

Justice-seeking strategies in everyday life: Case study among urban migrants in Yangon

Than Pale
(Professor, Department of Anthropology, University of Yangon)

Abstract

This article explores how poor urban migrants deal with disputes and crimes in Yangon's largest industrial area, Hlaing Thayar Township. The main argument is that migrants have very low access to formal justice institutions, and few powerful personal connections to draw on, so they rely on informal mechanisms or refrain from reporting at all. On fewer occasions, when it comes to rapes and child abuse, they also rely on the new legal aid Community Based Organizations (CBOs), which are becoming more common. Hlaing Thayar has the largest population of unregistered migrants in Yangon and is infamous for high levels of crime. Poor migrants settle there to work at the factories or different forms of day-labour for low wages. Ethnographic research in the area during 2015-16 reveals that problems and crimes such as domestic violence, adultery, rape, debt and theft cases are very frequent. I focus on what migrant people do when they face such problems and how justice providers resolve these problems. It reveals that

informal ward leaders are important. When the case ends up before formal justice providers, the migrants tend to lose the case because of lack of monetary means and powerful relationships. Case studies illustrate that justice-seeking strategies vary depending on economic situation, education, knowledge of the law and powerful personal connections.

Introduction

This article explores how poor urban migrants dealt with disputes and crimes in Yangon's largest industrial area, Hlaing Thayar Township, by examining how different types of disputes are experienced and resolved. The research principally analyses the role of ward-level actors in dispute resolution processes. Hlaing Thayar is home to the largest population of unregistered labour migrants in Yangon and is infamous for high levels of crime and social disputes. Many of the problems result from rapid urbanisation and inadequate housing and livelihood opportunities for rural migrants in the Myanmar political and economic transition. The upsurges in new construction in Yangon's centre and proliferation of industrial zones on its periphery have been a big draw for unskilled migrants coming to Yangon from rural areas, especially the Delta. The magnetism of Yangon intensifies as the central government's political and economic reform process gathers steam (Forbes 2016, 197). One recent study highlights that until 2005, many migrants to Yangon were individuals, whereas more recently whole households were likely to migrate, presumably with intention of more permanent relocation (Boutry 2014). As the cost of housing and living in Yangon was already high and rising, most migrants coming to the city settled in the periphery. Informal settlement was already taking place around the sites of industrial estates that were themselves in the peri-urban areas (Forbes 2016, 199).

This article analyses how these conditions affected the poor migrant's access to justice when they faced crimes or were engaged in disputes. The main argument of the article is that migrants had very low access to formal justice institutions, and had few powerful personal connections to draw on. Consequently, the migrants relied on informal mechanisms of dispute resolution, yet sometimes they did not even seek assistance or report their cases. I analyse how migrants dealt with disputes, and then explain why they had less access to the formal systems and why they sometimes did not even report cases to the informal mechanisms.

The insights of this article are based on ethnographic research conducted between November 2015 and September 2016 in two wards of Hlaing Thayar Township. In the fieldwork, I explored how migrant people deal with their everyday problems, how they find ways to get justice and how security providers operate at the ward level to provide security.¹ I particularly focused on access to justice strategies, including formal and informal institutions. As the other articles in this issue, this article contributes to the debate about legal pluralism (Pospisil 1971; Griffiths 1986; Moore 1986, 870). By focusing on Yangon, this article adds new empirical knowledge to the debate about legal pluralism, which hitherto has been informed by hardly any academic studies from Myanmar.² Moreover, I consider legal pluralism in relation to poor urban migrants.

This article proceeds in 5 sections. The first section introduces the concept of legal pluralism, followed by a second

¹The fieldwork was conducted together with Associate Professor Hla Hla Kyi. It covered 60 interviews with migrant workers, natives and ward level leaders.

²One exception is the study by Kirsten McConnachie (2014) on legal pluralism among Karen refugees on the Thai-Myanmar border.

section that provides a background to the research study area and the situation of urban migrants in the Myanmar transition period. The third section explains the research methodology, which is followed by the main research findings. I outline the types of cases that affect migrants and how these are resolved. Through these cases, it is found that when migrant's cases end up in the formal system, this is because the ward leaders push the victims to go to the formal level. Otherwise, they prefer to use the informal system or not to report at all. The fourth section explains why this is the case. The conclusion uses the data to make some recommendation for the Myanmar government and NGOs.

The legal pluralism perspective

In order to understand the variety of actors engaged in dispute resolution in Hlaing Thayar I draw on theories of legal pluralism and understandings of formal versus informal systems. According to Griffiths (1986, 38), 'legal pluralism is the presence in a social field of more than one legal order or law' and he distinguished this from legal centralisms, where only 1 set of laws and understanding of justice are seen as valid. Griffiths argues that legal centralism is an ideology situating state law as superior to other legal orders (Griffiths 1986, 3-5). In this article, the concept of legal pluralism is used to reflect on disputes resolution at the neighbourhood level. Problem-solving mechanisms vary considerably depending on individuals. People use different mechanisms to solve the problems and their understanding of the concept of justice varies considerably from the lowest local level to the highest level. Some of the literature makes a distinction between formal and informal justice systems or mechanisms (Harper 2011; UNDP 2012, UNICEF, UN Women; Wojkowska 2006).

For the context of Hlaing Thayar, I find Erica Harper's (2011) definition of informal or non-state justice systems useful. According to Harper, informal includes indigenous, customary and religious legal orders, alternative dispute resolution mechanisms and popular justice. The formal justice system refers to controls organized by the state and enforced by specific institutions that follow procedures determined by law. These include courts, the police, prosecution offices and correctional facilities. Customary justice systems are the cornerstone of dispute resolution for the poor and disadvantaged in developing countries, with some studies estimating that 80 per cent of conflicts are resolved through such fora (DFID 2004, 3). In Myanmar, justice mechanisms also include the ward and village administrators who are local leaders, and can operate informally, but they are also part of the state system, as the lowest level of the administration. Informal justice systems involve a preference for less formalised settlement procedures, such as voluntary participation and the reaching of decisions based on mutual consent (UNDP 2012, 1-34).

Legal pluralism is everywhere, from the lowest local level to the most expansive global level. Globalisation refers to a cluster of characteristics that reflect an increasingly interconnected world: the migration of people across national borders; the building of global or transnational political organisations or regulatory regimes, and so forth (Dauvergne, 2003; Tamanaha 2008, 386-7). Because of globalisation, observers have noted that states are losing power in various ways (Habermas 2001). States have given up some of their sovereign power to control their own affairs in certain economic, political and legal respects, subjecting themselves to a higher authority. At the local level, legal pluralism is also significant, illustrating that state institutions do not have a monopoly on

justice provision. In situations where people face disputes, many parties choose to bypass state court systems, which are seen as inefficient, unreliable, too costly or too public, resorting instead to arbitration or private courts. Many of the massive slums that are ubiquitous in large cities around the world function with little or no official legal presence, beyond the purview of law and courts, often without legally recognised rights. Order is maintained and interaction is conducted in these areas through other social norms, institutions, or mechanisms (Tamanaha 2008, 387). Santos (1977), for instance, studies law and order-making in the favelas of Brazil, showing how residents of an illegal squatter settlement create their own legality using the forms and symbols of state law, which they call the 'law of the asphalt' (see also Merry 1988, 881).

I add to the literature on legal pluralism, a focus on different aspects of power and exclusion of certain groups. Like Erin Moore's (1993) study of legal pluralism in India, I also see that certain groups in the urban areas were not equally benefitting from legal pluralism. Whereas Moore (1993) focuses on gender, I focus on poor urban migrants. These migrants had problems accessing the formal system. They also faced difficulties in going to local leaders and elders with their issues. Therefore, they were also insecure about addressing the informal mechanisms. Legal pluralism was in the past used to describe the relations between colonised and coloniser, and now it is also used to describe the relations between dominant groups and subordinate groups, such as religious, ethnic, or cultural minorities, and migrants. The literature looks at unofficial forms of ordering located in social networks or institutions, rather than alone in formal systems (Woodman 1987-88, 3-4; Macaulay 1986; Merry 1988). The main insight of this article is that migrants' lack of access to resolution mechanisms and their reluctance to report cases were related to their

poor economic situation, lack of knowledge of official procedures and lack of personal contact with powerful people. Because informal migrants were not officially recognised by the government, their problem-solving mechanisms were informal.

Urbanisation and migrants in Yangon

Yangon is the primary city in Myanmar and the current population is 5.2 million, having grown by 0.7 million since 2006, at an average rate of 1.9 percent per year. Urban growth is accelerating and the Japan International Cooperation Agency (JICA) estimates that Yangon's growth rate will be two percent over the next years (JICA and YCDC 2013). If the current population growth rate continues, the urban population size will exceed the rural population size in Myanmar in 2040. Increased urbanisation in Myanmar has happened because of the recent political and economic opening of the country, which has led to unprecedented levels of foreign investment as companies began to arrive to take advantage of the frontier market with cheap labour and abundant natural resources. New business and industries generated new job opportunities, which encouraged more people to move to Yangon. As there has been a high rate of poverty and landlessness in many rural areas, migration to the city will increase as people seek better opportunities (Boutry 2014; Forbes 2016, 199). Yangon has become the place where many people settle to meet job prospects, and consequently the population grows.

Leading up to the transition period in which this research took place, the fastest growing township in Yangon was Hlaing Thayar, both in terms of formal and informal settlement populations. Hlaing Thayar also had the highest occurrences of diseases related to poor environmental conditions and lack of water and sanitation facilities. In the current situation,

robberies, neighbour disputes, assaults in the street, rapes, domestic violence, child abuse and other cases happened in the everyday life within the wards of the township. There were also massive problems with alcohol and drugs, including children who sniff glue. Local newspapers frequently reported crimes and problems in Hlaing Thayar. Migrant workers faced huge difficulties with regards to health care, education, and other social services. There was no guarantee of stable living conditions. During the transitional period in Myanmar, the government, NGOs, and CBOs were implementing programs to develop better legal practices. However, in urban areas in Yangon, disputes and crimes remained high, and few migrants were able to benefit from the formal legal services. Instead, they resorted to informal mechanisms or got no justice at all. That is why Hlaing Thayar, with the high number of cases of crimes and conflict for the migrant population, was selected as my study area for exploring how and why migrants have access to formal justice institutions.

Research Methodology

This study relies on qualitative data, by drawing on information obtained through EverJust research project (see the Introduction to this issue). Regular visits to the study areas and data collection were conducted by interviewing migrant workers. I also interviewed a number of actors who engaged in resolving disputes such as domestic violence, adultery, robbery, and theft, to understand how they resolved such disputes. These actors included the ward administrators, 100-household leaders and police officers.

Two wards were selected in Hlaing Thayar Township.³ I chose these wards because they were close to the industrial zones and factories, and thus many poor migrants lived there,

³ I do not use the real names of the wards, due to sensitivity of the topic.

because they came to the township to get factory jobs. The wards were fairly representative of the places for migrant workers in Hlaing Thayar. I explored what common problems existed and what the main pathways to justice were for the poor migrant. This involved asking people to describe actual cases that had happened, and collecting information about each case to understand the practices and opinions of the people involved. I also looked at the principal barriers that migrant workers faced when they sought justice. Interview guides were applied in collecting the data. I conducted 60 interviews and collected 50 cases such as theft/robbery, rape, debt, adultery, dispute, accident, land, and fraud.

Everyday disputes and resolution processes

This section outlines the most frequent types of cases that occurred in the research area – robbery/theft, debt, rape, and marriage disputes (domestic violence and adultery) – and then explores for each type of case how these tended to be handled by the involved parties and the justice providers. In the next section, I discuss the reasons why the different justice patterns occurred in the research area. Not only informal resolutions, but also formal resolution processes are discussed. As defined in the introduction, the formal justice system includes the police, courts and any government official above the ward level. Informal justice refers to resolutions done by family members, relatives, neighbours, elders and ward level actors, such as local leaders including ward administrators and 100-household leaders. Ward administrators were official authorities in the government system, but along with 100-household leaders, also engaged in informal justice, which was focused on negotiation. The research shows that ward level actors played an important role in providing justice solutions.

According to the research results, the most common cases in the 2 wards were marriage disputes, conflicts over unpaid debt, and theft. Rape was also very significant. The types of disputes emerging from the research are primarily concerned with extreme poverty and inter-personal struggles. Most disputes were related to the problems associated with daily activities and survival of the poor migrants. In regards to the most frequent cases, it varied what actions the victims or the parties took to deal with the case. As opposed to theft cases, people did report domestic violence, debt and neighbour and family disputes to the 100-household leaders who resolved most of these types of cases.

Here, I discuss the general patterns of dispute resolution. One significant finding is that migrants tended not to report thefts at all. They did not even report theft to the local ward leaders nor the police. They did not believe that these authorities could help them get back the stolen goods. In addition, religious beliefs meant that they did not believe that it mattered to report the thefts. They saw the thefts as the result of their own past life deeds and as their fate. Conversely, debt cases were sometimes reported to the ward leaders. Such debt cases were resolved informally, because borrowing money without a formal contract was illegal and therefore the formal system would not deal with them. Marriage disputes like adultery cases were resolved informally with compensation, even though, according to Myanmar law, adultery was considered a criminal offence. Rape cases were generally kept secret and not resolved by ward leaders. If rapes were reported, people tended to go to the formal system, but it was seldom that the victims got satisfactory solutions in the formal system.

Next, I address how these patterns were evident in the most frequent cases, beginning with theft and robbery.

Robbery and theft cases

Robbery and theft cases were very common in the study areas. These cases occurred because of the problematic economic situation. Most of the young women and men worked at garment factories or in other industrial jobs. They worked overtime frequently, very often at night. On the way back home, young women got robbed, losing gold chains, mobile phones, or money. Some dark and deserted places with no streetlights made good conditions for theft. A 45-year-old woman in Ward B said:

Five years ago, people used bicycles when they went from place to place and there were not many motorbikes. People went on foot or took trishaws in the ward. At that time, thieves stole something by bicycle. Local people caught the thieves easily in the ward. Nowadays, motorbike taxis and motorbike users have dramatically increased in the study areas. Robbers and gangsters also used motorbike and rob in groups.⁴

My informants also told me that crimes happened when young couples and garment factory workers spent their leisure time in pagodas, where there are no houses and it is deserted. Gangsters watched for an unguarded moment. In the daytime, anybody talking on the phone in the streets risks being robbed by motorbike gangsters. Young women especially faced this risk. A 20-year-old male factory worker in Ward A said:

Women are weak physically and carry handbags, umbrellas, and something in their hand. They

⁴ Interview, Native women in Ward B, 03. 09. 2016

cannot protect themselves against robbers. Even when people see the robbery happen they cannot help to each other. They are afraid of the robbers, who can look for revenge and attack them.⁵

While ward residents feared being attacked by robbers, they equally feared reporting the case. One trishaw driver from Ward B said about this point, ‘Everybody knows who we are in the Ward. Helping to resolve a theft is more dangerous. Even if I have a chance [to help], I cannot do anything to the motorcycle thieves. My family depends on me. If I do anything, the guy [thief] will revenge himself on me one day.’⁶

Low-wage migrant workers were at particularly high risk of harm, and their access to justice was limited. One clear pattern, according to the cases I followed and the interviewees’ statements, is that poor migrants did not report robbery cases to police, nor even to local leaders, such as Ward Administrator (WA) and the 100-household leader. A 23-year-old girl who worked in a garment factory, from Ward A said:

It is difficult to catch the robber because they steal gold chains, earrings, and mobile phones using motorbikes. No police are on the road. I have heard that all robbers have knives. I am a stranger here and I have no relatives and no family here. I come from another ward and this case happened in another ward. Therefore, I did not try to report the case. If I reported to the 100-household leader or the WA, it would be rare to get back my things. I

⁵ Interview, male garment-factory worker, Ward A, 24 August 2016. There was a gender aspect to robbery, in that it was clear that physically weak young women, many of whom wore gold, feared gangsters. It was rare for men to be robbed.

⁶ Interview, male trishaw driver, Ward B, 03.09.16.

never heard of people get back things from the robber.⁷

A woman who I spoke with similarly said:

my daughter's gold chain was stolen by the robber on the way back home. For that case, I did not report to the 100-household leader, and [instead] I now pick up my daughter at the bus stop every day. It is safe for her. This is an easy solution for me.”⁸

As reflected in this statement, the woman preferred just to enhance the security of her daughter by accompanying her to the bus stop herself, rather than report the case. In most theft cases people in the ward did not seek justice, and there were no police or guards to protect them from robbers. They may take advice from neighbours, friends, and may discuss the case with the ward leaders, but often the advice was: do not report the case. Even stolen motorbikes were often not reported to the ward administrator or the police, as illustrated with the following case.

Case 1: Theft of motorbike

A 46-year-old man earned an income by driving a motorbike for 3 years in Hlaing Thayar. He told me about the loss of his motorbike:

One guy approached me and I had been familiar with him for about 3 days. At that time, we sat together in the teashop and talked very friendly. After 3 days, the guy took my motorbike and said ‘I will come back within an hour.’ I believed him and I

⁷ Interview, local woman, Ward A, 24 August 2016.

⁸ Interview, young girl, Ward B, 24 July 2016.

gave my motorbike to him. The guy did not come back with my motorbike. I did not know where he lived. My motorbike is expensive with license.

When I asked him if he reported the case anywhere, he said:

I heard as a rumour from my colleagues that the guy who stole my motorbike is one of the criminal gangsters in Hlaing Thayar. For this reason, I did not report it to the ward administrator, the 100-household leader, or to the police. If I open this case, I am so afraid to be attacked by the guy [who stole the bike]. Reporting is not safe for a taxi driver. I cannot spend so much time for this case at the police station, because my daily income is important for my family. So, I borrowed money to buy a new motorbike to get daily income.⁹

Rape cases

Lack of reporting was also observed in rape cases, but in comparison with theft, I found that more rape cases were reported and ended up in the formal system. However, often the victim's side was not satisfied with the formal solution and sometimes they preferred compensation from the perpetrator. Another finding is that the ward administrators never wanted to resolve rape cases, because they saw them as only cases for the formal system. When the victims were from poor migrant families, they did not inform about the rape at once to their parents or to their neighbours. Before any formal solution, victims kept silent and did not report it to anyone. If the victim

⁹ Interview, motorbike driver, Ward B, 03 September 2016. I asked 6 motorbike drivers about the motorbike theft, and all replied that they would not to report to the police.

got pregnant, however, and it was discovered by others, the case may be resolved legally in the formal court. The ward leaders were not allowed to resolve rape cases informally.

According to interviewees, the victims of rape are 10 to 16 years old and most were from poor migrant families. In addition, their education level was very low. Their parents were day labourers with a low economic standing. Most of the rape cases that we actually brought out were not silenced, and were resolved formally in the court. In 1 case, poor family members of the victim settled informally with compensation. This kind of case appeared in poor family households. Most of the migrants and other ward residents lacked knowledge about rape cases. Especially, poor family members want to use attorneys to get compensation. In such cases, the victim's parents make the decision in the case to get compensation from the perpetrator rather than taking the case to court. Victims' grievances are not included in the consideration to get compensation. I also found a case where the perpetrator tried to avoid a court case by offering compensation to the victim's family. Rape victims were hesitant to report, because there was much shame associated with bringing rape cases out in public. The victims worried about humiliating their families. This situation made them weak in seeking justice legally.

Increasingly, some NGO and CBOs provided free legal aid and counsel to vulnerable persons, especially women and children. This has likely meant that more rape cases were reported to the formal system, because according to 1 legal aid worker with whom I spoke, he usually advises the victims' families not to accept compensation but to go the legal way. NGOs stood on the child victim's side and hired a lawyer to formally settle the case. Even when NGO legal aid providers supported the victim, some parents did not want to settle the cases in court. They did not want to mention it in front of the

court. Parents believed that if they went to the court, the victim would suffer from psychological problems. Another reason was that the parents want to get compensation for their grievances, which also supported the family economy. They also thought that going to court repeatedly and answering questions at court shamed them and increased their stress. However, not all victims' families accepted compensation. I illustrate this with the following case.

Case 2: Rape

A 16-year-old female rape victim came from a big family. Her parents were roadside vendors who moved to Hlaing Thayar from Ayeyarwady Region 10 years previously. Her education was only to primary level and she sold seasonal fruit at the bus stop. She said about the rape case:

At 8:30 pm, I returned home alone. On the way, a man appeared from a dark place and put his hand tightly on my mouth. He told me not to talk or shout and brought me into a small room. The room had no electricity, and was a very dark place. Both of my hands were tied with a wire and my mouth was tied with a cloth so I would not shout. He raped me. After that he untied the wire and cloth, and he threatened me not to tell anybody about the rape. He said 'If you tell someone, I will burn your house.' I am so afraid of him and we live in the squatter area. So, I did not tell anyone about this problem. Two months later, I saw that I was pregnant. I told my mother about my case. She was upset and she went to get advice from the neighbours. She wanted me to abort the child.¹⁰

¹⁰ Interview, Victim's house, Ward A, 30 May 2016.

When the mother finally told the father about the rape, he immediately wanted to resolve it the formal way. When the case was with the police, and they were about to open a court case, the perpetrator tried to negotiate the case with compensation. He wanted to pay the victim's family so that he would not go to prison after a court case. The girl victim said, 'My parents did not accept this solution [compensation].' Finally, the perpetrator got a prison sentence of 3 years. The girl's father said:

It is not justice for us. The perpetrator should be in prison more than 2 years. I am not satisfied with it. I heard that if a rape case happens, the committed person will be in prison for about 7 years. Three years in the prison for a crime case is not justice for the victim. Now, my daughter gave birth to his child. We do not want the child and tried to give the baby to other people. However, my daughter cannot give up her child. We are poor migrants, so we do not know powerful persons in the court and we did not understand the legal procedure. Now, the case has ended. But we are still suffering from the grievances of my daughter.¹¹

In this case it is clear how informal solutions co-exist with the formal system and how migrants get a sense of injustice when they report their cases.

Debt and money saving disputes

Disputes related to money-saving and -lending were especially high in Hlaing Thayar, which can be related to the difficult economic situation of the migrants, who mainly depend on daily labour. Although migrants had low incomes, some still

¹¹ Interview with the victim's father, Ward A, 30 May 2016.

participated in saving clubs. The amount of saving varies depending on their incomes. According to a lucky draw, the members of these clubs take turns in taking the saved money. The problem arises because some people run away after getting the money. When people do not pay the money back that has been saved in the group, disputes often occur. The ward administrators said that such disputes were the most common type in the wards. Poor people frequently borrowed money for daily survival, to repair their houses, buy motorcycles, as well as to pay back old debts. Loans in the wards were borrowed from more affluent ward residents, and they came with a high interest rate that had to be paid on a daily basis. When the borrowers could pay interest, disputes often happened between borrowers and lenders. Lending money with interest was not legal, so the disputes must be resolved informally.

The 100-household leaders engaged in informal justice processes around debt disputes. They took oral agreements from both parties (borrower and lender). If the borrower did not follow the mutual agreement, the 100-household leader called both parties to the ward office, which is a higher level of informal resolution. At this level, a *kan won* is made in front of the ward administrator. *Kan won* is a kind of informal contract, in which the parties to a case sign a letter promising to adhere to the decision or agreement made at the local leaders' office. This can for instance be the promise to pay back a debt. The *Kan Won* is powerful in the informal solution at the ward level. If both sides do not follow the rules and agreement mentioned in the *kan won*, the ward administrator had authority to transfer the case to the police. Threats of being sent to the police are part of resolving debt cases informally. Formal law and police are mainly effective in threatening the perpetrators to follow the decisions of the ward leaders. A 100-household leader in Ward A said:

Ward level actors sometimes threaten [the perpetrators]. If the solution of debt cases, dispute case etc. are not satisfactory at the ward level, the case is transferred to the police. People are afraid of the police so that is why we threaten with police. Sometimes, the police also threaten the perpetrators informally.¹²

Therefore, even though the debts were resolved informally, the formal system is present as a back-up or threat. However, this did not mean that in reality the debt cases ended in the formal court according to the formal procedure. In fact it was difficult to resolve debt cases in the formal system, due to lending money in the first place with interest and without formal registration being illegal.

Marriage disputes: Domestic violence and adultery

Low family income plays an important role in igniting marriage disputes in Hlaing Thayar where such cases were common especially among low-wage migrant workers. The quarrels typically happened in the late evening when men returned home after using their daily income for drinking. When the wife asked the husband for money, sometimes a quarrel turned into domestic violence.

As a first step, the 100-household leaders resolved this problem through negotiation between the husband and the wife. Sometimes, the married couple fought with knives. The ward administrators and 100-household leaders considered it a crime when a knife longer than 6 inches was used. These cases should be transferred to the police, but parties. Whether you

¹² Interview, one hundred household leaders, Ward A, 28 August 2016.

want to go to the police or you want to make *kan won*. People choose signing on the *kan won* letter. Sometimes, women reported domestic violence directly to the Ward office, but men may also report. Usually the request is to divorce, not to report the crime of domestic violence. Usually, the ward administrators resolves these cases by firstly postponing the time: he asks the couple to reconsider the divorce, while he also mediates between them. The following case is illustrative.

Case 3: Marriage dispute

The ward administrator told me that one late evening, one man arrived to the ward office. He ran to the office and he seemed afraid of someone and closed the door. At the same time, one woman arrived to the ward office and she was very upset. She had a knife. The ward administrator heard the woman's voice: she was shouting that she would cut the husband with the knife. As the situation was a little bad, the ward administrator physically separated the couple and took the knife. He then sat down to speak with the couple. The woman first complained:

My husband always drinks alcohol and therefore he does not work for income. So, I told him not to drink alcohol and to work to get an income. This evening, I saw him at the alcohol shop so I felt angry and wanted to kill him. When I went to the alcohol shop, he directly ran away to the ward office because he is afraid of my knife. I would like to divorce him now.¹³

The man was silent. He was aware of his mistakes. According to the household leader, who told me the story, the ward administrator said to the husband, 'You have to work for

¹³ Interview with 100-household leader, who recalled what the woman said, Ward A, 28 August 2016.

the family. Your wife is right.’ He then told the couple, ‘I cannot resolve the case right now so both of you come back after 2 days. Then you tell me if you want to still divorce and I will do it.’¹⁴ After 2 days, they did not come to the ward office.

The ward-level actors said that they settled disputes like the above one according to the principle reflected in a common Myanmar saying: *gyi de ah hmu go ngeze, nge de ah hmu go pyaukse*. This means to make the big problems small and the small problems disappear. This informal solution is useful and effective in marriage dispute cases. According to the law, the ward administrator has no official authority to divorce people, but he mediates and gives a set time for the couple to think about the case. If the husband commits violence against the women, and this is reported, the ward administrator transfers the case to the police. Men are afraid of the police, so they tend to behave after the warnings or threats of the ward leaders. Sometimes, women go directly to the police. When this happens, the men will stay two or three days in the police outpost as a punishment. Therefore, the ward administrator can use the threat of the police in the informal solution.

A 28-year-old police officer said that some people reported disputes between neighbours or family members directly to police outposts. The police resolved the cases there at the outpost informally.¹⁵ Therefore, it was not only ward leaders who engaged in solutions outside the formal legal system, but also police.

Now I wish to turn to the example of adultery cases. Even though adultery is today a public crime in Myanmar, most adultery cases in Hlaing Thayar do not go to court because wives do not want men to go to prison. They prefer informal

¹⁴ Interview, 100-household leader, Ward A, 28 August 2016.

¹⁵ Interview, police officer at the police outpost, Ward B, 27 September 2016.

resolution and compensation. The following case also shows how adultery is resolved informally. This case also involves sexual assault of a minor, and it shows that cases are resolved informally due to lack of knowledge of the law and economic hardship.

Case 4: Adultery and sex with a minor.

The case happened in June 2016. The victim was 14 years old and her education is only 8th Standard. After dropping out of school, she worked in the pea industry. At her work, she met a man who was a leader at work. He was married, but he told the girl that he was divorced. He told her, 'If you marry me, I will support your family with 200,000 [US\$145] per month.' She believed him and slept with him 1 night. Before she went home, the man said that he would arrange for them to get married. She believed him. One female neighbour worried about the girl, since she did not come home that night. The neighbour had experience and knowledge about these matters, because she worked as a volunteer for an NGO. So the next day when the neighbour saw the girl, she asked why she did not come home, where she slept, and with whom.

The girl was a virgin and did not know about men. She told the woman what happened and finally let her parents know about it. First, the girl's family and women neighbours went to the ward office. The ward administrator informed the family of the man about the case. The man did not come to the ward office, his wife came alone. She requested the ward administrator not to open a case formally. She wanted to solve it with compensation. She said that she had never heard about her husband doing such a thing before. The neighbour wanted to settle the case legally because the man had a wife he lived with, lied to the girl and slept with her. His wife preferred to solve it with money. Also the girl's parents wanted 800,000 (US\$580) compensation for the grievance. The perpetrator side rejected

the offer. After much discussion, the girl's parents agreed to 600,000 (US\$435).¹⁶

According to current law in Myanmar, the man could have been sentenced to prison for violating the law prohibiting adultery. A formal case could have been opened with the police and court, but the parties and the ward administrator agreed to allow it to be resolved informally with compensation. This case shows is that a man took advantage of a girl and the poverty of her family. Poverty is a key component here, also in not seeking formal justice. Even though a knowledgeable person — in this case the neighbour — advised to resolve the case legally, the parties did not accept her suggestion. Even a small amount of compensation was seen as support for the victim's family.

Discussion

The empirical case studies presented above show poor urban migrants not using the formal justice system, with the exception of rape cases. However, even in rape cases it was likely that many remained unreported unless there was a pregnancy. Either people did not report the cases — simply staying silent and finding other means to deal with their insecurity — or they made use of the ward-level actors' informal resolutions. Sometimes the police also provided informal resolutions. In this section, I wish to discuss why this was the case and relate the discussion back to theory.

Several aspects accounted for the ways that disputes and crimes were dealt with among the migrants. Few migrants in Hlaing Thayar had a good education or much knowledge of the legal system. Migrants in Hlaing Thayar were considered strangers without strong social connections or networks, which were important also in accessing different institutions.

¹⁶ Interview, educated woman, Ward B, 8 July 2016.

Another reason for not reporting the cases was that people could not spend the time in the formal offices, because their daily income was so important for their survival. They could not afford to money on transportation, food, and small fees for the case process. Another factor was that some cases were illegal cases, which could not be resolved in the formal system. This for instance regarded borrowing money from informal lenders with interest. As shown above, such cases could be resolved informally only, although this did not mean that the formal system was entirely absent. The ward-level actors frequently used the police as a threat. For instance, ward leaders told people that if they broke the *kan won* they would be sent to the police.

Another reason is that informal solutions meant quick decisions as the settlement procedure can be finished within a day. Therefore, people preferred this type of solution. In addition, compensation was also effective in the informal justice system. Some people preferred compensation for the victim to imprisonment for the perpetrator. Poor people especially were familiar with the ward-level actors, who wanted to get monetary compensation without thinking about the grievances of the victims. The ward administrator and the 100-household leaders could enforce compensation.

Furthermore, migrants felt uncomfortable going to formal authorities, including the police. Based on experience, they found them ineffective. In most theft cases people in the ward did not seek justice, because they never saw anyone get their stolen goods back. In addition, if they opened a case legally, they were interrogated by the police. People did not want to be questioned by the police. Therefore, informal solutions were preferred. Religious beliefs constituted another reason for not reporting thefts. According to a 65-year-old woman from Ward B, 'Buddhist Myanmar people think that if someone is robbed,

that person is suffering from bad luck.’¹⁷ For instance, if a person lends money to another person, and that person ran away with the money, the moneylender thought that it was because he owed money to that person in his previous life. This meant that people did not want to seek a solution, because the suffering caused by losing the money was due to something bad that the person did in a past life. According to Buddhist belief, the victim then assumes that the bad things will be gone with the thief or other perpetrator. Therefore, they see no need to report the case and getting the perpetrator punished.

Due to the reasons mentioned above, informal justice resolutions were prevalent in the study areas. The ward-level actors sought to reduce the negative effects of disputes as they acted as mediators, but other factors also meant that migrants did not report cases at all. The way that migrants dealt with crimes and disputes in Hlaing Thayar reflected a situation of legal pluralism, where it was not only, in fact very rarely, state law and institutions that were drawn on. Informal resolutions and self-help dominated. These developments can be linked to comparable processes across the world. As Tamanaha (2008) argues, the increasingly massive slums in the large cities around the world function with little or no official legal presence. Observers described legal aspects of these developments in terms of legal pluralism. The conditions in the slums give way to the growth of ‘self-creating’, ‘private’, or ‘unofficial’ legal orders. (Tamanaha 2008, 386-387) In addition to this argument, the case of Hlaing Thayar shows that poor migrants stand at a much lower chance of accessing and using the legally plural context, than for instance native or better-off people in the township. Lack of social networks and poor economic situations have a clear impact on the extent to which people

¹⁷ Interview, Ward B, 24 July 2016.

can use legal pluralism. Moore (1993) makes a similar point about India, where she shows how access to formal and informal justice is related to the cultural construction of power, focused on the combination of money, lineage, caste and gender including education and connections. Women and the poorest or low-caste men are not included in the legal areas, and thus have to find other avenues for resolution and resistance. That means that legal pluralism is not the same as equal access to resolution processes. The same applies to Myanmar, and in Hlaing Thayar, the poor informal migrants were the most excluded.

Conclusion

Myanmar has embarked on a comprehensive transformation policy, resulting in political, social and economic changes for everyday life. These changes will impact on diverse social groups across the national space. Increased urbanisation and migration from rural to urban areas is an important element of the Myanmar transformation process, which so far has received only scant attention, with the exception of Forbes (2016). Yangon city, with more and more foreign investments and growing industries providing enormous opportunities for work and improvement of livelihoods, also attracts poor rural villagers to the city. However, in the process not everyone gets sustainable jobs or safe places to live. This creates negative side effects and crime. One of the big challenges of the democratic and economic transformation is that the Myanmar government is still weak in implementing law and providing security, especially for the growing slums and squatter areas in Yangon city where many poor migrants live. In the current situation of Myanmar, different kinds of reporting on the insecurities of everyday life can be found in the printed and social media.

Similarly, in my study area I found weaknesses in security and safety. In this article, I have explored how poor urban migrants settle the disputes and crimes in Yangon's largest industrial areas, Hlaing Thayar, which is also the most infamous area for crime in Yangon region. My argument is that poor urban migrants have very low access to formal justice institutions. Lack of legal knowledge, low education and poor economic conditions are main barriers to formal justice solutions. Justice options in Hlaing Thayar comprise formal and informal solutions, including self-help. Many cases, especially theft, are left unreported, and with the exception of some rape cases, the migrants prefer the resolutions by the ward leaders. These leaders use negotiation, compensation, informal agreements (*kan won*), and threats of sending perpetrators to the police as resolution mechanisms. Even when rape cases are settled the formal way at the court, the solution is unsatisfactory. Shame, silence and fear of rape are core barriers to overcome the difficulties of accessing justice.

Theoretically, I argue that legal pluralism does not mean equal access to formal and informal institutions for all groups in society. Poor migrants especially have unequal access to formal as well as informal justice. With the increasing migration from rural to urban areas, it becomes important for the government to regulate legal procedures for migrants' issues. It is also important that legal aid NGOs and CBOs assist poor migrants to help them find resolutions to, for instance, rape and child abuse cases. Practical laws are necessary to gain the trust of local people. This study contributes with information that may help the government, legal aid providers, NGOs and CBOs to better understand the access to justice strategies of poor urban migrants and the barriers they face.

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