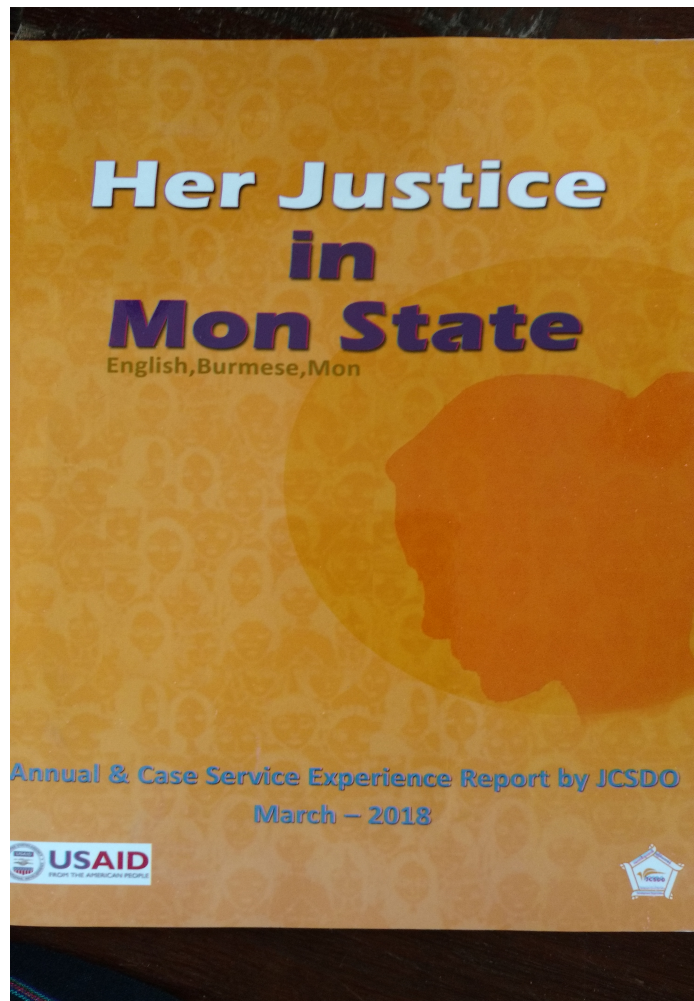


Her Justice in Mon State:

Annual & Case Service Experience Report by JCSDO

March 2018 (This English version updated in August 2018)



Content

This project is part of USAID's Promoting Rule of Law project and focuses on accessibility to justice for survivors of GBV. Our approach is based around service provision such as shelter services, counseling and legal services, and assistance. We carried out activities in 7 townships of Mon State, and found a great deal of demand, including from other townships.

Introduction

Violence against women and girls is a significant problem in Mon State, as it is in Myanmar more generally. This project, "Her Justice: A Comprehensive Approach to Women's and Girl's Access to Justice in Mon State", takes a multi-pronged approach to the pursuit of justice and support for female survivors of sexual assault, rape, trafficking, domestic violence and forced marriage in Mon State.

The Promoting the Rule of Law Project supports Her Justice because the issue of GBV is a rule of law problem. Many women (and other community members) are not aware of their legal rights and, if they do know that they have been a victim of an illegal act, they may not know how to bring a claim to the courts or what services are available to support their claims. Distrust in the government and the justice system is also strong. Communities have long experienced the lack of a strong rule of law within the court system; this has built up a deeply-held belief that the court system is corrupted and biased in favor of people with power and wealth. Similarly, local authorities, police officers, and other officials are also not trusted.

JCSDO together with MWCUC's extensive work with female survivors and their deep knowledge, gained through hundreds of cases the groups have supported. Project activities included: legal and rights awareness for communities, survivor support, legal aid, court experiences, and policy advocacy.

The project aims to link the different layers of society that are in a position to address these crimes: the individual level, community level, justice actors, authorities, and political leaders. This linkage will be achieved by sharing the survivors' experiences in their pursuit of justice and lessons learned from an analysis of these cases with local authorities, justice actors, and state and national-level lawmakers.

Background

In “Behind the Silence: Violence Against Women and Their Resilience” by the Gender Equality Network (with research participation by WEP), the types of violence such as intimate partner violence, sexual harassment, assault and rape are documented as well as the impacts that survivors of this violence have to deal with (including damages to mental and physical health, and social and relationship consequences). With Mawlamyine as a primary research site for this report, the findings reflect well the current situation women in the state are facing. (Many of the places that WEP visited for this research will also be target areas for this project.) Freedom from bodily harm and violence is a right that all people should be afforded, but the reality is that women and girls cannot always access the justice they deserve. Barriers to access to justice for women is documented in Justice Base’s report “Voices from the Intersection: Women’s Access to Justice in the Plural Legal System of Myanmar” (a report which WEP was also involved in researching) as well as by the ground-level experience of the applicants for this proposal, WEP and MWCUC. Female survivors of gender-based violence meet multiple, complex challenges when trying to gain justice through the court systems. Socially, women are afraid of making their claims public as they may view it as a shameful thing, and may fear condemnation from their husband, family or community. Many cases of gender-based violence are seen as a “family” issue and not something to bring out at the public level. Distrust in the government and the justice system is also strong. As Mon State, like all of Myanmar, has multiple layers of authorities, and what Justice Base calls “plural legal systems”. There are usually a range of actors involved in handling cases of violence against women and girls, sometimes overlapping mandates or dual law systems (i.e. a formal legal system and traditional dispute resolution practices). WEP and MWCUC have seen these barriers through their first-hand experience aiding sexual violence, trafficking and forced marriage survivors through the process of bringing their case to court.

Summary

Counseling was provided in 80 cases, legal counsel and court appointments for 20 cases, and shelter services for 35 cases. The project reaches individuals aged 8-60+. The safe house supported 4 residents through pregnancy, a challenge that the budget for the project had not provided for.

Activities experiences result

1. Counseling

We provided counseling services in 80 GBV cases for beneficiaries age 8-60+.

Counseling was provided in the following locations, ranked in order of most cases counseled to least: Kyaikmayoe, Paung, Mawlamyine, Mudon, Ye, Thanpyuzayat, Choung Zone

Counseling was done in mostly in person, with a few cases handled over the phone. Counseling resulted in beneficiaries becoming empowered to take action on GBV cases. Survivors of GBV who had not previously been able to define and articulate their experience gained knowledge of the law and a vocabulary to talk about it, and in some cases were more able to approach their village heads about GBV cases. At least 2 women took their attackers to court after counseling, and at least 5 women took their cases to the village heads after counseling. Several others used the services of Legal Clinic Myanmar to seek justice.

Unfortunately, we did not have sufficient budget left in this project to follow up in detail on the progress of those who were counseled. We saw a change in understanding about laws compared to human rights, with divorce law serving as an example. We saw people attempting negotiations among each other after counseling.

2. Case service

20 cases were handled by our lawyers and taken into the court system.

3. Safe house

35 cases were supported by the safe house.

4. Social or additional support

3 pregnant women and one 12 year old girl staying in the safe house have been assisted through the delivery of their babies. Two more women are mid-way through pregnancy and we hope to support them through the delivery process as well

Four women arrived to the shelter with children, and we looked after them outside of our grant understanding by independent fundraising from our communities and networks.

We provided social services to communities in Tathon, Kyaik, Hto and Ye Phyw even though these areas were outside of our initial plan. We provided these communities with contact information of legal clinics that had the funding to support them.

Significant cases

1. Experiences in Court and communities actual or practical voices

In Choung Zone, a pregnant 12 year old girl was removed from a situation of long-term, covered –up family abuse and incest. Her grandfather raped his daughter (her mother), and raped his granddaughter, resulting in the pregnancy. The grandfather was sentenced to 20 years in prison. After the baby was delivered, mother and child were referred to Nat Mout, a supportive environment for both where the young mother can learn life skills and continue the schooling. During the training, similar stories arose from other households, but lacking enough evidence to take to court.

In Thanphyuzayat, a member of the village administrative council was successfully convicted of rape and sentenced to jail time.

In Mawlamyine, 76 hearings over the course of 1.5 years on the case of a rape of a 3 and half-year old girl finally resulted in a punishment of 10 years for the old perpetrator. Throughout the case, a great deal of corruption with the legal system occurred, delaying the sentencing.

A young woman came to us pregnant from a sexual assault committed by a senior monk (abbot level). Due to his status it is extremely difficult to bring a case against him, as police are unwilling to arrest him. We have brought this case to the attention of the Mon state parliament asking for support, but the young woman is now 7 months pregnant and the case has not yet been brought to court. The time between bringing the case to the police and the start of a trial is usually 2 months in our experience. The young woman is beginning to lose hope that she will ever get justice.



Findings from Safe house activity

- When the government discovered we were providing shelter services, we found them referring women to us instead of taking responsibility to provide help themselves.
- While counseling was successful for the residents, many of them had too much free time and could have gained increased self-reliance from livelihood and life skills trainings while with us.
- More children ended up staying in our safe house than we were prepared for, including newborn infants, the results of pregnancies which we were also unprepared to handle. Future safehouse budgets must take these costs into consideration.



Finding from casework and legal proceedings

- Obtaining documents such as transcripts from the court proved much more difficult and costly than anticipated. They were often reluctant to provide receipts, and usually asked for tea money. There was a learning curve in this.
- In court, powerful, well-connected and wealthy perpetrators lied during court proceedings despite their communities in general knowing the truth. We heard lies that were easily proven to be untrue. Unlike in other countries, there is no mechanism that punishes people found to be lying in court, so many survivors experienced exacerbated

injustice watching perpetrators get away with telling blatant lies in court. We discovered that a law exists to deal with this, but that it is rarely enforced.

- We were unsatisfied with the compensation rewarded with guilty verdicts. Medical bills and legal fees were not compensated and sentences were too short for some very serious crimes.
- When reporting cases to law enforcement, we felt that officers had a poor understanding of sexual assault and tended to downplay the seriousness of the crime, even changing charges from rape to less serious offenses. In some cases they altered wording so that the story of survivors no longer made sense.
- We struggled to find eyewitnesses for our cases to testify in favour of the survivors. Eyewitnesses did not feel safe testifying in court for fear of retaliation from the perpetrator or his family or friends,

Conclusion

Overall, we have gained a great deal of experience on how the court and legal systems work, and how to interact with them. Our ability to use legal language has improved significantly. We have learned more about local services provided by government. We have learned about how to handle cases in the safehouse in Mawlamyine, whereas most of our experiences prior to this were in the rural areas of Mon state. We hope that by the end of the first year of this project we will have ideas about how the justice system can be improved for women.

JCSDO now has a better and clearer idea of the reality of the standards that are achievable in Mon state

Policy Recommendations

- Trials must be run fairly and those found lying in their testimonies should be punished through the justice system.
- The courts should also be providing transcripts and other documents to survivors involved in trials. Getting these transcripts is key to verifying the results of court proceedings and identifying and issues with language barriers (Mon – Burmese).

- In cases of rape that result in a child, there must be better mechanisms to hold the perpetrator of the rape accountable for the child, potentially through paternity testing, with the responsibility of providing financial support to the mother.
- The government should be responsible for prosecuting accused perpetrators of rape on behalf of survivors, similar to crimes like murder.

Future Goals

We are very interested in developing vocational support for the residents of our shelter. We are currently partnering with organizations in our networks to teach them how to make soap, but we need a source of secure funding to get this idea off the ground. We want these women to be self-sufficient and financially independent.

We also recognize the need to have better medical support for our residents at the shelter. Some of them need post-sexual assault attention, others need neonatal care, and others need treatment for injuries.

We want to provide basic skill training such as literacy and math in our safehouse for the residents who would benefit from trainings.

We would like to add a full time lawyer to our staff so that we can always provide survivors of assault with a way to access justice through the legal system. We would also like a full time counselor or social worker trained in sexual assault trauma available full time for survivors and for our own staff to speak to when necessary.

We hope to secure a budget to be able to provide for more of the needs of children living in our shelters, including toys, bedding, clothes, etc.