

Country Fiche

BANGLADESH

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October 2020

** This Country Fiche has been conducted under the coordination of Prof. Andrew Geddes and Dr. Leiza Brumat (MPC, EUI) and Prof. Sergio Carrera (CEPS).*



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement n° 870787. This document reflects only the author's view and the Commission is not responsible for any use that may be made of the information it contains.



ASILE

Global Asylum
Governance and
the European
Union's Role

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ASILE

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List of Abbreviations

BDUNNM	Bangladesh United Nations Network on Migration
BRAC	Building Resources Across Communities
CCNF	Cox's Bazar Civil Society Organisations and NGO Forum
CSO	Civil Society Organization
DRC	Danish Refugee Council
DTF	District Task Force
EPG	Eminent Persons Group
EMCRP	Emergency Multi-Sector Rohingya Crisis Response Project
EU	European Union
FDMN	Forcibly displaced Myanmar nationals
GBV	Gender-based violence
GCM	Global Compact for Migration
GCR	Global Compact on Refugees
GDP	Gross domestic product
GoB	Government of Bangladesh
HRW	Human Rights Watch
ICC	International Criminal Court
ICG	International Crisis Group
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
IOM	International Organization for Migration
INGO	International Nongovernmental Organization
ISCG	Inter Sector Coordination Group
LDC	Least developed country
MODMR	Ministry of Disaster Management and Relief



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MOFA	Ministry of Foreign Affairs
NGO	Nongovernmental Organization
NTF	National Task Force
RC	UN Resident Coordinator
RRRC	Refugee Relief and Repatriation Commission
SADRMM	South Asian Declaration on Refugee and Migratory Movements
SEG	Strategic Executive Group
SRHR	Sexual and reproductive health and rights
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Fund
WFP	United Nations World Food Programme



Executive summary

- I. Bangladesh has not been a party to any legally binding international instrument dealing with the protection of refugees. Its domestic law also does not provide for granting asylum or refugee status, nor has the government established a formal system for providing protection to refugees. In fact, the domestic legal framework concerning refugees is devoid of any consistent or organised development. In the absence of a national asylum mechanism, the 1946 Foreigners Act remains the key legislation governing the status of refugees and other persons under UNHCR's mandate. Notwithstanding the fact that the Bangladesh Constitution guarantees certain fundamental human rights even to foreigners, the Foreigners Act refuses even to acknowledge refugees as a special class of vulnerable people deserving protection. However, Bangladesh has ratified the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without any reservation/declaration on its provision on *non-refoulement*. Consequently, Bangladesh officially respects the principle of *non-refoulement*. Moreover, the High Court Division of the Supreme Court of Bangladesh in the case of ***Refugee and Migratory Movement Research Unit (RMMRU) vs. Government of Bangladesh (2017)*** has held that Article 33 of the 1951 Convention relating to the Status of Refugees has become a part of customary international law and accordingly binding upon Bangladesh. This judgment also clarified that Rohingya refugees are entitled to judicial protection in case of a violation of *non-refoulement*.
 - II. Due to the absence of statutory provision on refugees, the overall protection of refugees is largely 'mercy-based' (i.e., their protection is not 'rights-based', rather it depends on the mercy of the executive). The government of Bangladesh generally expresses sympathy for the plight of persecuted refugees, but it has always been reluctant to offer them asylum. Nevertheless, Bangladesh remains one of the world's top ten refugee-host countries and is currently dealing with a deeply protracted refugee situation. In 1978, approximately 222000 Rohingya people (an
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ethno-linguistic-religious minority group of Myanmar) from Northern Arakan of Myanmar fled to neighbouring Bangladesh due to a military operation against them. Through a bilateral negotiation, most of them (187250) were returned to Myanmar by December 1979. In 1991–92, a similar situation led 250000 Rohingya to seek asylum in Bangladesh. During this period, a total of 34917 Rohingya people were registered by UNHCR and given refugee status by the government through an executive order. Between 1992 and 2008, a total of 236599 refugees were also repatriated to Myanmar. Finally in 2017, the Myanmar military junta forced thousands of Rohingya to take shelter in Bangladesh. As of September 2020, there were 861545 registered Rohingya refugees living in camps. Of them, more than 700 000 arrived after 25 August 2017.

- III. For camp-based refugees, the government has put restrictions on their movement and right to work. The government has justified these restrictions citing the severe socio-economic challenges it faces in caring for its own citizens. However, limited access to education has recently been allowed for refugee children.
- IV. The governments of Bangladesh and Myanmar signed an MOU in November 2017 for repatriation of displaced Rohingya people back to Myanmar. As of now, there is no progress in implementing the deal as Myanmar has failed to create favourable conditions for voluntary repatriation.
- V. Apart from camp-based refugees, there are also many thousands of unregistered Rohingya who have quasi-integrated into local communities, notwithstanding their 'irregular' status.
- VI. Since 1993, UNHCR acted as the lead international agency working with the government for responding to the Rohingya refugee crisis. Later on, the government designated IOM as the lead agency in 2013. After the massive refugee influx of 2017, the situation substantially changed "with UNHCR taking on a clearer leadership role" (Hargrave et al. 2020, 16).
- VII. The Myanmar military operation against the Rohingya in 2017 that forced Rohingya to take shelter in Bangladesh is now being judicially dealt with by the International Court of Justice (ICJ). In this case filed on the grounds that Myanmar had committed genocide in violation of the Genocide Convention of 1948, the ICJ has already issued provisional measures



ordering Myanmar to prevent genocidal acts against the Rohingya people and to report periodically on its implementation of the order. In 2019 the International Criminal Court (ICC) authorized the commencement of a full investigation into international crimes allegedly committed by the Myanmar military against the Rohingya people.

1. Introduction

1.1. Historic overview

Bangladesh is a least developed country (LDC) that is small in terms of its geographic size and at the same time the world's eighth most populous and the seventh most densely populated country. Despite all these realities, Bangladesh is now among the world's top ten refugee-host countries (UNHCR 2020, 22) and is currently dealing with one of the most protracted refugee situations in the world. According to a report of 2018, Bangladesh hosts 4.7% of the world's total refugees (UNDP 2018,16). The entire refugee population in the country is almost exclusively comprised of Rohingya, an ethno-linguistic-religious minority group from Northern Arakan of Myanmar, who had been forced to flee to Bangladesh over the last few decades due to systematic state persecution and violence (Alam 2019; Wade 2019; Dussich 2018; Zarni and Cowley 2014; Ullah 2011). Since Rohingya became stateless in 1982 because of a newly introduced nationality law in Myanmar (Kajla and Chowdhory 2020; Lee 2019; Parashar and Alam 2019; Alam 2018; Haque 2017), Bangladesh currently hosts the largest number of stateless people in the world (IOM 2019, 48). In 1978, approximately 222000 Rohingya people fled to Bangladesh due to a military operation against them (Elahi 1987). Through a bilateral negotiation, most of them were returned to Myanmar by December 1979. In 1991–92, a similar situation led 250000 Rohingya seeking asylum in Bangladesh (Merritt 2017, 10). During this period, a total of 34917 Rohingya people were registered by UNHCR and given refugee status by the government through an executive order. Between 1992 and 2008, a total number of 236599 Rohingya were also repatriated to Myanmar (Ahmed 2010, 101). In 2006 UNHCR began resettlement of Rohingya refugees from Bangladesh. However, the government suspended the resettlement operation in November 2010, presumably because it considered that this could be a 'pull-factor' for new refugee arrivals and discourage existing refugees to return to their home country. During this period, a total of 920 refugees were resettled in Canada, New Zealand, United Kingdom, Australia, Ireland, Norway, Sweden, and United States (UNHCR 2011, 21–22, 32). In 2017, a deadly military crackdown on



Rohingya people in Myanmar triggered the latest Rohingya influx into Bangladesh. Due to this military action that the UN High Commissioner for Human Rights called ‘a textbook example of ethnic cleansing’, more than 0.7 million people have arrived since 25 August 2017, of them more than 0.6 million having arrived in the first two months (ISCG 2017). According to Huang et al. (2018), Bangladesh, with just 1.34% of the EU’s GDP, received more refugees in less than three weeks of the influx than all of Europe received in 2016 during the Syrian crisis. Faced with this daunting challenge, the government and people of Bangladesh responded by providing safety, shelter and support to Rohingya fleeing for their lives. According to a leading refugee law expert of the country: “In an otherwise hostile global environment for the refugees, Bangladesh’s granting of sanctuary to the persecuted Rohingya and rendering various kinds of assistance to them, albeit with international support, have earned it a towering moral standing” (Abrar 2020). Almost all Rohingya refugees are now hosted in the Kutupalong mega-camp – the world’s largest refugee camp – located in Ukhia, Cox’s Bazar. The present Rohingya refugee crisis in Bangladesh is described by UNHCR as ‘one of the largest and fastest-growing refugee crises in decades’ (UNHCR 2018a). Undeniably, the Rohingya satisfy the conditions to be regarded as refugees within the meaning of the 1951 UN Convention Relating to the Status of Refugees (Alam 2020). However, Bangladesh is yet to formally recognize them as refugees and officially addresses them as ‘forcibly displaced Myanmar nationals’ (FDMN). On a different note, it should be noted that the rapid influx of 2017 has adversely affected the lives of host communities in many different ways (UNDP 2018) and poses a potential threat to Bangladesh’s internal stability since these refugees are particularly susceptible to jihadist recruitment and tensions are increasing between the host communities and the refugee population (Sullivan 2020; Zaman 2019; ICG 2018; Idris 2017; Rahman 2010).

1.2. . Main debates in the academic literature

South Asian states historically prefer bilateral and executive, as opposed to international and legal, solutions in dealing with refugee situations and perceive international instruments on refugees as ‘too Euro-centric’ (Naser and Afroz 2007; Abrar 2001; Chimni 1998). Consequently, Bangladesh, like other South Asian countries except Afghanistan, has not been a party to any legally binding international instrument dealing with the protection of refugees. Its domestic law also does not provide for granting asylum or refugee status. The main discussion in the academic literature therefore centres on the need for domestic legislation relating to refugees. Almost all scholars working in this field stress the urgent need for developing a legal regime for refugees in Bangladesh (Sejan



2020; Abrar 2003; Naser and Afroz 2007). They are of the view that a domestic legal framework on refugees will enhance the protection of genuine refugees and at the same time enable the state to manage the refugee and migratory flows properly (Sunnah 2000). Many scholars are also advocating that Bangladesh should accede to the 1951 Convention Relating to the Status of Refugees (Hasan and Brassard 2018; Mohammad 2017; Naser and Afroz 2007; Sunnah 2000). It is relevant to mention that for many years UNHCR has been supporting civil society initiatives in South Asia for a regional refugee protection framework. In 1994, UNHCR constituted the Eminent Persons Group (EPG) for South Asia. The EPG, through several regional consultations, adopted a draft regional framework called the South Asian Declaration on Refugee and Migratory Movements (SADRMM) in 2004 (Ahmed 2019; Kumar and Raja 2018). A number of Bangladeshi academics are working to promote the adoption of a national legislation in line with SADRMM. They emphasize that the policy-makers should—for improving the protection of refugees as well as achieving viable solutions to the refugee problem – take a fresh look at current strategies and actions at three levels: international, regional and national (Naser and Afroz 2007). A written petition filed by a lawyer asking for comprehensive legislation on refugees in Bangladesh is pending a hearing (Sejan 2019). While the government prefers to call persecuted Rohingya now living in Bangladesh as FDMN, pro-rights academics and activists are urging the government to officially recognize Rohingya as ‘refugees’ (Abrar 2020).

1.3. Latest policy developments

There are a number of new developments in the overall refugee situation in Bangladesh. The governments of Bangladesh and Myanmar signed an MOU in November 2017 for repatriation of displaced Rohingya people to Myanmar. It was agreed that a joint working group would be set up and the repatriation of refugees would start in two months. The Rohingya arriving after August 2017 are now still strongly in favour of returning back to Myanmar (SEG 2020, 24). However, to date there has been no progress in implementing the said deal as Myanmar has failed to create favourable conditions for repatriation (Kipgen 2019). According to the International Crisis Group, “Myanmar appears unwilling to create the conditions needed to encourage refugees to return, while Bangladesh and its foreign partners generally appear to lack the leverage to push Myanmar to address key issues such as citizenship and security for the Rohingya” (ICG 2019, i). This bilateral arrangement arguably also involves a risk of refoulement (Alam 2020; Faulkner and Schiffer 2019). On the other hand, the government of Bangladesh has already developed a relocation site for Rohingya



people in *Bhasan Char*, a previously uninhabited floating island (i.e. an island of recent origin created by sifting silt of the sea) in the Bay of Bengal. While the government of Bangladesh wants to relocate 100,000 Rohingya refugees from the mainland, rights groups and refugees themselves are opposing the plan on the grounds that this island is not suitable for human habitation (Banerjee 2020; Simoniya 2019; ICG 2019; HRW 2018, 54–57). Faced with this opposition, the government has postponed immediate plans to relocate Rohingya refugees and instead attempting to influence the UN and humanitarian agencies to endorse *Bhasan Char* (Cowper-Smith 2020). A significant breakthrough was made in January 2020 as the government of Bangladesh agreed to allow refugee children access to education. For years the government had stood by its decision to not allow this access, presumably on the grounds that it would create opportunities for the refugees to permanently settle in Bangladesh and may also work as an incentive for those still living in Myanmar to cross the border. The latest decision is of major significance for the lives of tens of thousands of refugee children (Abrar 2020).

There are however few other developments in the area of international justice. The Myanmar military operation against the Rohingya in 2017 that forced Rohingya to take shelter in Bangladesh is now being judicially dealt with by the International Court of Justice (ICJ). In November 2019, the Gambia filed a case with the ICJ on the grounds that Myanmar had committed genocide in violation of the Genocide Convention of 1948. On 23 January 2020, the ICJ issued provisional measures ordering Myanmar to prevent genocidal acts against the Rohingya people while the case is pending, and to report periodically on its implementation of the order. On the other hand, in 2019 the Pre-Trial Chamber III of the International Criminal Court (ICC) authorized the commencement of a full investigation into crimes (within the jurisdiction of the Court) allegedly committed by the Myanmar military against the Rohingya on or after 1 June 2010 (the date of entry into force of the Rome Statute for Bangladesh).

The way the ICC assumed its jurisdiction in this case is noteworthy. In fact, while Bangladesh is a party to the Rome Statute, Myanmar is not. Therefore, it was assumed by many that crimes committed in Myanmar would fall outside the ICC's jurisdiction unless there was a UN Security Council referral. But the ICC invoked its jurisdiction on the grounds that “the alleged deportation of civilians across the Myanmar-Bangladesh border, which involved victims crossing that border, clearly establishes a territorial link on the basis of the *actus reus* of this crime” (ICC 2019: para 62). The case is currently under investigation.



2. Asylum and refugee statistics

The entire refugee population in Bangladesh is almost exclusively comprised of Rohingya. As of June 2020, there were 861,545 registered Rohingya living in camps. Of them, more than 0.7 million arrived after 25 August 2017 (GoB and UNHCR 2020). It is relevant to mention that only a small number of Rohingya (34,917) were given refugee status by the government through an executive order in 1991–1992. Apart from them, all other registered Rohingya are not formally recognized by the government as refugees; rather they are officially addressed as FDMN.

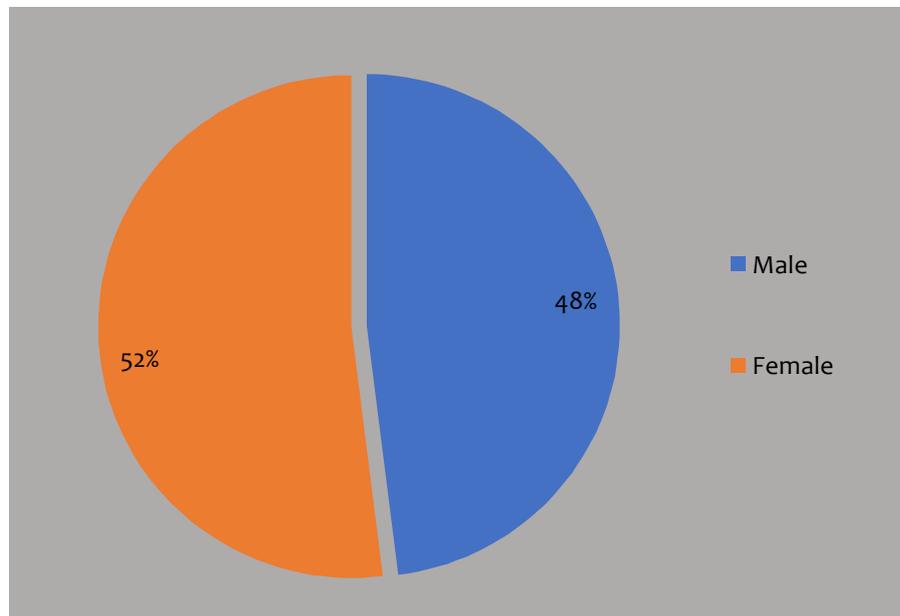


Figure 1: Gender distribution of Camp-based Rohingya

The demographic profile of camp-based Rohingya indicates that-

- 52% are female while 48% are male;
- 51% are children, 45% are adults and 4% are 60+ years; and
- 1% identify with a disability.

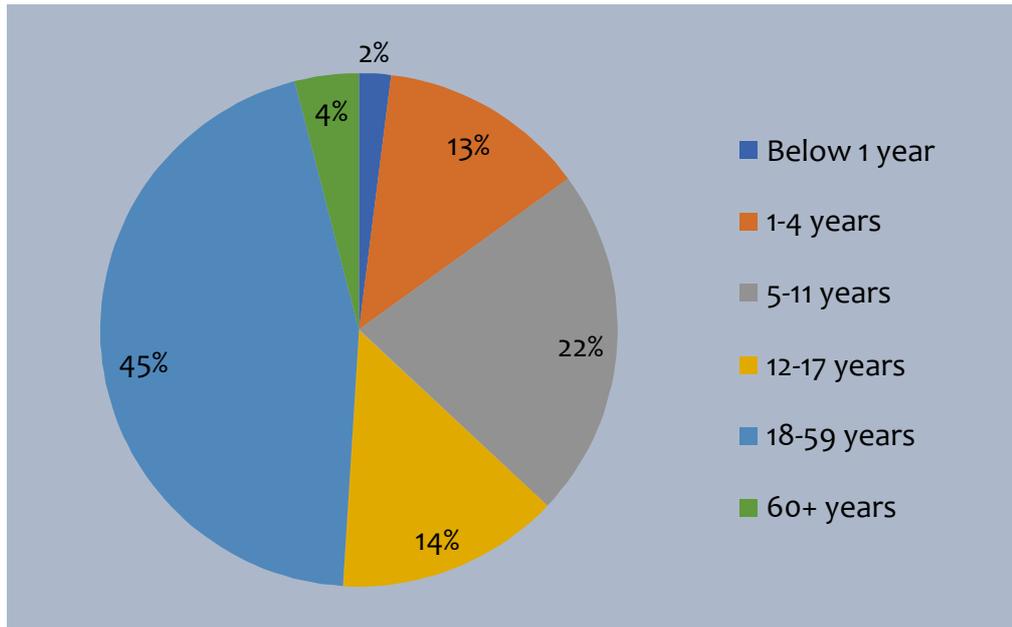


Figure 2: Age distribution of camp-based Rohingya

Apart from camp-based refugees, there are also many unregistered Rohingya who have quasi-integrated into local communities, notwithstanding their ‘irregular’ status. There are no official/reliable data on these individuals. UNHCR estimated in 2011 that there were at least 200000 undocumented Rohingya (UNHCR 2011, 8). However, it is generally estimated that this number could now be as high as 300000–500000 (Hoque 2016, 11). Bangladesh is also host to 76 refugees of various other nationalities who are recognised by UNHCR under its mandate (UNHCR 2018b).

In the administrative units where most Rohingya refugees are now settled, the refugee population has outnumbered the host community by over a factor of three. Moreover, their settlement has also adversely affected the lives of host communities in many different ways (UNDP 2018). These complicating factors help explain why anti-Rohingya sentiment of the host community is on the rise although Rohingya fleeing persecution were earlier warmly welcomed and assisted by the host community (Azad 2016, 62). There is a small-scale local movement under the banner of ‘Rohingya Reinstatement Movement Council’ that is campaigning against Rohingya refugees.



3. Asylum governance instruments

3.1 The Domestic Legal and Policy Framework

South Asian countries generally perceive forced migration as a ‘bilateral, rather than transnational or multilateral, issue’ (Venugopal 2018) and rely on informal ‘hospitable refugee protection’ (Rashid 2018: 43). In this system, the protection of refugees primarily relies not on a legal framework outlining the rights of refugees, but almost exclusively on a ‘mercy-based approach’ of the executive (Sejan 2020). Bangladesh is no exception in this regard. Bangladesh is not a State party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness. The Constitution of Bangladesh, however, guarantees six fundamental rights for all persons including refugees. They are

- (1) protection against arbitrary treatment [Art. 31],
- (2) right to life and personal liberty [Art. 32],
- (3) right to safeguards during arrest and detention [Art. 33],
- (4) right not to be subjected to forced labour [Art. 34],
- (5) protection in respect of trial and punishment [Art. 35], and
- (6) freedom of religion [Art. 41].

Domestic law does not provide for granting asylum or refugee status, nor has the government established a formal system for providing protection to refugees. In the absence of a national asylum mechanism regulating the administration of refugee affairs and guaranteeing refugee rights, the Foreigners Act of 1946 remains the key legislation governing the status of refugees and other persons under UNHCR’s mandate. This law however does not differentiate a persecuted asylum seeker from other foreigners entering Bangladesh (Azad 2017, 190). Notwithstanding the fact that the Bangladesh Constitution guarantees certain fundamental human rights even to foreigners, the Foreigners Act refuses even to acknowledge refugees as a special class of vulnerable people deserving protection. As it relates to refugees, Bangladesh in general respects the principle of *non-refoulement*. However, due to the absence of any statutory provision on refugees, the protection of refugees is largely ‘mercy-based’. Consequently, while the government of Bangladesh has expressed sympathy for the plight of the persecuted refugees, it has always been reluctant to grant refugee status.



The system of protection for refugees is therefore ‘ad hoc, arbitrary and discretionary’ (Phiri 2008, 34).

The visa policy of Bangladesh does not include the option of a ‘humanitarian visa’. There is no public information available on whether Bangladesh has ever granted a visa to any asylum seeker on humanitarian grounds. As reported by UNHCR, during the Syrian conflict of 2016 a number of asylum seekers approached the Dhaka International Airport but were not allowed to enter. They were sent back purely on the basis of immigration rules (UNHCR 2018b). No refugee in Bangladesh has ever been issued a 1951 Convention travel document. However, refugees who are accepted for resettlement are provided with the Universal International Committee of the Red Cross (ICRC) travel document upon receipt of an exit permit, an entry visa by the destination country and a letter requesting the travel of the refugee by UNHCR (UNHCR 2007, 32).

Since there is no formal individualized process for recognition of refugees (Cheung 2012, 6), Rohingya are officially recognized by the government not as refugees, but as FDMN. The government often claims that it accepted Rohingya people not out of any legal obligation, but acted under its prerogative and purely on humanitarian grounds (Hoque 2016, 12). The absence of refugee protection in Bangladesh and the denial of citizenship in Myanmar have thus placed Rohingya “nowhere in the legal framework of both Bangladesh and Myanmar” (Uddin 2019). To address this problem, experts opine that, pending development of a national asylum mechanism, the government of Bangladesh can recognize persecuted Rohingya now living in Bangladesh as ‘refugees’ through an executive order in the same way it was done in 1991-1992. Treating these people as FDMN simply undermines the gravity of the crimes that this group has been subjected to (Abrar 2020) and denies their legal status.

In September 2013, the government developed a ‘Strategy Paper on Addressing the Issue of Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh’. The strategy paper, which is not publicly available, put particular emphasis on listing undocumented Rohingya, strengthening border management for stopping the Rohingya influx and sustaining diplomatic engagement with Myanmar for repatriation. In terms of refugee rights, the paper only talked about providing basic medical care, potable water, sanitation facilities and other essential humanitarian services to Rohingya following their listing/identification.

Bangladesh is a party to a number of international human rights instruments that preclude the country from sending people back to places of origin where their



life and liberty could be at stake (Abrar 2013, 4). In particular, it has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 without any reservation/declaration on its provision on *non-refoulement*. Insofar as Rohingya refugees are concerned, Bangladesh has, over the last three decades, generally respected the principle of *non-refoulement*. In its initial report of 2019 submitted to the Committee against Torture, Bangladesh affirmed that “Bangladesh remains **committed** to complying with its obligations of non-refoulement . . . by refraining from expelling, returning or extraditing persons to another State where they may be in danger of being subjected to torture” (GoB 2019, 16). In the said report, Bangladesh also categorically said that “while negotiating their (Rohingya) return to Myanmar, Bangladesh government remained strictly committed to the principle of *non-refoulement* and pledged to send the Rohingyas back to Myanmar only when their safety, security and basic human rights are guaranteed” (GoB 2019, 16).

Undeniably, Bangladesh has a track record of showing strong respect for the principle of *non-refoulement* (HRW 2018, 41). This respect, in the absence of a national asylum mechanism regulating the administration of refugee affairs and guaranteeing refugee rights, is neither serving the interests of the state nor providing due protection to genuine refugees (Sunnah 2000). Bangladesh should therefore develop a national asylum mechanism. Sejan (2020, 38) has rightly concluded that “The Bangladesh government should institutionalize refugee or asylum seeker protection for the betterment of Bangladesh, through ascertaining state responsibility, defining the role of UNHCR, improving bilateral and multi-lateral relationships, reaffirming international refugee standards, and shifting towards a rights-based approach from the main mercy-based approach. . . . It will create a protection structure for the country itself and a regulation standard for the refugees within the country”.

There is at least one decision from the High Court Division of the Supreme Court of Bangladesh [***Refugee and Migratory Movement Research Unit (RMMRU) vs. Government of Bangladesh, 2017***] that clarifies that Article 33 of the 1951 Convention relating to the Status of Refugees has become a part of customary international law and accordingly binding upon Bangladesh despite the fact that Bangladesh has not been a party to this Convention. This judgment clarified that Rohingya refugees are entitled to judicial protection in case of a violation of *non-refoulement*.



Rohingya access to the labour market is largely missing from ongoing interventions (Uddin 2020, Ch. 4; Ahmed and Mohiuddin 2019, Ch. 6). The government has consistently been against wage-earning employment of camp-based refugees on the grounds that it could facilitate their local integration (UNHCR 2007, 34). Limited opportunities for refugees to generate income in the camps exist, though they tend to be ad hoc and small-scale, such as cash for work programmes run by UN agencies or INGOs (Wake et al. 2019, 18). Rohingya able to exit the camps are however able to benefit from informal employment opportunities (UNHCR 2011, 23). This kind of employment, in the absence of legal protection, quite often renders the refugees vulnerable to exploitation and abuse (Gorlick 2019, 21). Rohingya generally sell their labour at a cheaper rate than locals do (Uddin 2015, 74; Abrar 2012). Some Rohingya however, have also engaged in start-up businesses. As reported by a journalist, “In spite of government restrictions and occasional raids and crackdowns, makeshift businesses run by entrepreneurial refugees themselves have mushroomed throughout the camps, though these businesses are largely dominated by men” (Hölzl 2019). Among the newly arrived refugees, women in particular are constrained from work opportunities (Post et al. 2019, 13).

The camp-based Rohingya refugees are also subjected to other restrictions. Their freedom of movement is strictly regulated and curtailed (Azad 2017). In August 2019, the government imposed harsher restrictions on the camps by shutting down internet service and declaring its plan to construct fencing around the camps (Dock 2020, 23). (Access was restored a year later in August 2020.) The government also tightened enforcement of movement restrictions on refugees (ICG 2019, 7–8).

Women and girls account for 52% of total camp-based Rohingya and have less access to the labour market. Apart from this, they are more vulnerable to different forms of abuse and face huge protection risks and challenges. They have limited access to services, limited opportunities to voice their challenges and concerns and limited options to influence decisions (Sang 2018; Toma et al. 2018). Restrictive socio-cultural gender norms and lack of gender-responsive facilities and services are also aggravating these problems (Toulemonde 2020). Adolescent girls are more at risk of gender-based violence within their community; this vulnerability is further limiting their already constrained freedom of movement (Gordon et al. 2018). Due to their vulnerability, many women and girls are lured by traffickers into sex slavery, domestic servitude and forced labour (Javed 2019; Tayeb 2019). Although over the years Bangladesh has



made clear progress in integrating women and girls more explicitly across the humanitarian response plan, targeted programmes for women and girls are still underfunded (UNFPA 2020b).

In recent times, media reports claim that Rohingya involvement in criminal activities is rapidly rising (Rashid2020). However, many of these reports represent the growing anti-Rohingya sentiment of the host community and exaggerate the problem (Ahasan 2019). Massive encampment, unemployment of thousands of young men and uncertainty over repatriation are, arguably, the main drivers behind the rise in crimes (Azad 2020; Molla 2019). The response to this growing criminality is also causing serious concerns. It is reported that a total of 103 Rohingya refugees were killed in 'gunfights' with law enforcement agencies related to drug peddling, human trafficking and robbery in the camps and its adjacent areas between 1 January 2019 and 31 July 31 2020 (Rashid 2020). Rights groups allege that law enforcement agencies have staged many of these gunfights as a cover for extrajudicial killings (Uttom 2020).

3.2 Bangladesh and the Global Compact on Refugees

Bangladesh actively participated in the formal consultation process of the Global Compact on Refugees (GCR) and the Prime Minister of Bangladesh welcomed the GCR at a UNHCR event organized at UN Headquarters. Although the government did not itself make a pledge at the first Global Refugee Forum in December 2019, the statement of the government representative given as part of the main plenary positively highlighted: "The two Global Compacts ... one on refugees and the other one on migration, made a global call to build an inclusive structure to comprehensively deal with population movement. We believe ... this is the beginning of ... a long journey to ensure rights of people who are on the move" (Hargrave et al. 2020, 15). However, despite the government's support for the GCR in international fora, this has yet to be translated into similar country-level discussions. A recent study finds a more de facto way in which some of the GCR principles are indirectly being considered or applied without being explicitly discussed as 'implementing the GCR' (Hargrave and Barbelet 2019). The study also finds that there is a lack of clarity among the policy-makers about the precise intentions of the GCR. The lack of recognition of Rohingya as 'refugees' under national frameworks is further creating a lack of clarity over whether the GCR should be applied by the state actors. Moreover, Bangladesh is still reluctant to open up policies supportive of refugees' self-reliance, a core objective of the GCR (Hargrave et al. 2020).



The Forced Migration Research Network of the University of New South Wales, Australia, is leading a Reciprocal Research based project (2018–2021) in several countries including Bangladesh. The project aims to promote the four objectives of the GCR and is being carried out in collaboration with UNHCR, local NGOs, refugee women, and refugee men modelling the GCR's multi-stakeholder approach (Bartolomei 2020).

It is relevant to mention here that the government of Bangladesh takes pride that it played a leadership role in the Global Compact on Migration (GCM) and claims that it was the Prime Minister of Bangladesh who articulated the idea of such a Compact in her address to the UN General Assembly in 2016. In July 2019, the Bangladesh United Nations Network on Migration (BDUNNM) was formed to holistically support the government of Bangladesh for the GCM. This is the first UN Migration Network established in any country. IOM is acting as the coordinator of the BDUNNM. Bangladesh is now in the process of developing an implementation framework for the GCM. It is not clear if refugees/asylum seekers will in any way be protected within this framework since the draft framework is yet to be made public. It can however be anticipated that this framework will only be applicable for labour migrants from Bangladesh as the Ministry of Expatriates' Welfare and Overseas Employment is now in charge of this draft framework.

4. Governance actors

In the absence of a national asylum mechanism to determine refugee status, the asylum and refugee governance in Bangladesh is focused on humanitarian protection of refugees only. The *Strategy Paper on Addressing the Issue of Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh, 2013*, established a National Task Force (NTF) for the coordination of the government's overall responses. This inter-ministerial body led by the Secretary of the Ministry of Foreign Affairs (MOFA) and co-chaired by the Secretary of the Ministry of Disaster Management and Relief (MODMR) provides oversight and strategic guidance for government actions in dealing with the Rohingya refugee crisis. The office of the Refugee Relief and Repatriation Commission (RRRC), operating under the MODMR, acts as the governing body responsible for management and oversight of the camp-based Rohingya population. At district level, a District Task Force (DTF) monitors and coordinates the implementation of the strategy on the ground, led by the office of the Deputy Commissioner.



The government, in cooperation with humanitarian partners, is leading the humanitarian response to the ongoing Rohingya refugee crisis. The MODMR is also implementing the Emergency Multi-Sector Rohingya Crisis Response Project (EMCRP) funded by the World Bank. Its primary purpose is to improve access to basic services and build disaster and social resilience of the displaced Rohingya population.

An array of UN agencies, numerous INGOs and local NGOs are undertaking a broad range of programmes –relief, water, sanitation and hygiene, training, protection and shelter (Wake and Bryant 2018, 11–12). The overall humanitarian response in camps is facilitated by the Inter Sector Coordination Group (ISCG), a sector-based coordination mechanism accountable to the Strategic Executive Group (SEG) in Dhaka, which is co-chaired by the UN Resident Coordinator (RC), UNHCR Representative and IOM Chief of Mission. The SEG provides strategic guidance and leads the engagement with the NTF at the national level. It also engages with the MODMR, and relevant line Ministries (SEG 2020, 17). In the SEG coordination structure, UNHCR is now leading on refugee protection and solutions, IOM is leading on disaster preparedness and social cohesion with host communities and the RC is coordinating the humanitarian-development nexus. At the field level in Cox's Bazar, the Senior Coordinator of the ISCG ensures the overall coordination of the Rohingya refugee response, including liaison with the RRRC and the local administration (SEG 2020, 37).

Among the UN agencies, UNHCR is now playing the leading role on refugee protection and solutions. An MOU signed in 1993 between the government of Bangladesh and UNHCR specified that the government's main responsibility was to ensure the safety and security of the Rohingya in and outside the camps, while UNHCR's responsibility there was to help fulfil its international protection mandate (Merritt 2017, 12). Accordingly, UNHCR's protection interventions for Rohingya refugees focus on access to territory, registration and documentation, access to assistance, community participation, prevention and response to sexual and gender-based violence, protection from sexual exploitation and abuse, child protection, education and access to justice. According to the Rohingya-related strategy paper of 2013, the government has designated IOM as its lead partner for coordinating and providing humanitarian assistance to Rohingya refugees. The IOM is currently supporting the Rohingya refugees in the areas of shelter/non-food items, site management and development, health, gender-based violence and alternative energy. The WFP has been providing long-running food assistance to the Rohingya refugees (Merritt 2017, 11). Through its



School Feeding Programme, WFP is also assisting 257000 children (50% of them are girls) across 3872 learning centres per day. UNFPA is providing sexual and reproductive health and rights service in refugee camps focusing specifically on skilled birth attendance, emergency obstetric and neonatal care, family planning and maternal morbidities. UNFPA is also working on micro-gardening skills development and life skills education on sexual and reproductive health and rights (SRHR) and gender-based violence (GBV) targeting adolescent boys to make them self-reliant and to deter them from engaging in high-risk behaviours (UNFPA 2020a).

Over the years the European Union (EU), has been playing a commendable role in the Rohingya crisis. Following Myanmar's widespread military crackdowns against Rohingya in August 2017, Europe reacted strongly through its institutions, unambiguously condemning the attacks. In 2019, the European Parliament called on the UN Security Council to impose a comprehensive arms embargo on Myanmar and to adopt targeted sanctions against those responsible for human rights violations against the Rohingya. In 2019, the EU provided close to €35 million in humanitarian aid for vulnerable Rohingya and Bangladeshis in Cox's Bazar and other parts of the country. In March 2020, the European Commission announced the release of €22 million in humanitarian aid to address the Rohingya crisis in Bangladesh. The EU and its partner Action Against Hunger have been providing both Rohingya refugees and members of host communities with targeted treatment to address malnutrition and health issues. The EU is also supporting UNICEF in its education programme for the children in refugee camps. In addition, some EU countries are providing separate financial contributions to those programmes better aimed at protection of **Rohingya refugees**.

The ISCG fostered the development of the Bangladesh Rohingya Response NGO Platform as an independent body, which was established in June 2018 with the Danish Refugee Council (DRC) acting as host agency. This platform groups together over 100 local, national and international NGOs active in the humanitarian response in Cox's Bazar. Its key functions comprise information-sharing and coordination, humanitarian advocacy, representation, capacity strengthening and enhancing partnerships and accountability among NGOs (SEG 2020, 39). Many local CSOs and NGOs are also playing commendable roles. In particular, BRAC (Building Resources Across Communities) – the largest non-governmental development organization in the world – is proactively advocating for rights policies for Rohingya refugees at the national level and playing a



prominent role in humanitarian responses on the ground. It also participated as an NGO in the GCR consultation process. Local CSOs and NGOs have also established several networks and coalitions which have helped establish common positions and increased their visibility (Wake and Bryant 2018, 11). In particular, the Cox's Bazar Civil Society Forum (CCNF) with 32 local NGOs is strongly coordinating its members' humanitarian support for Rohingya refugees.

5. Conclusions

Undeniably, Bangladesh is shouldering a disproportionately large responsibility in handling a protracted refugee situation 'with no immediate solution in sight' (Ahmed et al. 2020, 141). Many refugee analysts strongly opine that voluntary repatriation is the only durable solution in the Rohingya refugee context, insisting traditional durable solutions are not feasible (Abrar 2018). Others are even of the view that finding durable solutions through repatriation, integration or resettlement is almost unachievable (Rashid, S. 2020). Anticipating these challenges in advance, Bangladesh opened its borders and accepted many refugees fleeing genocidal atrocities. Although this act on the part of Bangladesh – repeated for thousands of Rohingya over decades – is commendable, Rohingya people hosted by Bangladesh are yet to receive full refugee protection.

The absence of domestic law providing for granting asylum or refugee status is adversely affecting the overall protection of refugees in Bangladesh. This shortcoming is aggravated by the fact that Bangladesh has not been a party to any legally binding international instrument dealing with the protection of refugees. The current policies in Bangladesh do not recognise refugees' right to formal employment. Refugees able to exit the camps sometimes engage in informal work and remain vulnerable to exploitation and abuse. Although the government actively supported the GCR in international fora, this has yet to be translated into similar country-level discussions. This may be due to the country's reluctance to invest in policies that are supportive of refugees' self-reliance – a core objective of the GCR. On the other hand, it is unclear how international community has been helpful concretely in moving Rohingya people beyond having a place to stay outside Myanmar and having some sort of status as human beings. More works, therefore, need to be done to improve the protections for Rohingya refugees now living in Bangladesh.



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The ASILE project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870787

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