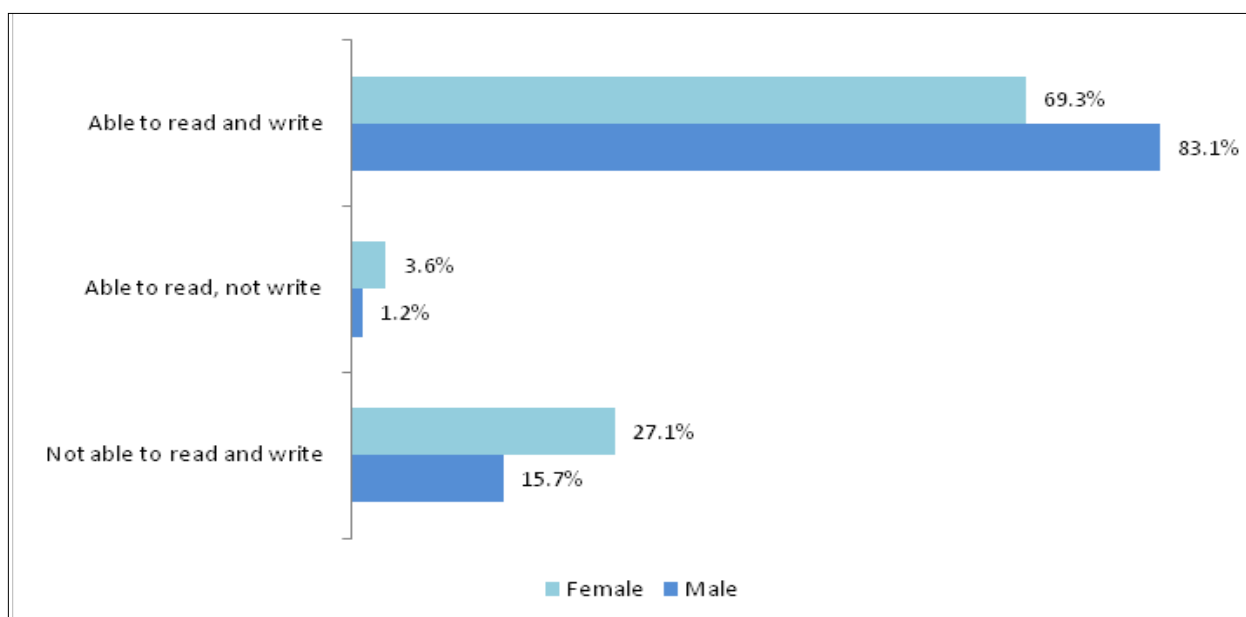


Table 2.4 Myanmar Language Literacy by Ethnicity

Ethnicity	Religion			TOTALS
	Able to read and write	Able to read, not write	Not able to read nor write	
Rakhine	164	4	13	181
Rohingya/Muslim/Islam/Bengali	35	3	52	90
Maramagyi	14	0	3	17
Kaman	15	1	0	16
Chin	6	0	0	6
Bamar	5	0	0	5
Indian/Hindu	2	0	3	5
Daingnet	4	0	0	4
Mixed	8	0	0	8
<b>TOTALS</b>	<b>253</b>	<b>8</b>	<b>71</b>	<b>332</b>

Figure 2.2(a) Income Levels by Ethnicity

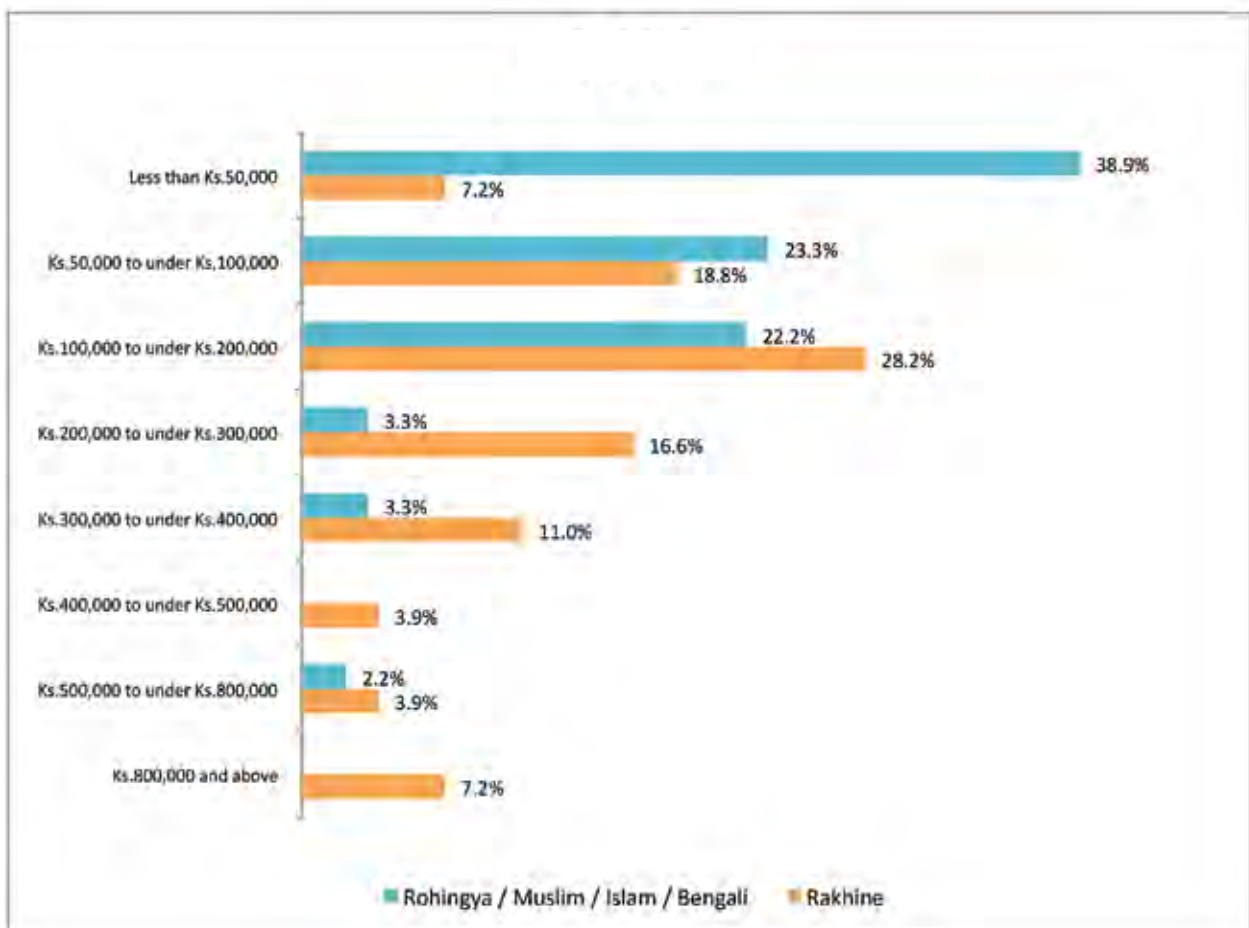


Figure 2.2(b) Household Assets by Income Levels

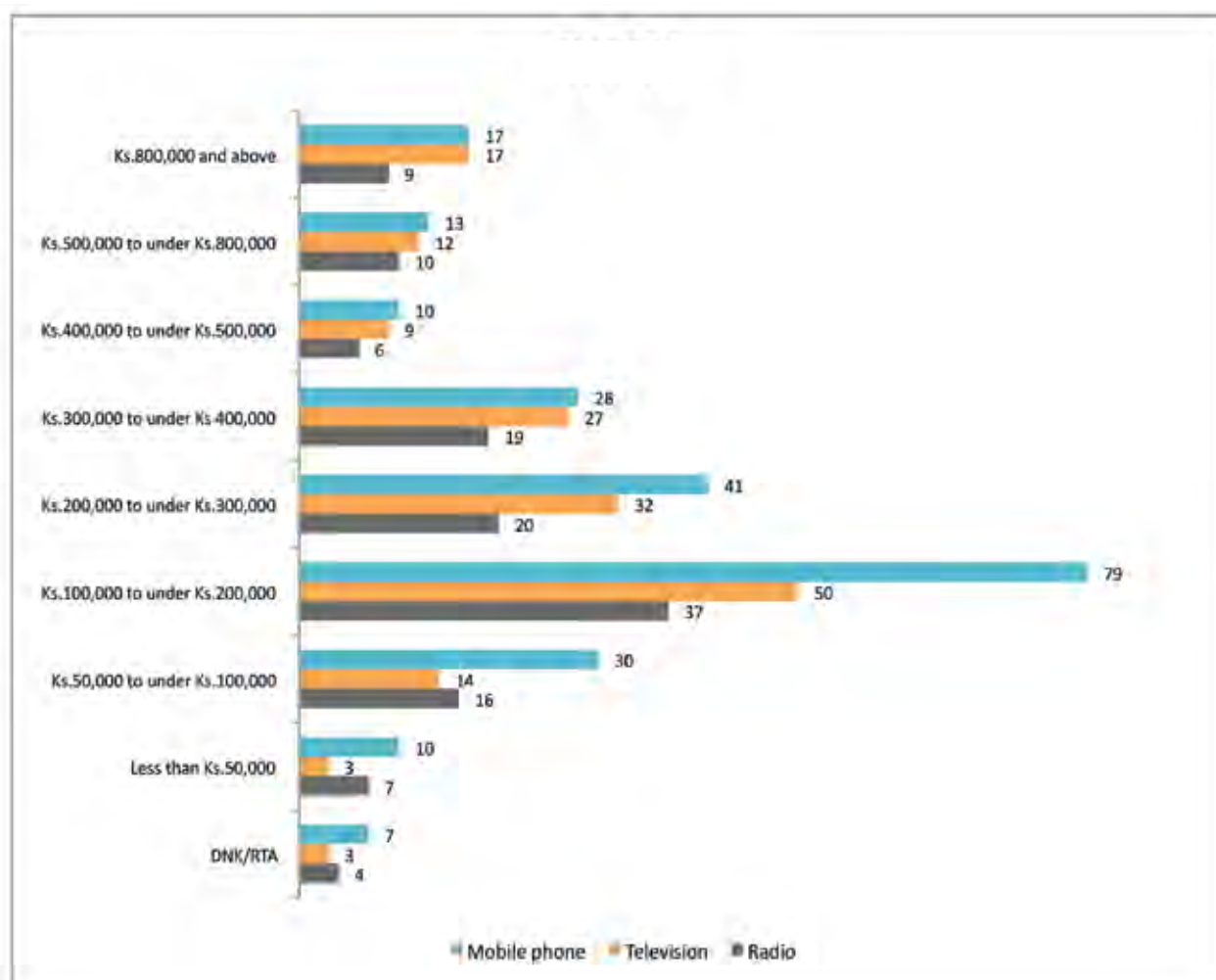


Figure 2.2(c) Household Assets by Ethnicity

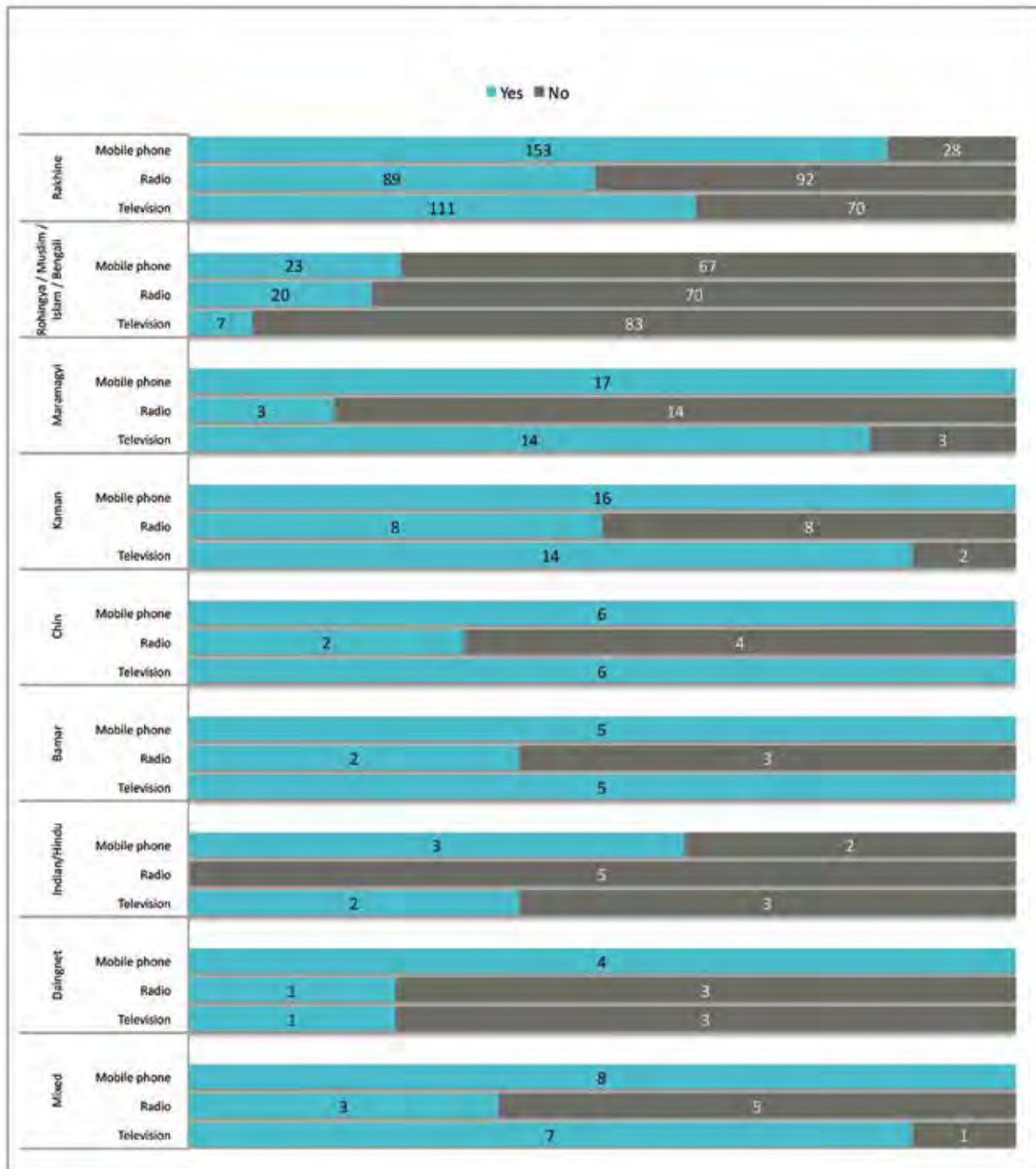




Figure 2.3(b) Access to Information by Sex

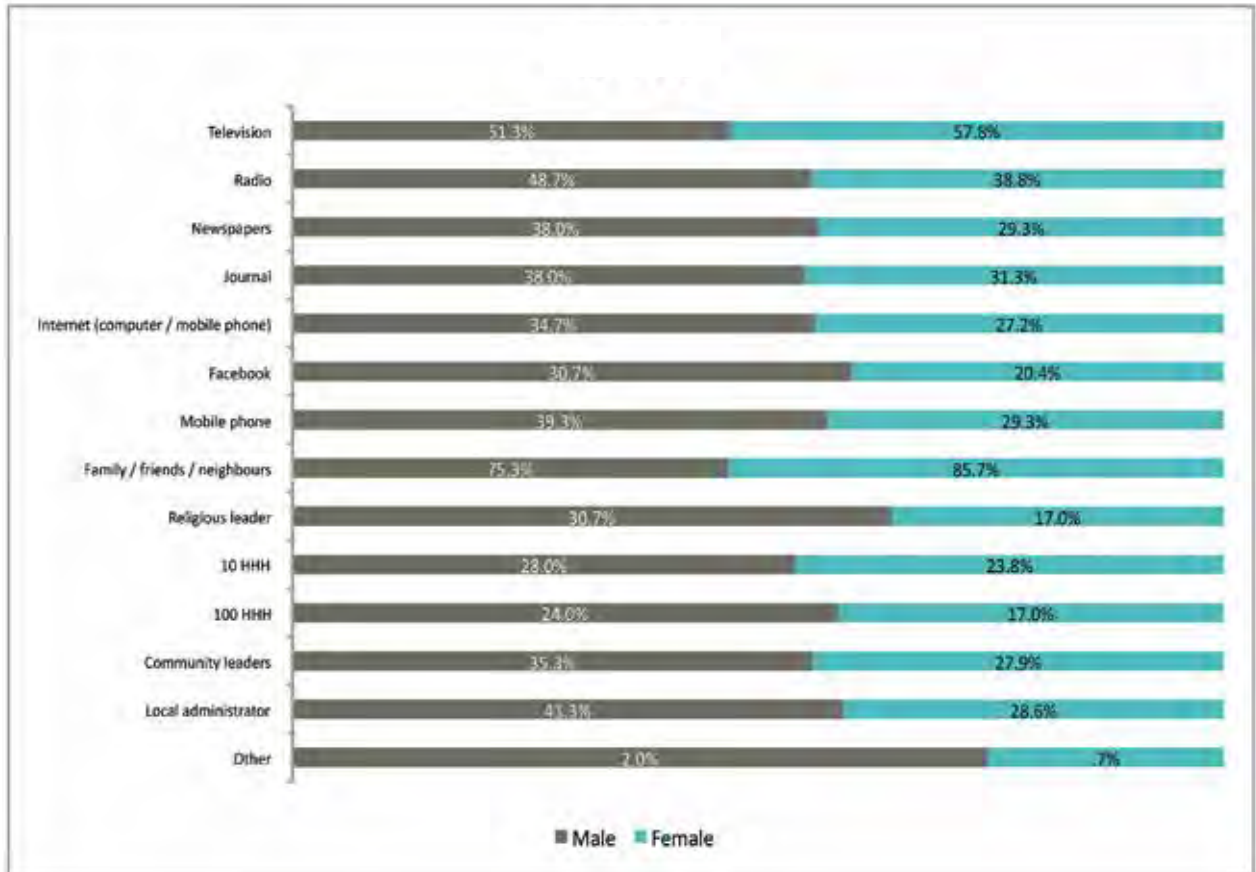


Figure 2.3(c) Access to Information by Ethnicity



Figure 2.3(d) Languages

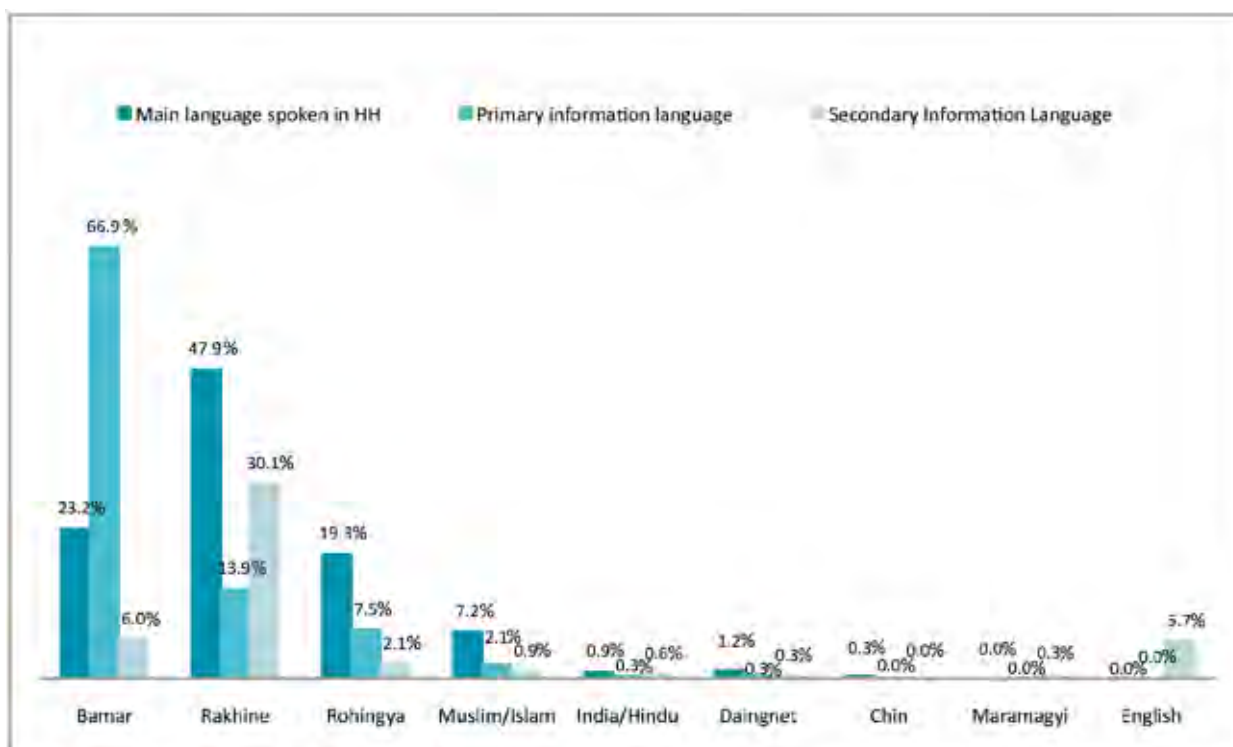


Table 2.5 Main Sources of Support by Sex

	Female	Male
Family / Relatives	79	85
	47.6%	51.2%
Friends / Colleagues	23	24
	13.9%	14.5%
Neighbours	17	8
	10.2%	4.8%
Local administrator	4	11
	2.4%	6.6%
Religious leader	1	2
	0.6%	1.2%
Community social groups	3	0
	1.8%	0.0%
Elderly and respected persons	0	1
	0.0%	0.6%
10 Household heads	1	0
	0.6%	0.0%
Police	0	1
	0.0%	0.6%
Employer	0	1
	0.0%	0.6%
None	38	33
	22.9%	19.9%

# CHAPTER 3: FINDINGS – PERCEPTIONS OF JUSTICE AND LAW

Figure 3.1(a) Social Trust 'A' by Ethnicity

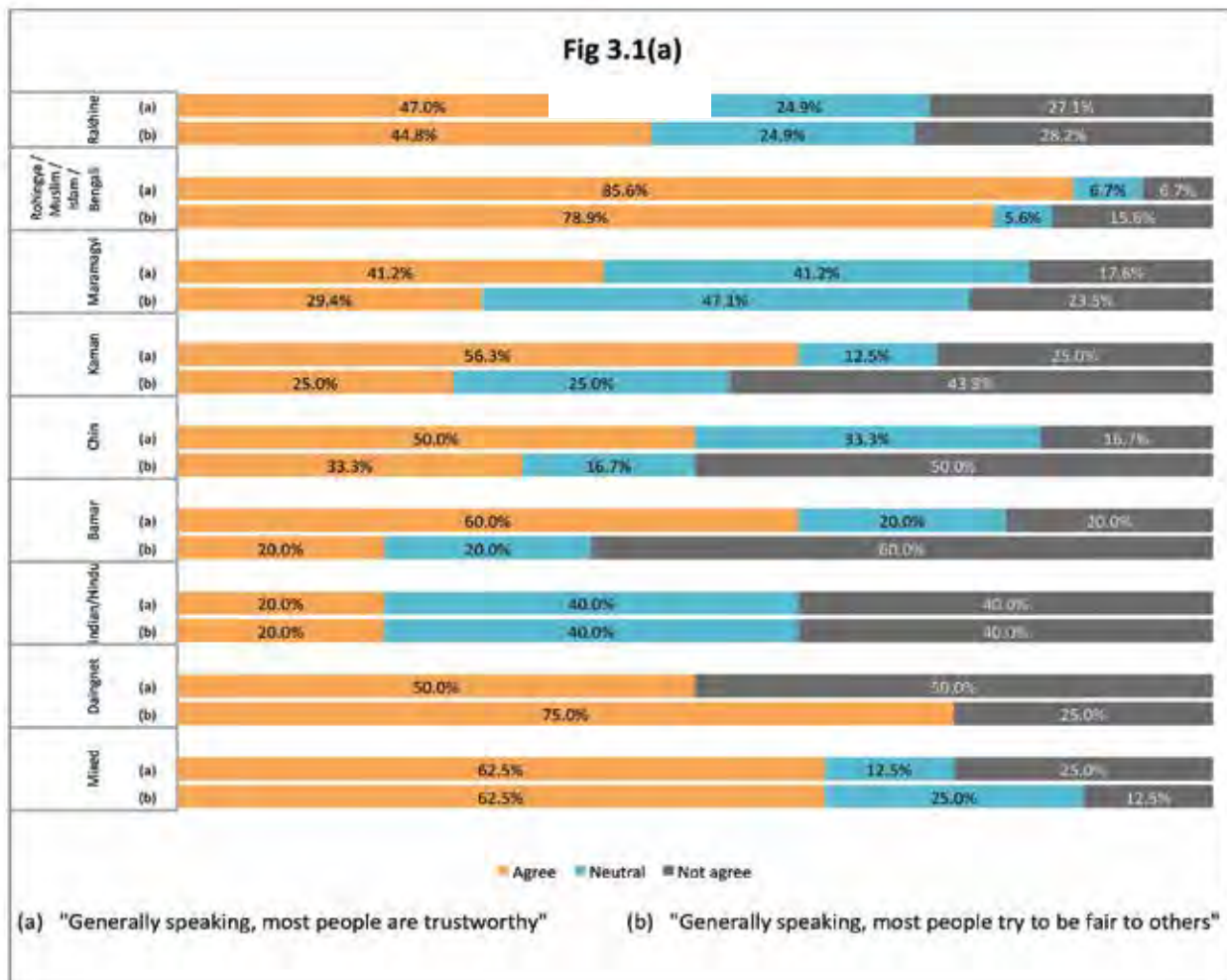


Figure 3.1(a) Social Trust 'A' by Ethnicity

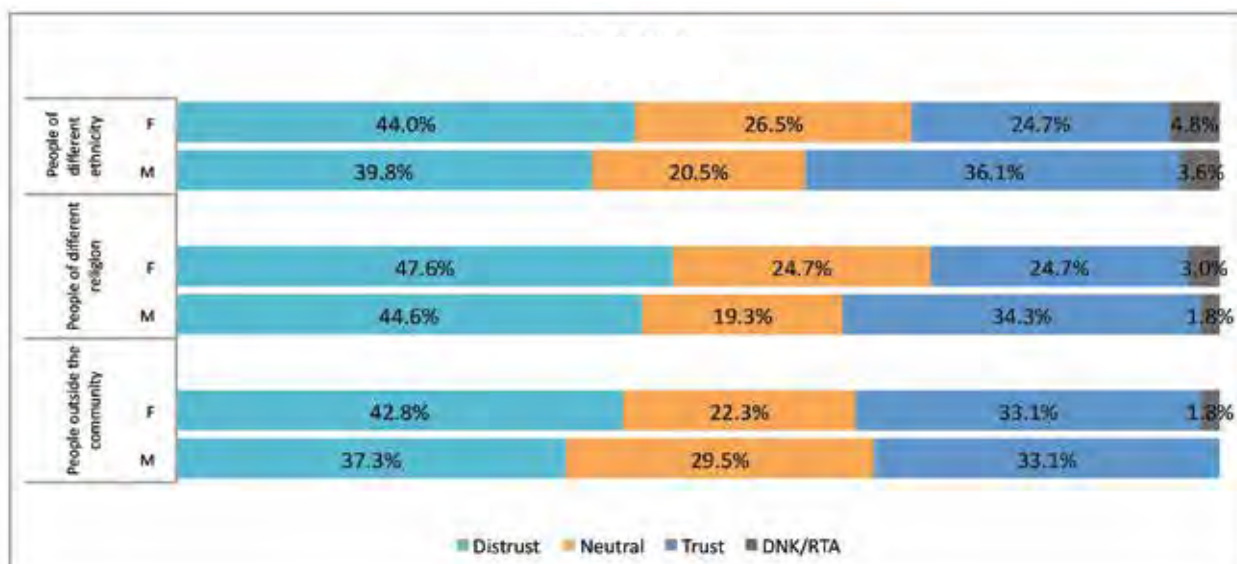


Figure 3.2(b) Social Trust 'B' by Religion

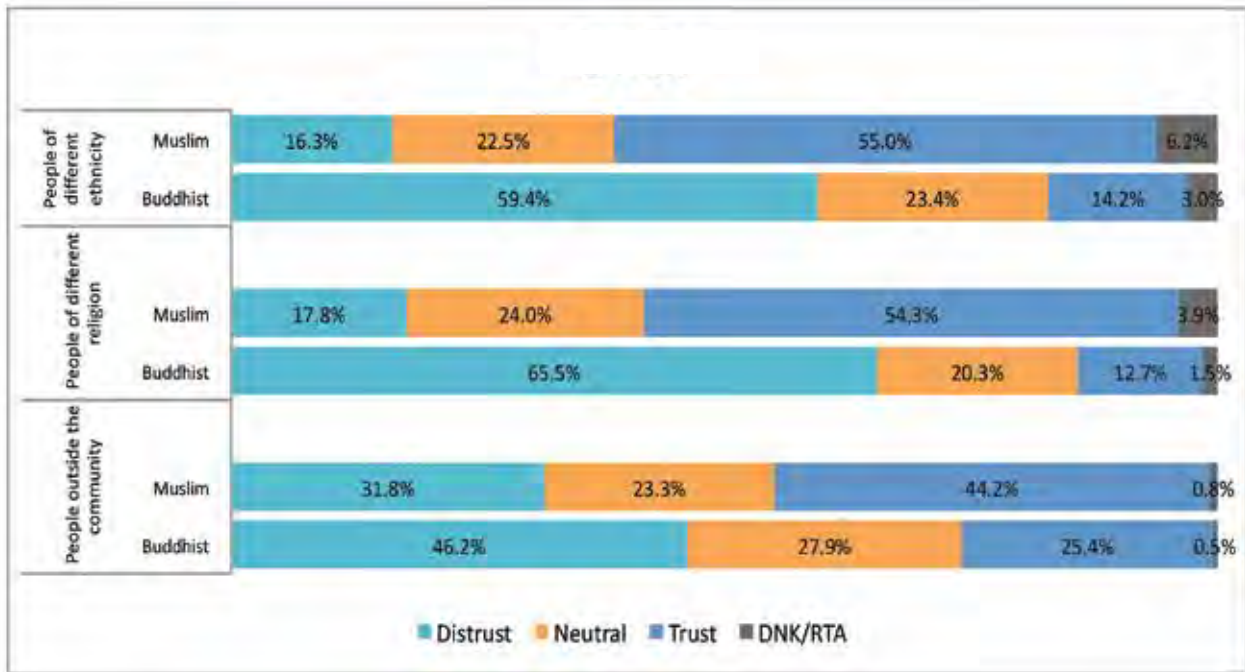


Figure 3.2(c) Social Trust 'B' by Education Level – Out-group: People outside the community

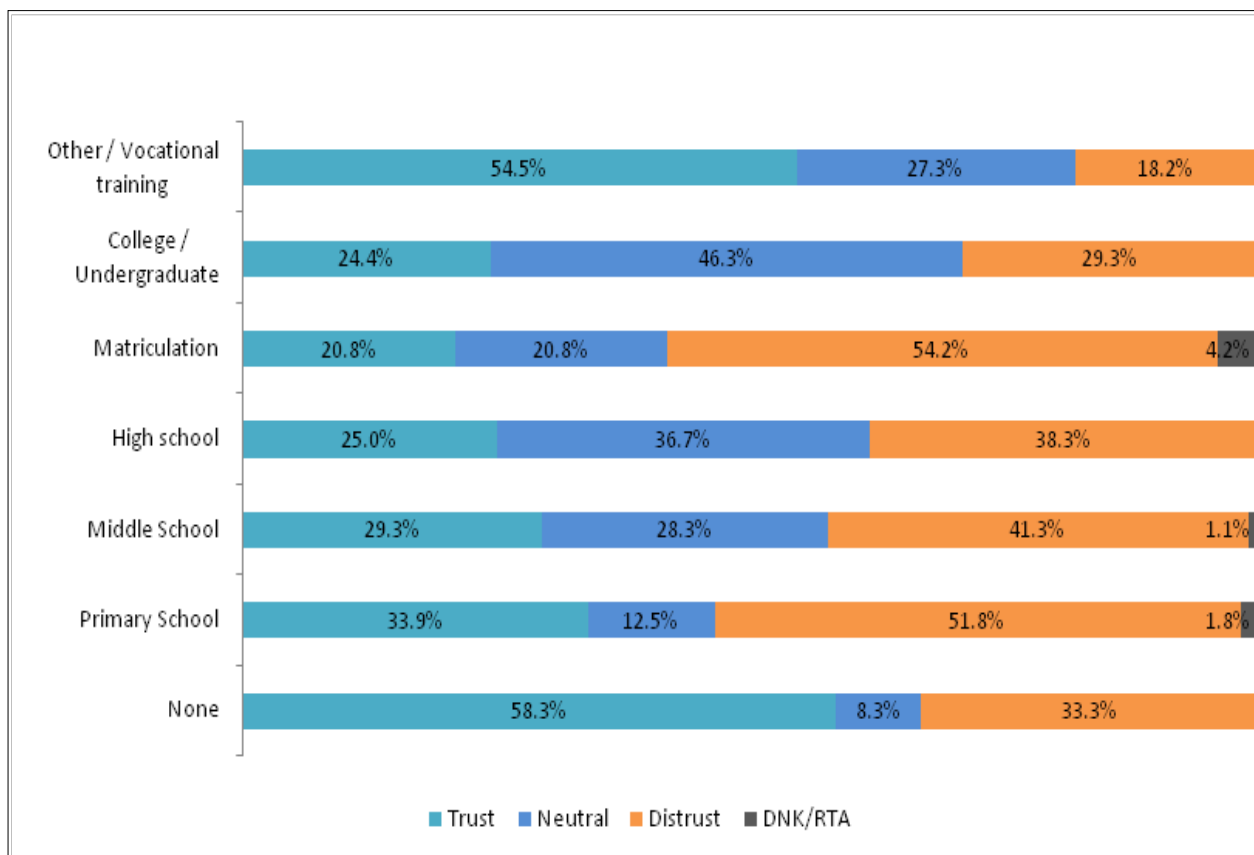


Figure 3.2(d) Social Trust 'B' by Education Level – Out-group: People of a different religion

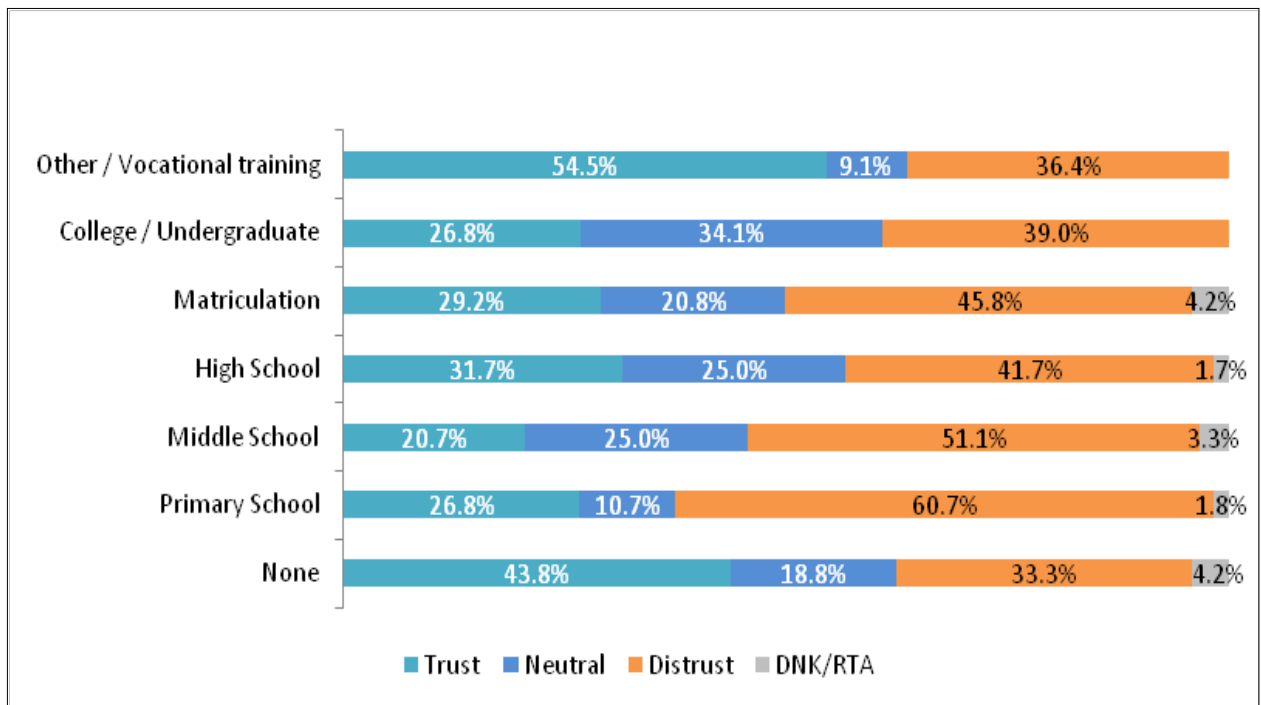


Figure 3.2(e) Social Trust 'B' by Education Level – Out-group: People of a different ethnicity

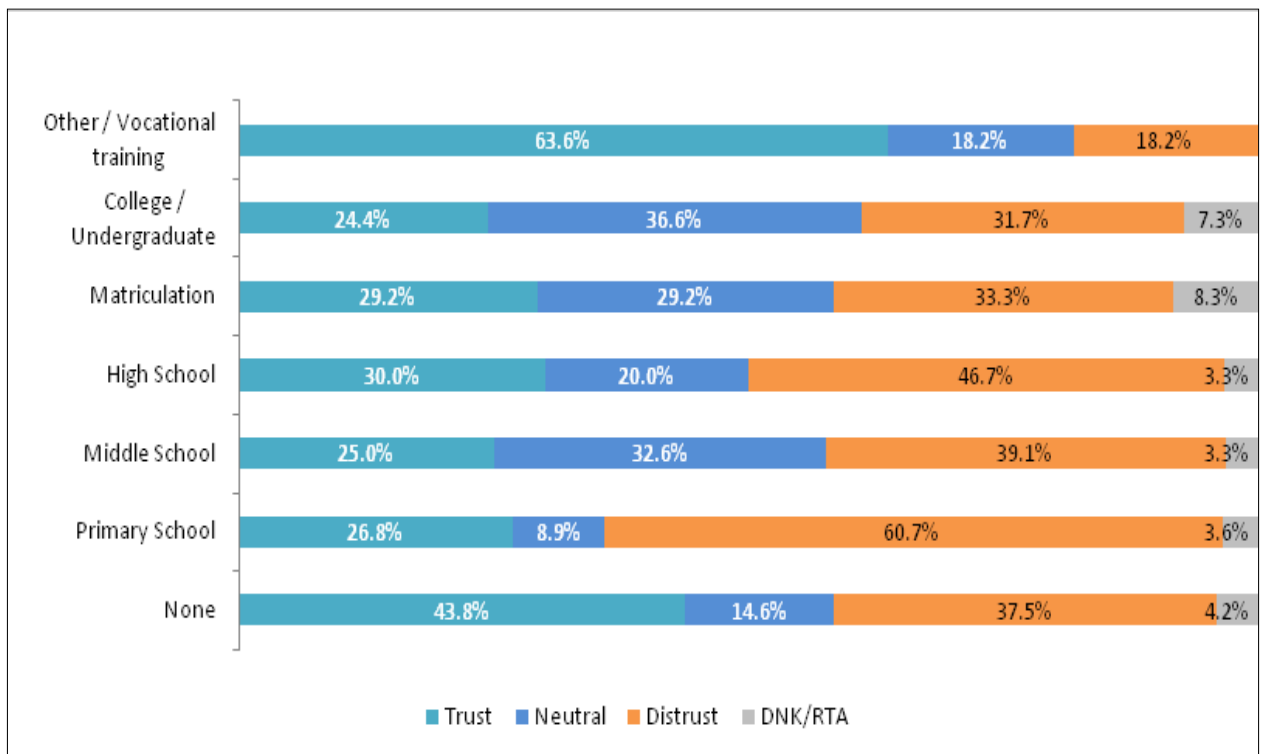


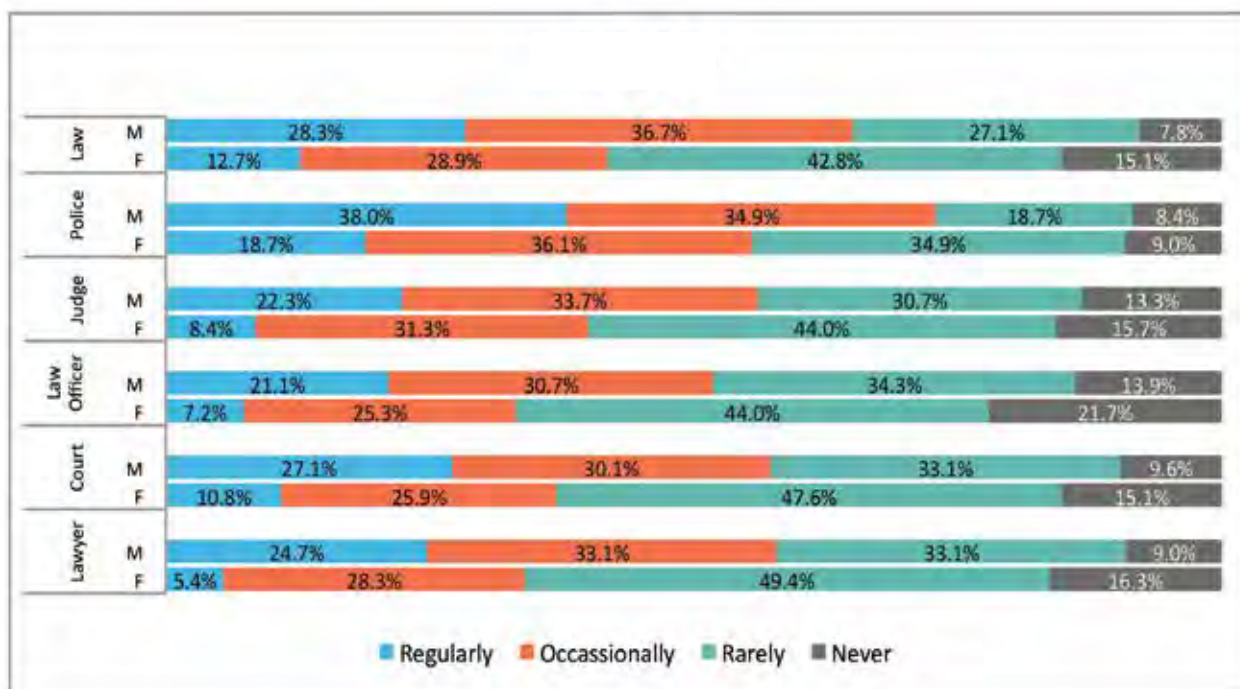
Table 3.1(a) Perceptions of Justice by Sex

		<b>M</b>	<b>F</b>
<b>FORMAL vs. INFORMAL / UNOFFICIAL</b>	(a) Some disputes are best settled in the Courts.	9.6%	10.2%
	<b>(b) It is better for most disputes to be settled within the community.</b>	<b>86.1%</b>	<b>85.5%</b>
<b>EQUALITY</b>	<b>(a) Every person deserves equal care and concern by the government regardless of religion or ethnicity.</b>	<b>69.3%</b>	<b>70.5%</b>
	(b) The majority ethnic or religious population should receive more care and concern from the government than minority ethnic or religious groups.	27.7%	21.7%
<b>FATE vs. REMEDY</b>	(a) Injustices can befall people, and there is nothing they can do about it because it is their fate.	12.7%	12.7%
	<b>(b) When injustices befall people, they can get help from others to obtain a remedy and to ensure a fair outcome.</b>	<b>84.9%</b>	<b>81.9%</b>
<b>PRIVATE vs. PUBLIC</b>	<b>(a) Matters within a family are private and internal to it, and a married man has complete authority over his spouse and children.</b>	<b>59.0%</b>	<b>61.4%</b>
	(b) A community sometimes has the responsibility in certain circumstances to intervene in the household matters of others.	34.3%	33.1%
<b>TRANSITIONAL JUSTICE</b>	(a) Old problems that happened in the past should not be revisited, and everyone should focus on building a new Myanmar.	38.0%	38.0%
	<b>(b) Old problems that happened in the past must be addressed, so that we can build a new Myanmar.</b>	<b>58.4%</b>	<b>56.0%</b>
<b>PROCESS vs. OUTCOME</b>	<b>(a) Being fairly treated throughout a process is more important than obtaining a favourable outcome.</b>	<b>84.3%</b>	<b>81.3%</b>
	(b) Obtaining a favourable outcome is more important than being treated fairly during a process.	12.0%	14.5%
<b>GENDER</b>	(a) Men and women have equal value, but women have greater responsibility to care about culture and tradition.	10.2%	18.1%
	<b>(b) Men and women have equal value, and both have equal responsibility to care about culture and tradition.</b>	<b>88.0%</b>	<b>81.3%</b>
<b>INDIVIDUAL vs. COMMUNITY</b>	<b>(a) Individual rights must be as respected as communal harmony.</b>	<b>57.8%</b>	<b>62.7%</b>
	(b) Asserting individual rights is selfish, and maintaining communal harmony and agreement must be prioritised.	37.3%	31.3%

Table 3.1(b) Perceptions of Justice by Urban/Rural Locations

		<b>U</b>	<b>R</b>
<b>FORMAL vs. INFORMAL / UNOFFICIAL</b>	(a) Some disputes are best settled in the Courts.	13.7%	7.3%
	<b>(b) It is better for most disputes to be settled within the community.</b>	<b>79.1%</b>	<b>90.7%</b>
<b>EQUALITY</b>	<b>(a) Every person deserves equal care and concern by the government regardless of religion or ethnicity.</b>	<b>82.0%</b>	<b>61.1%</b>
	(b) The majority ethnic or religious population should receive more care and concern from the government than minority ethnic or religious groups.	12.9%	33.2%
<b>FATE vs. REMEDY</b>	(a) Injustices can befall people, and there is nothing they can do about it because it is their fate.	12.9%	12.4%
	<b>(b) When injustices befall people, they can get help from others to obtain a remedy and to ensure a fair outcome.</b>	<b>82.7%</b>	<b>83.9%</b>
<b>PRIVATE vs. PUBLIC</b>	<b>(a) Matters within a family are private and internal to it, and a married man has complete authority over his spouse and children.</b>	<b>51.8%</b>	<b>66.3%</b>
	(b) A community sometimes has the responsibility in certain circumstances to intervene in the household matters of others.	42.4%	27.5%
<b>TRANSITIONAL JUSTICE</b>	(a) Old problems that happened in the past should not be revisited, and everyone should focus on building a new Myanmar.	43.2%	34.2%
	<b>(b) Old problems that happened in the past must be addressed, so that we can build a new Myanmar.</b>	<b>51.8%</b>	<b>61.1%</b>
<b>PROCESS vs. OUTCOME</b>	<b>(a) Being fairly treated throughout a process is more important than obtaining a favourable outcome.</b>	<b>85.6%</b>	<b>80.8%</b>
	(b) Obtaining a favourable outcome is more important than being treated fairly during a process.	10.1%	15.5%
<b>GENDER</b>	(a) Men and women have equal value, but women have greater responsibility to care about culture and tradition.	7.9%	18.7%
	<b>(b) Men and women have equal value, and both have equal responsibility to care about culture and tradition.</b>	<b>91.4%</b>	<b>79.8%</b>
<b>INDIVIDUAL vs. COMMUNITY</b>	<b>(a) Individual rights must be as respected as communal harmony.</b>	<b>67.6%</b>	<b>54.9%</b>
	(b) Asserting individual rights is selfish, and maintaining communal harmony and agreement must be prioritised.	28.8%	38.3%

Figure 3.4(a) Words in Daily Conversation by Sex



## CHAPTER 4: FINDINGS – EXPERIENCE OF JUSTICE CONCERNS

Table 4.1 Shifts in Dispute Types

RANGE OF DISPUTES (# of respondents – multiple response): Top 5	INCIDENCES OF DISPUTES (# of cases): Top 5	PRIORITY JUSTICE CONCERNS (# of respondents – single response): Top 5
1. Problems obtaining birth & identity documentation	1. Debt owed by others	1. Problems obtaining birth & identity documentation
2. Debt owed by others	2. Problems obtaining birth & identity documentation	2. Debt owed by others
3. Land	3. Land	3. Land
4. Inheritance	4. Arrest by authorities	4. Arrest by authorities
=5. Arrest by authorities	=5. Forestry	5. Inheritance
=5. Forestry	=5. Bribery or corruption	
=5. Fight		



Table 4.2 Impact of Local Orders in northern Rakhine (as of Nov 2015)

ISSUE	RESEARCH SITE A	RESEARCH SITE B
<b>HOUSEHOLD (HH) REGISTRATION</b>	<ul style="list-style-type: none"> <li>• Research participants reported not being allowed to register separate HH lists, or to create new HH lists, following marriage. As a result, HH lists included between 40 to 60 persons, and comprised inter-generational and extended family members.</li> <li>• Officials, including those from the Immigration Department, visited every six months to check on the HH list. This exercise required the presence of every person listed; any member who was absent during these visits, and whose absence had not been approved by the local administrator, would be crossed off the HH list. Should the absentee be located at a later stage, he/she was likely to be prosecuted under the Immigration Law.</li> <li>• Respondents also described having to pay Ks.30,000 to Ks.40,000 to (re-)include or remove a name on the HH list.</li> <li>• Respondents described having to register births and deaths within their HH with Immigration Department officials, and being prohibited from having more than two children (in each family).</li> <li>• Respondents reported having to pay Ks.5,000 to register the births of their first two children, and having to pay Ks.10,000 to Ks.15,000 to report any additional child.</li> </ul>	<ul style="list-style-type: none"> <li>• Following a hiatus between 2012 to 2014, research participants reported the resumption of HH list checks in 2014.</li> <li>• Research participants reported not being allowed to register separate HH lists, or to create new HH lists, following marriage. As a result, HH lists included between 50 to 60 persons, and comprised inter-generational and extended family members.</li> <li>• Respondents described having to pay to register births and deaths within their HH with Immigration Department officials; the payment required depended on the individual family's economic status.</li> <li>• Respondents reported being prohibited from having more than two children (in each family). In practice, respondents described having to pay extra amounts in order to have the additional children included on the HH list.</li> </ul>
<b>MARRIAGE</b>	<ul style="list-style-type: none"> <li>• Research participants reported requiring Immigration Department officials' approval for marriage. An application for such permission involved a letter of recommendation from the VTA, which cost Ks.10,000.</li> <li>• The processing period for marriage approval ranged from two weeks to a year.</li> <li>• Respondents reported paying between Ks.50,000 to Ks.100,000 to Immigration Department officials, depending on their economic status.</li> <li>• Respondents reported that couple under 18 years of age may be married by a religious leader, but would be subject to arrest if discovered by authorities.</li> </ul>	<ul style="list-style-type: none"> <li>• Since 2014, research participants reported not requiring Immigration Department officials' approval for marriage. Couples could be married by the VTA, with a duly filled-out Immigration Department form, along with a letter of recommendation by the VTA.</li> </ul>
<b>BUILDING CONSTRUCTION AND RENOVATIONS</b>	<ul style="list-style-type: none"> <li>• Officials, including those from the Immigration Department, visited every six months to check on the number of buildings/structures registered to each HH (as part of conducting the HH list checking exercise).</li> <li>• Research participants described not being able to obtain permissions for building construction and renovation since 2012, despite following the stipulated processes. As a result, respondents were not allowed to build or repair buildings, even those within their own HH compounds.</li> <li>• Respondents described those having built without obtaining prior approvals having to pay officials in order to avoid being arrested.</li> </ul>	<ul style="list-style-type: none"> <li>• Research participants reported being unable to obtain permissions for building construction or renovation, despite applying to GAD at the township and district levels and providing between Ks.200,000 to Ks.300,000.</li> <li>• Respondents reported that about 70 houses have been built without official approval, and about having to pay GAD and municipal officials to prevent arrests.</li> </ul>

# CHAPTER 5: FINDINGS – DISPUTE SETTLEMENT TRAJECTORIES

Figure 5.2(a) Dispute Settlement Preferences – Hypothetical 1

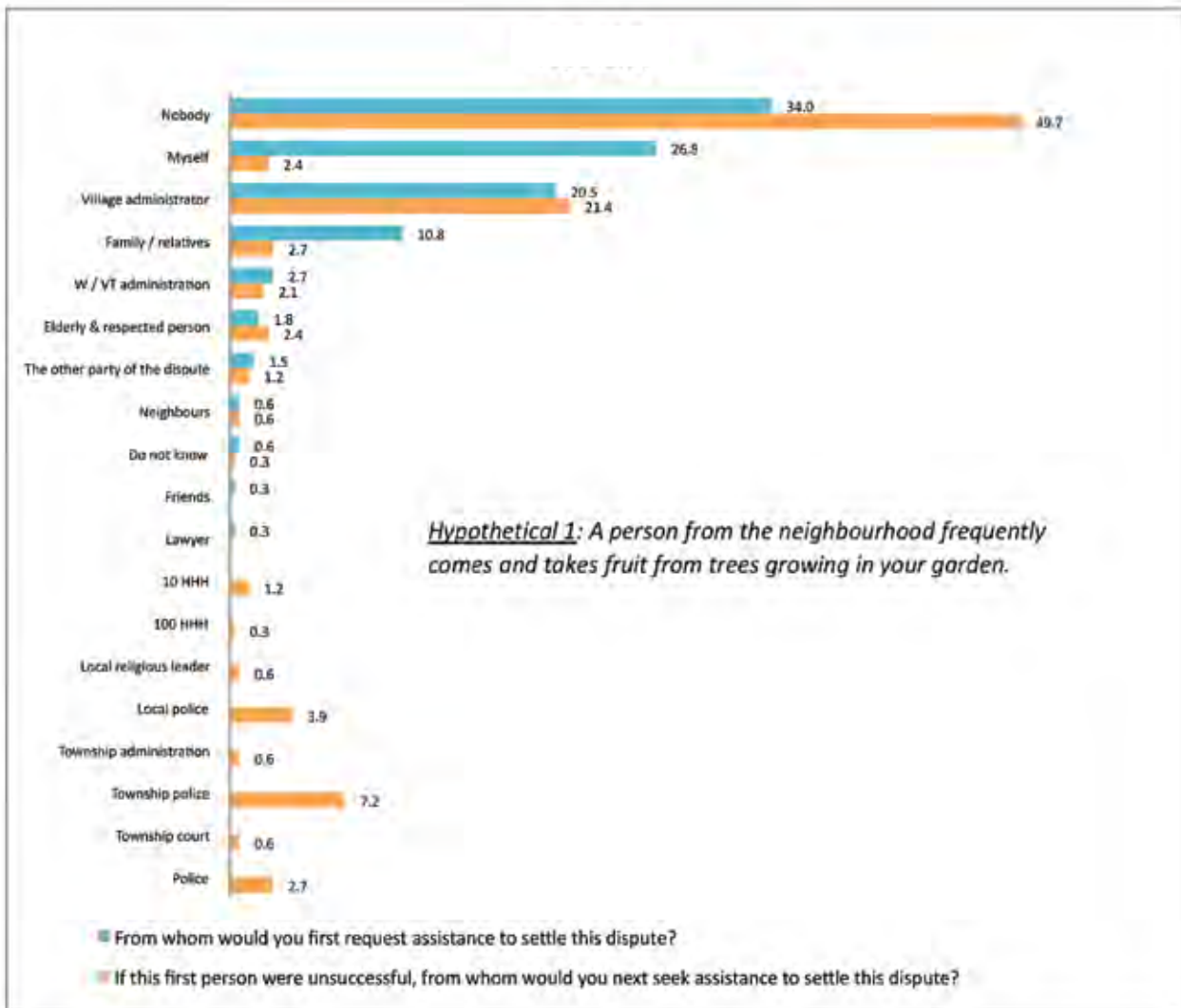


Figure 5.2(b) Dispute Settlement Preferences – Hypothetical 2

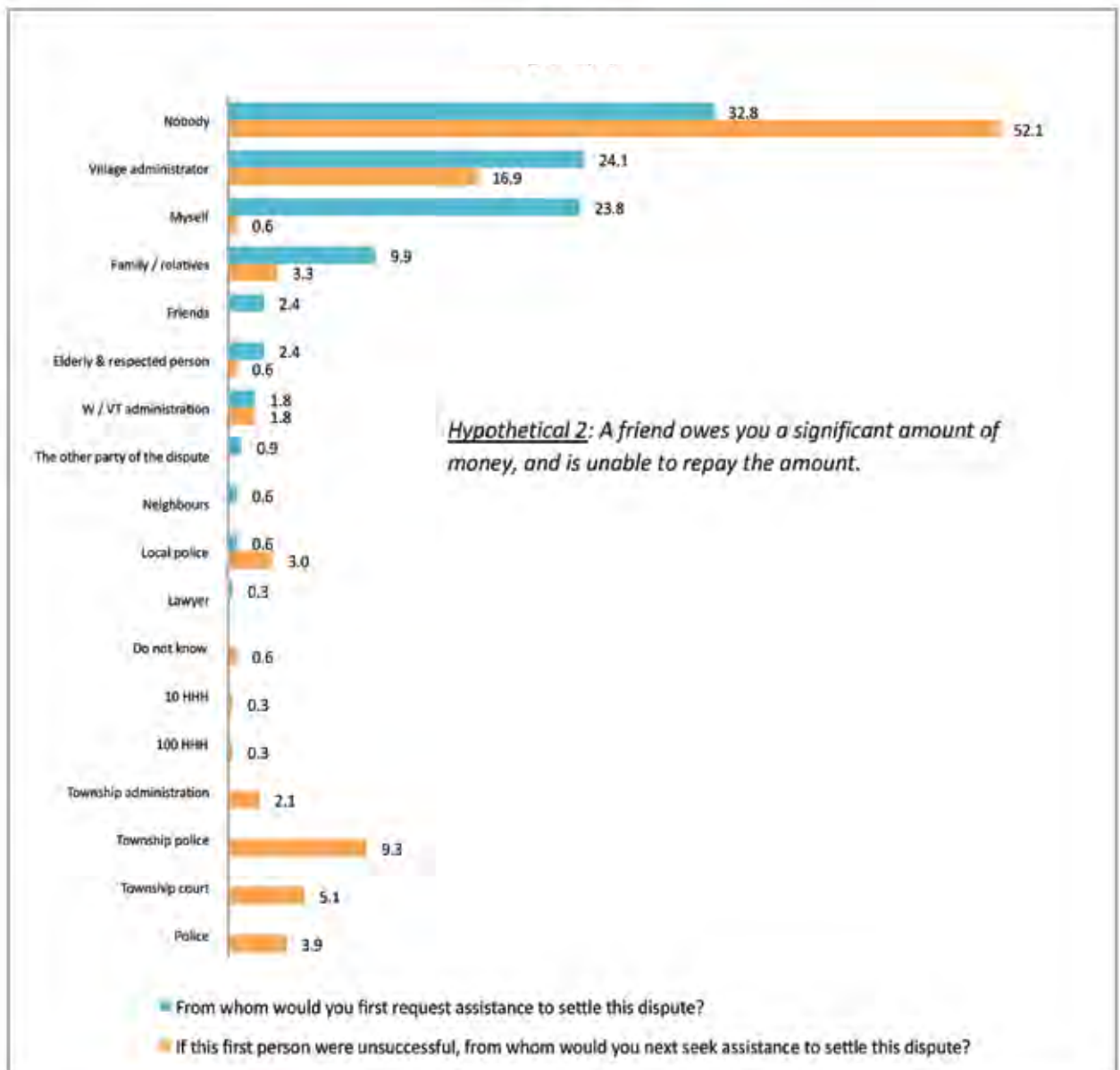


Figure 5.2(c) Dispute Settlement Preferences – Hypothetical 3

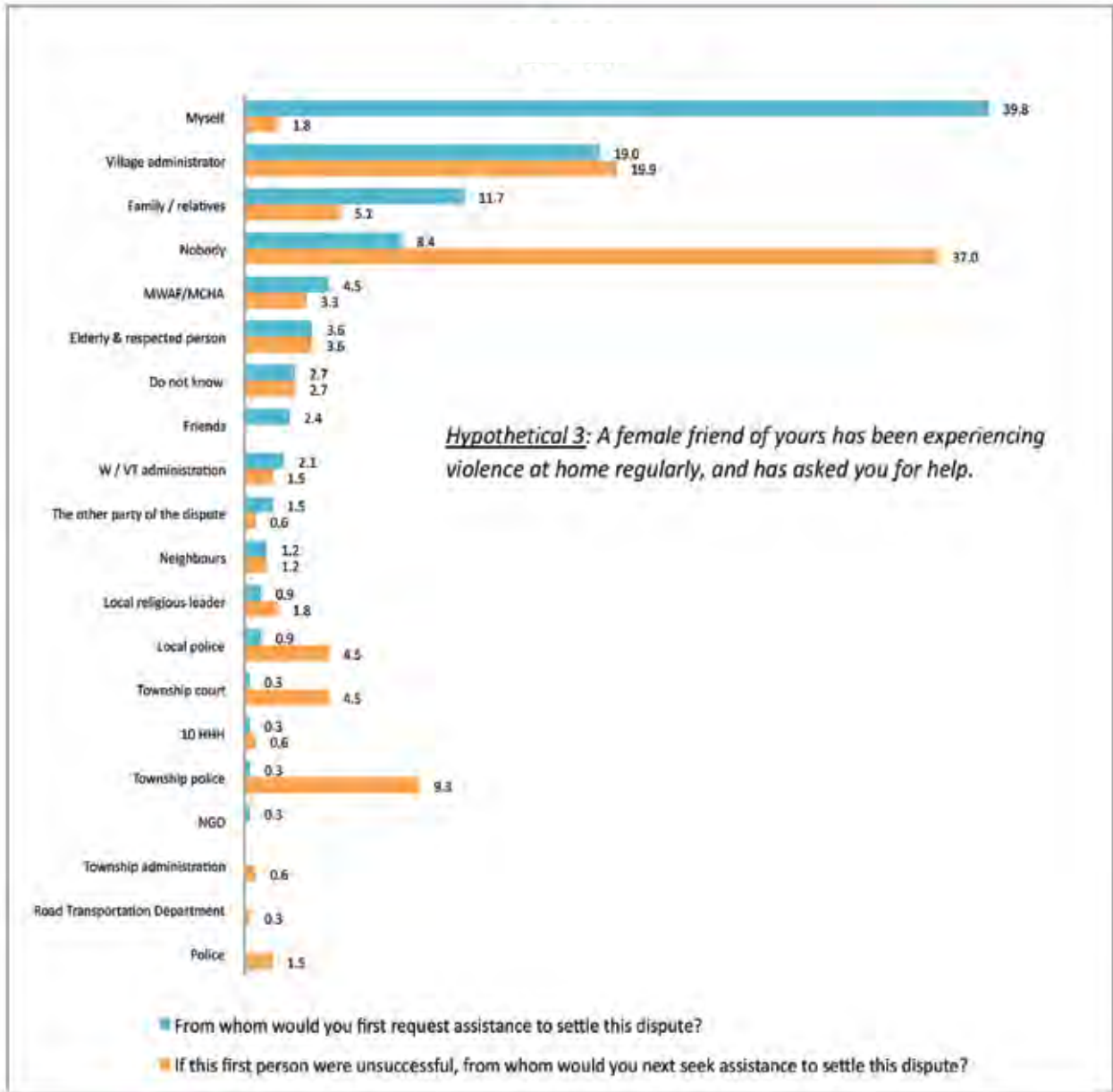


Figure 5.2(d) Dispute Settlement Preferences – Hypothetical 4

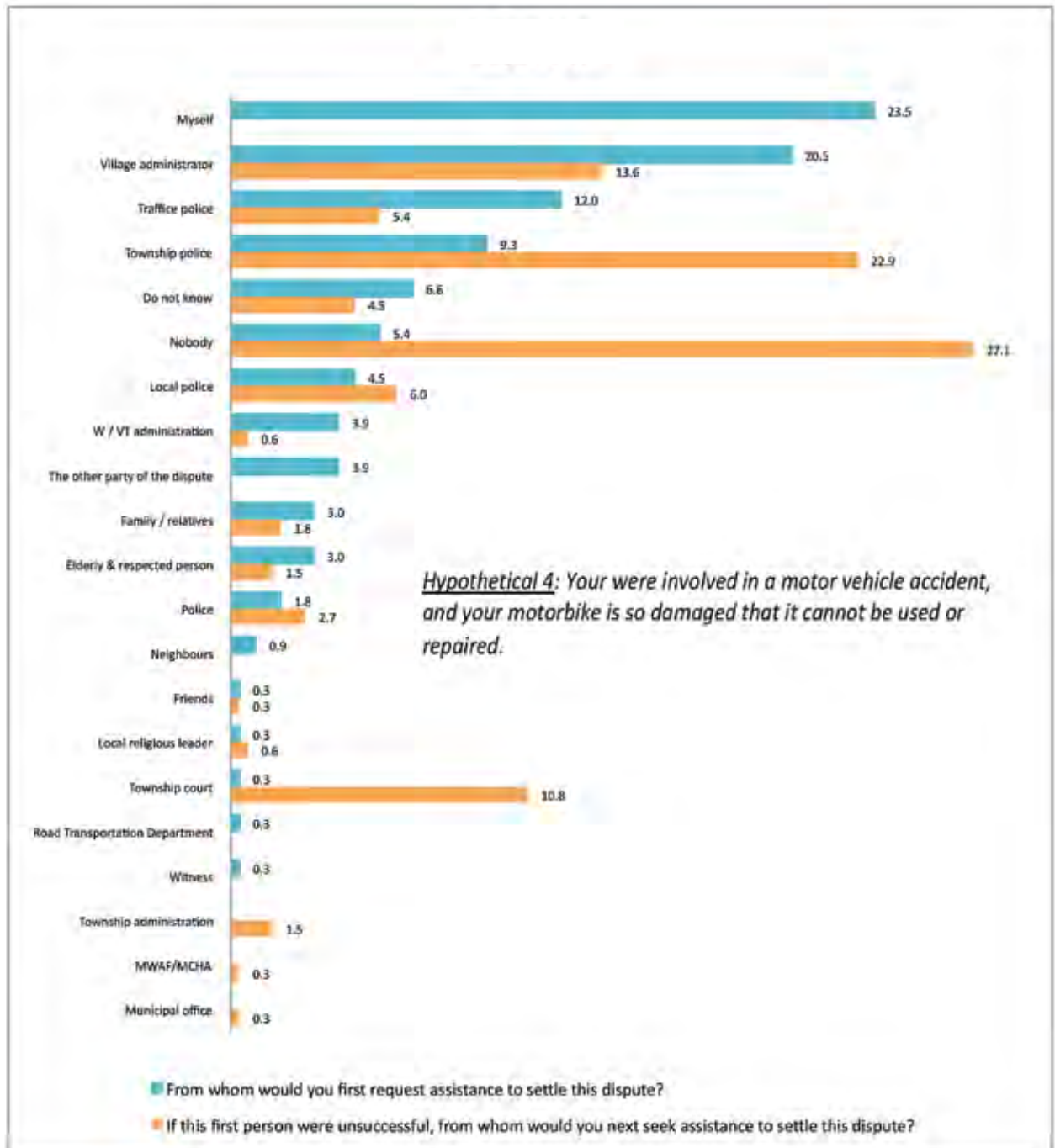


Figure 5.2(e) Dispute Settlement Preferences – Hypothetical 5

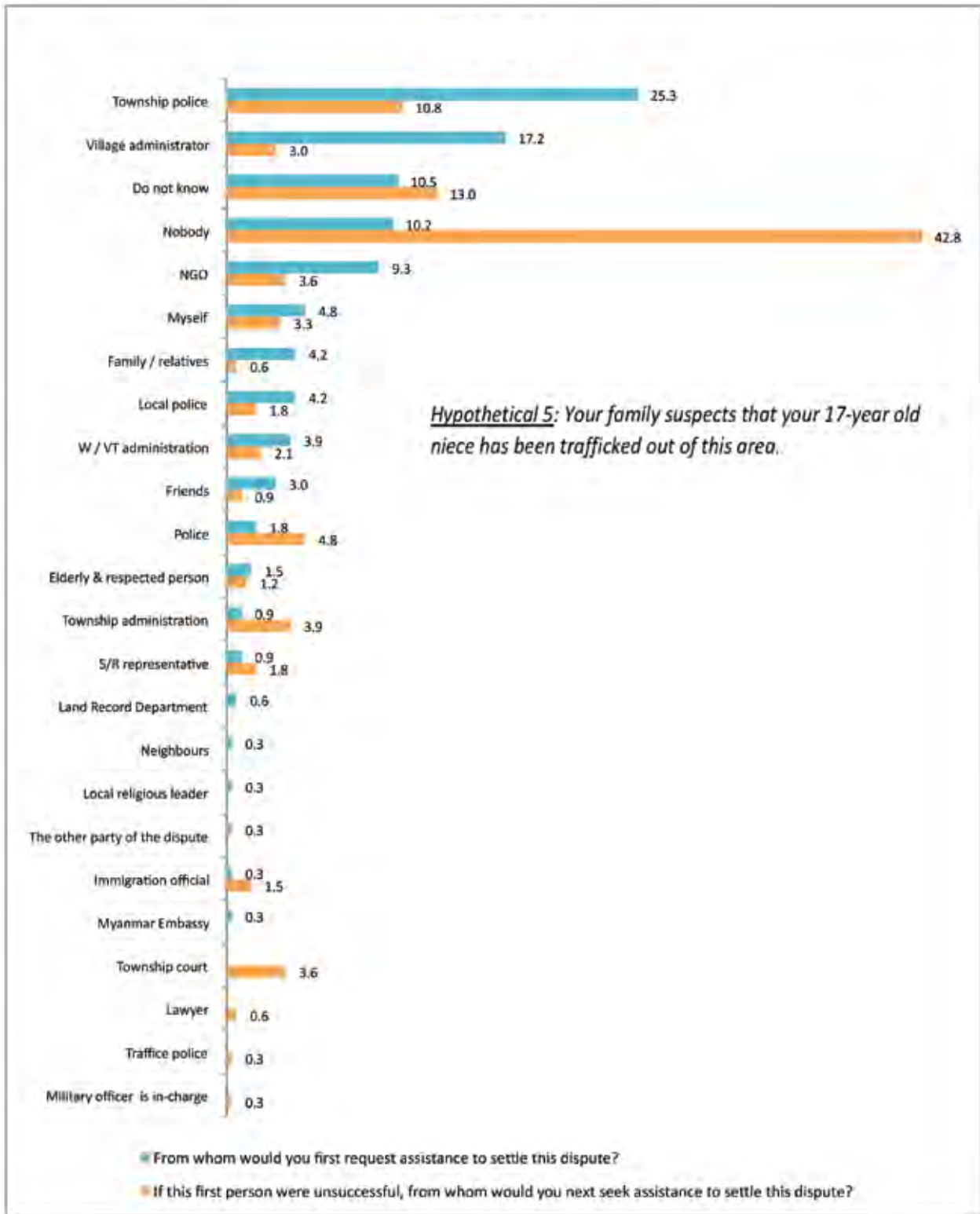
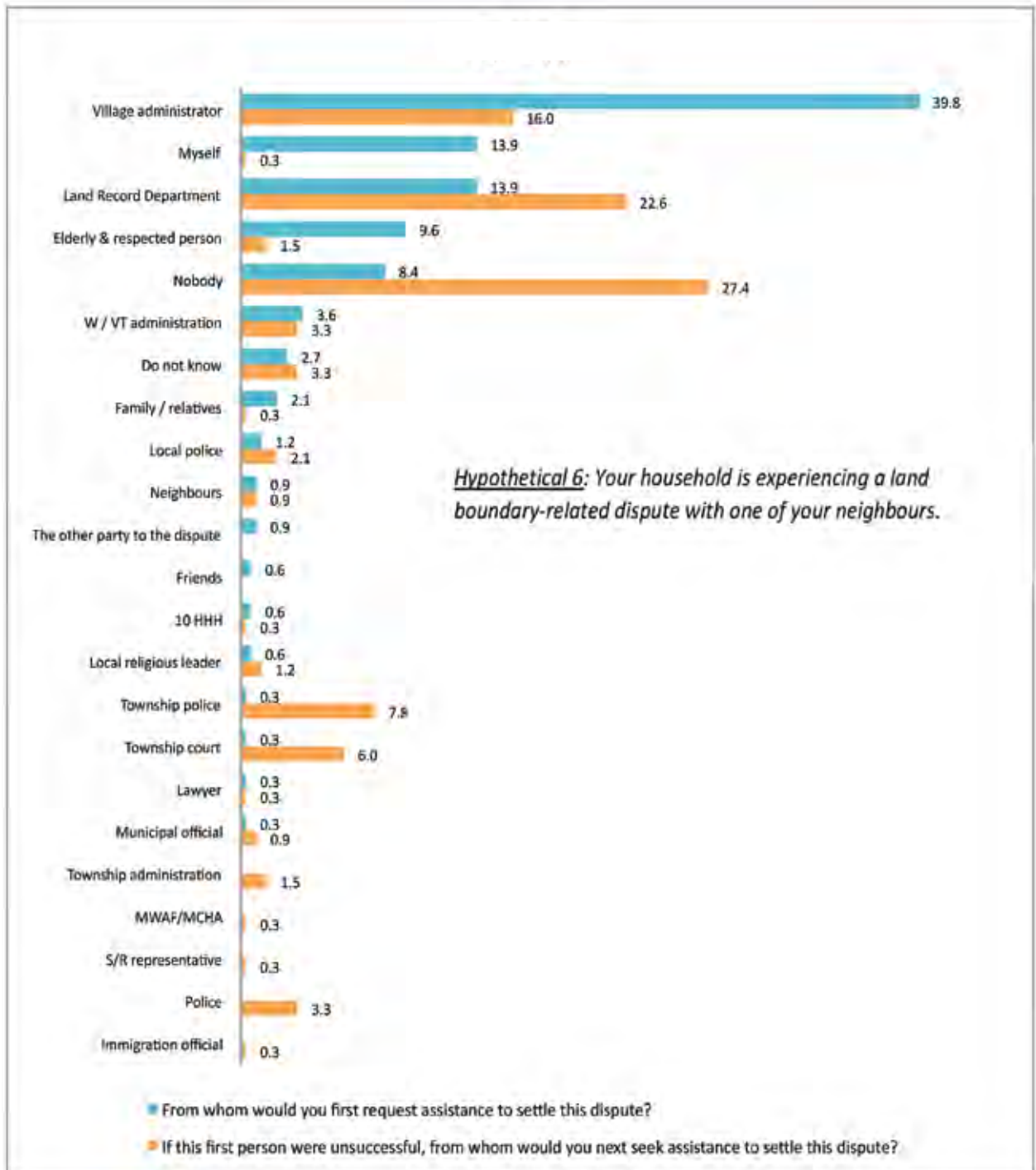


Figure 5.2(f) Dispute Settlement Preferences – Hypothetical 6



# CHAPTER 6: PERCEPTIONS AND ATTITUDES TOWARDS JUSTICE SERVICES

Figure 6.6(a) Barriers against Accountability

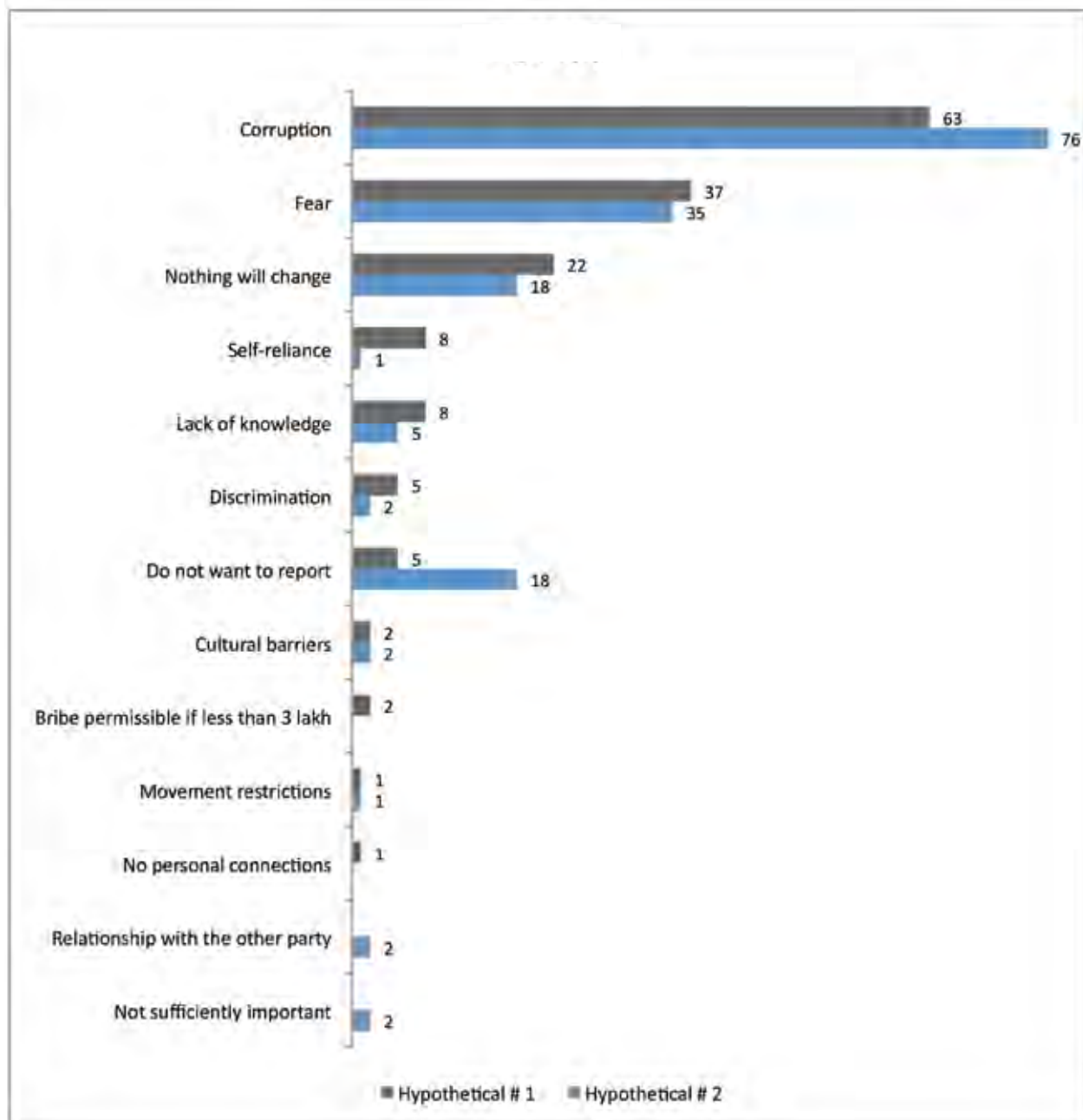




Figure 6.6(b) Attitudes on Accountability by Sex

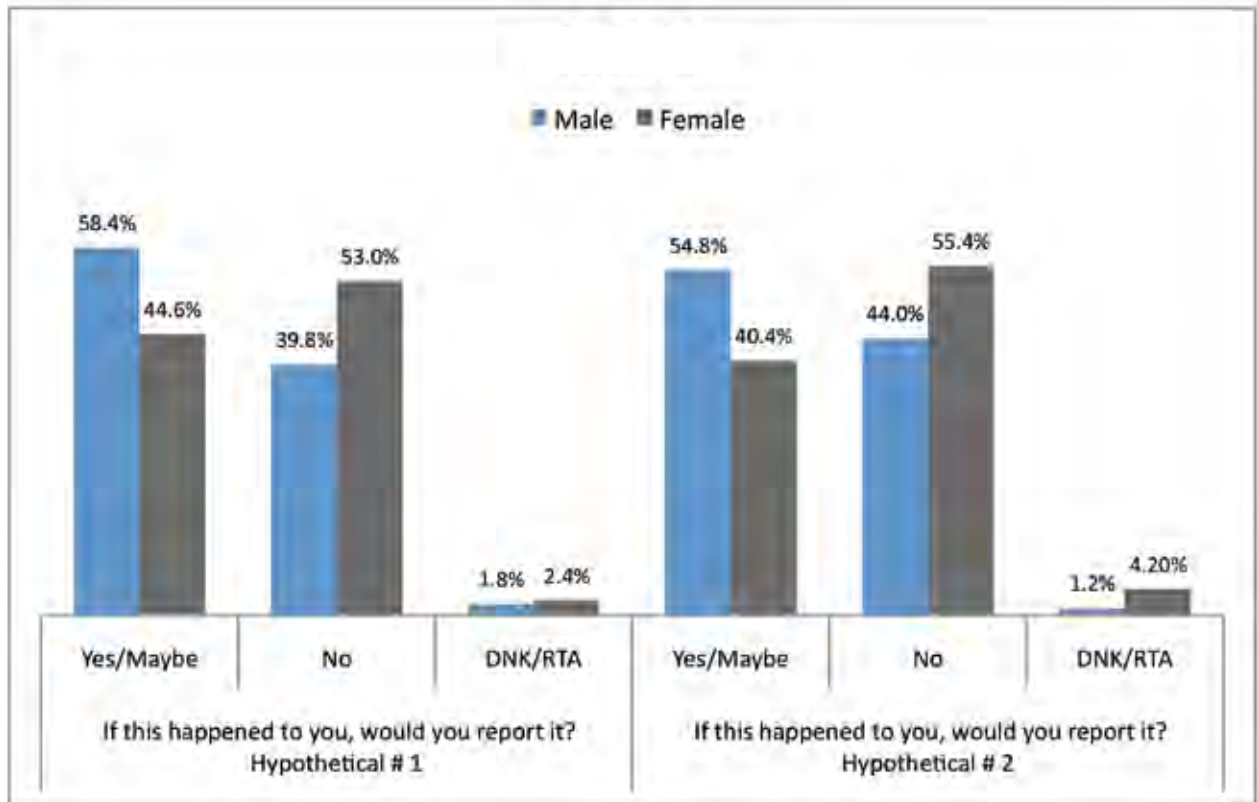


Figure 6.6(c) Attitudes on Accountability by Urban/Rural Locations

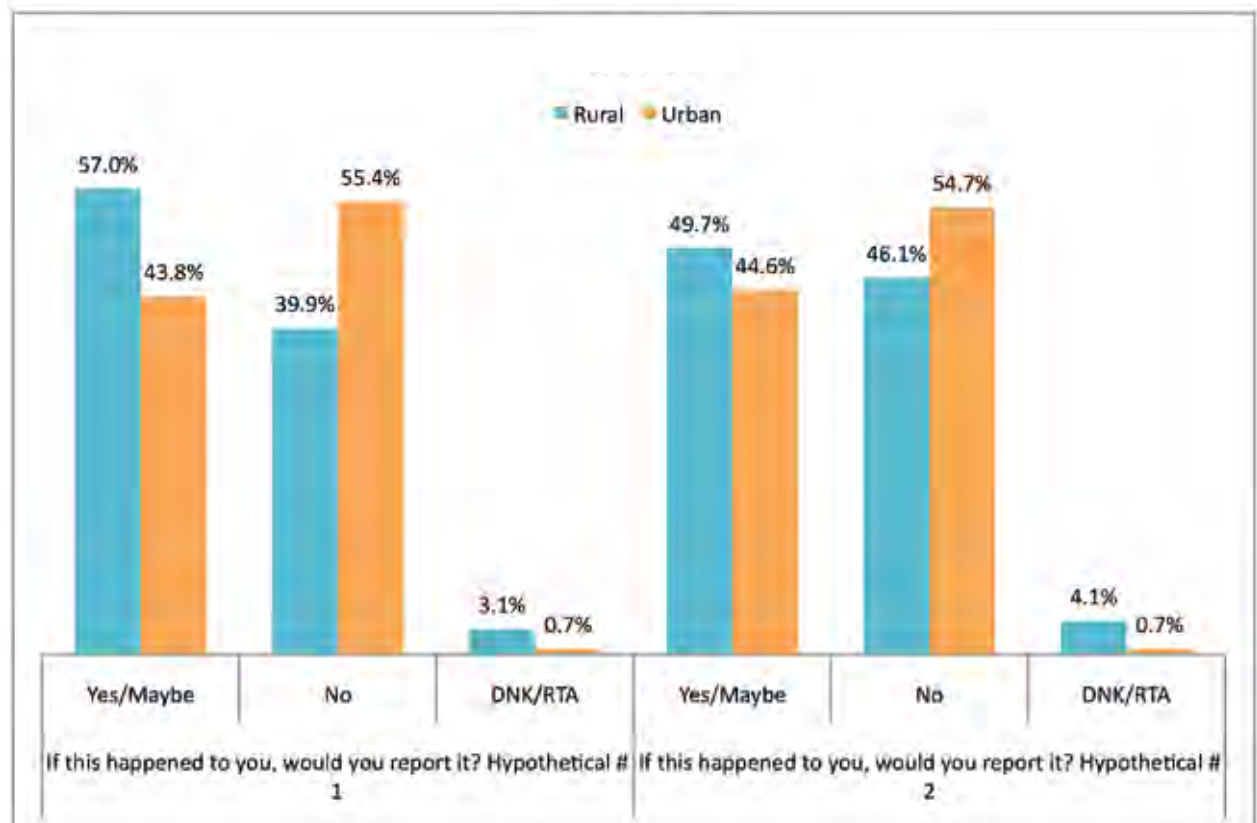
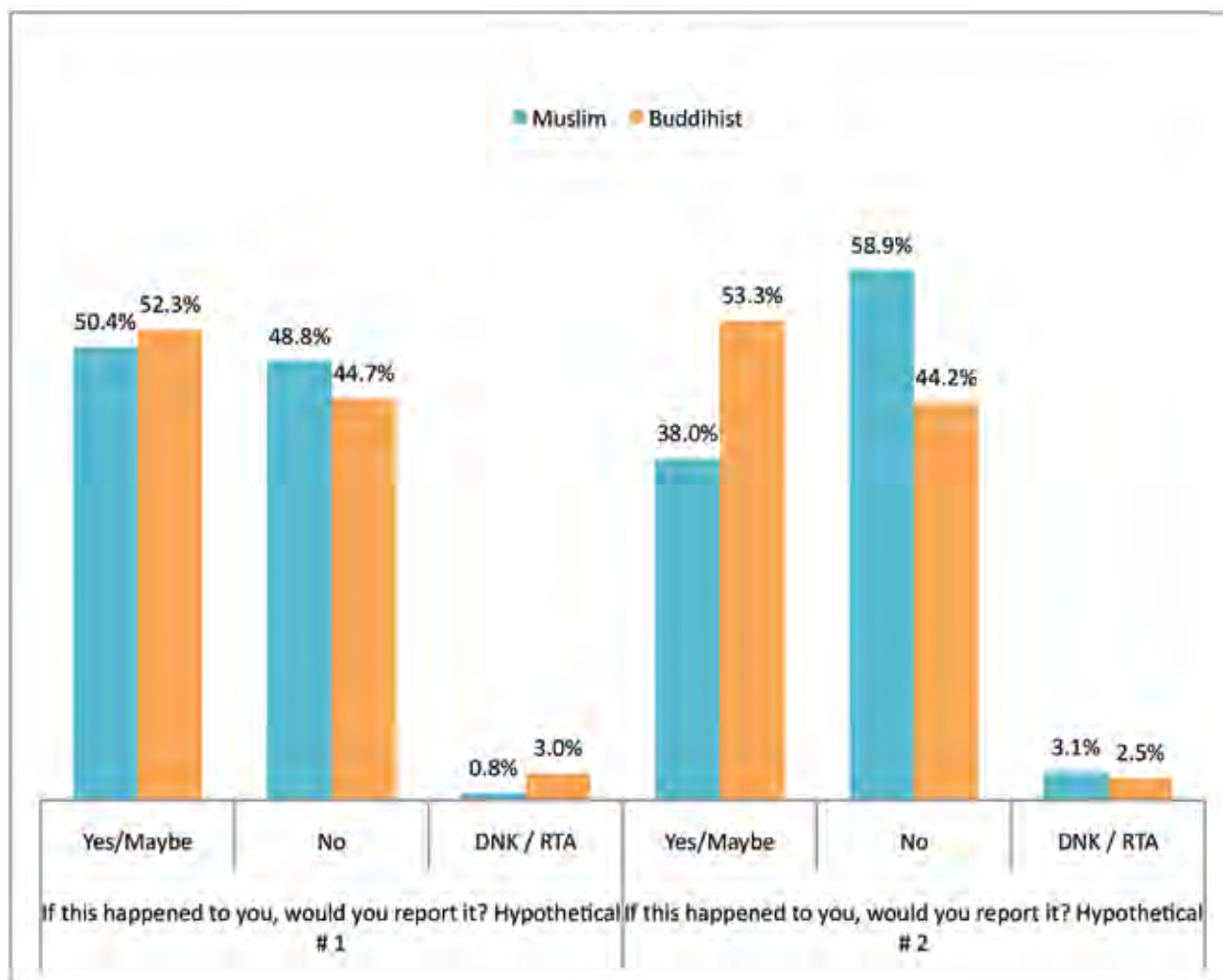


Figure 6.6(d) Attitudes on Accountability by Religion








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United Nations Development Programme  
No.6, Natmauk Road, Tamwe Township  
P.O. Box 650, Yangon 11211, Myanmar  
Tel: (95 1) 542910 - 19, Fax: 95(1) 544 531

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