



Country Report **BANGLADESH**

D4.5 Final Country Reports

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Executive Summary

- A non-signatory to the 1951 Refugee Convention, Bangladesh is a major refugee-hosting State from the Global South that has been hosting around one million Rohingya refugees since 2017 in a global refugee regime where the culture of responsibility shifting as opposed to responsibility sharing prevails.
- One of the significant successes of the Bangladesh Government regarding the Rohingya refugee response is staying true to the principle of *non-refoulement* since 2017. This success can be attributed to Bangladesh's engagement with international refugee law and its gradual economic rise in recent years, as well as the acquisition of necessary political will primarily connected to Bangladesh's historical experiences of refugeehood during its Liberation War of 1971.
- Bangladesh does not have a dedicated national law that addresses refugee matters and grants refugees judicially enforceable rights. The overwhelming majority of Rohingya refugees in Bangladesh do not have formal refugee status and have a minimal 'right to have rights'.
- At the heart of the decision not to grant refugee status is the belief that giving such a status would result in taking on additional obligations towards and increasing the rights of the Rohingya, which Bangladesh feels it does not have the capacity to fulfil.
- These realities do not necessarily mean they are governed without a framework that offers them some protection. The key partners of the refugee response, i.e. Bangladesh Governmental entities and UN Agencies, are guided by this framework.
- The framework that extends a degree of protection towards Rohingya refugees also has embedded in it several points of tension that fuel their precarious status. These points of tension are related to the usage of different labels to address Rohingya refugees in the absence of formal refugee status, ambiguity around what their judicially enforceable rights are, the imposition of a top-down biometric registration process that did not take into account the thoughts and needs of Rohingya refugees and the uncertainty around how many Rohingya people actually live in Bangladesh.



- Rohingya refugees and host community members with whom they share physical space have multifaceted vulnerabilities. In light of the overarching reality that minimal resources are at the disposal of key partners to appropriately and adequately respond to the needs of the vulnerable, major assessments are undertaken to identify and alleviate vulnerabilities. There is great scope to conduct such assessments more honestly and efficiently.
- There are simmering tensions within and between refugee and host communities and between the host and humanitarian communities. The first signs of a ‘vulnerability contest’ are beginning to show and will inevitably take place in full steam in the future.
- Although the Bangladesh Government has not formally granted the right to work to Rohingya refugees, it is a right that is informally operative. This enables refugees to earn small amounts of money through informal labour and as ‘volunteers’ of key partners.
- Bangladesh’s reluctance to formally grant the right to work to refugees is primarily premised on the dearth of jobs for the host community and the belief that giving to right to work to refugees will impede their voluntary repatriation to Myanmar. The money earned from limited work opportunities through ‘volunteerism’ were insufficient to empower them financially but just enough to sustain themselves.
- The prospect of the Rohingya being employed in ‘decent work’ in Bangladesh remains distant. The BG’s decision to enable the Rohingya to earn some loose cash reduced their vulnerabilities to a small extent and also empowered Rohingya women because doing a job meant getting out of their homes.
- Despite previous attempts to enact a national law that addresses refugee matters and grants them judicially enforceable rights, such remains unrealised to this day.
- Bangladesh should not lose sight of acquiring the political will to enact a law in the not-too-distant future. This law shall take inspiration from the 1951 Refugee Convention and Bangladesh’s invaluable experiences collected along the long and lonely journey of hosting over a million Rohingya refugees.



- Such a law will only be able to significantly reduce the precarity of Rohingya refugees if the global refugee regime emphasises real responsibility sharing where more physical space in affluent States is allocated for refugees and pays greater attention to addressing the root causes of refugee crises and situations and key partners must internalise the belief that they are not benevolent saviours of refugees because being benevolent towards refugees takes away their sense of agency.

Introduction

If the ‘porous and restive border’ (Bashar, 2012; Chaudhury and Samaddar, 2018: 2; Hossain, 2020) shared by Bangladesh and Myanmar could speak, it would tell tales of migration of many forms. For many years, people of both countries (primarily Bengalis and Rohingyas living along this border) have travelled back and forth for social and economic reasons. However, this colonial boundary drawn long ago by men giving expression to the problematic principle of *uti possidetis*¹ (Shahabuddin, 2019) was also crossed for ominous reasons. It is well known that minorities in the “ethnically diverse” Myanmar have long suffered from State-led repression with impunity (McConnachie, 2021: 663; Murshid, 2018: 129). One of those ethnic minorities is the Rohingya, who have for decades been victims of persecution, systematic discrimination, exclusion and disenfranchisement (Alam, 2018: 163-164; Shahabuddin, 2019: 334; Uddin, 2020). According to the Independent International Fact-Finding Mission on Myanmar, the arbitrary and formal exclusion of the Rohingya, particularly from the 135 national ‘races’ recognized by the Citizenship Law of 1982, “resulted in severe inhumane suffering and persecution, thereby rising to the level of crimes against humanity” (Human Rights Council, 2019: 176). Tasked with documenting human rights abuses and violations that may have qualified as international crimes in Myanmar since 2011, the Mission urged the Myanmar Government in 2019 to “[t]ake all necessary measures, [...] to deter those harbouring genocidal intent and the serious risk of genocide to the Rohingya people” (ibid.: 179). According to more recent scholarship by O’Brien (2020) and Hossain (2021), the Rohingya people are victims of genocide. The

¹ According to the Legal Information Institute of the Cornell Law School, *uti possidetis* is “a principle of customary international law that serves to preserve the boundaries of colonies emerging as States.” See, https://www.law.cornell.edu/wex/uti_possidetis_juris.



sustained repression of the Rohingya in their homeland Myanmar is, therefore, another reason Bangladesh has been a long-term host to them. On at least three occasions in the past four decades, Bangladesh opened its borders after the Rohingya people fled Myanmar in large numbers from persecution. The most recent and arguably the most significant mass displacement of the Rohingya occurred following a ruthless crackdown by the Myanmar Army in August 2017. 2023 marks the sixth year of what has become a protracted refugee situation in Bangladesh. In a global refugee regime where the culture of responsibility shifting as opposed to responsibility sharing prevails and developing countries like Bangladesh shoulder end up shouldering far more responsibilities towards refugees, tensions simmer between the host and refugee communities. This is already evident in the substantially depleted funds made available to Bangladesh to respond to the refugee situation. As the attention of affluent countries shifts to other refugee crises, Bangladesh, one of the world's most densely populated countries, scheduled to graduate from 'least developed country' status in 2026 (UNGA, 2021), a non-signatory to the 1951 Refugee Convention and yet to enact a national law addressing refugee matters, continues to host around one million Rohingya refugees living in precarious conditions in the 600 acres of land allocated to them in its south-eastern tip.

This Report, structured in three sections, explores the status, vulnerabilities and the right to work of Rohingya refugees in Bangladesh and, in the process, reveals their precarious lives. Section I looks at the precarious status of Rohingya in Bangladesh. Section II explores the various categories that highlight the multifaceted vulnerabilities of members of the Rohingya and host communities and critiques some major assessments designed to identify and alleviate those vulnerabilities. Section III examines the right to work of Rohingya refugees, a right that the Bangladesh Government has not formally granted but is a right that is informally operative due to which refugees can earn small amounts of money through informal labour and as 'volunteers' of key partners.

Methodology

The findings and analysis presented in this Report draw from desk-based research, two phases of the WP4 fieldwork (Rounds 1 and 2), which encompassed conducting 39 in-depth interviews and archival research at the UNHCR Headquarters in Geneva, Switzerland and the Library of the National Parliament in Dhaka, Bangladesh. These included 32 key informants who either are or had been engaged in the Rohingya refugee response in



Bangladesh, representing a range of local and international organisations, as well as seven Rohingya refugees. The 32 key informants included nine persons who were either current or former employees of UN Agencies, six representatives of local NGOs, four representatives of international NGOs, three representatives of the Bangladesh Government, two researchers specialising in the Rohingya refugee situation, two Bangladeshi lawyers, two Bangladeshi politicians, one representative of a Bangladeshi security agency, one researcher specialising in security studies, one representative of a local organisation and one representative of an international organisation. These 39 interviews took place during fieldwork in Dhaka, Ukhiya, Cox's Bazar and Bhasan Char, Bangladesh, between January-March 2021 and February-March 2022. All but one were conducted in person. Interviews of refugees were conducted in the office of the Refugee Studies Unit (RSU) of the Centre for Peace and Justice (CPJ), BRAC University, located in Ukhiya, Bangladesh, as it provides a safe meeting space for them.² Some of the key informants and protection seekers were interviewed multiple times. The interviews were based on a common questionnaire developed by the WP4 coordination team to ensure consistency across themes covered in ASILE country reports. For this Report's purposes, the questionnaire was used in full during both phases of the WP4 fieldwork. The interviews were conducted in English, Bengali, or both, depending on the preference of the interviewee. Before the beginning of the interviews, interviewees were given an 'Information Letter' relating to the ASILE Project, the contents of which were explained and an 'Informed Consent Form', which the interviewees signed. All key informants and protection seekers agreed to be interviewed anonymously. In line with the ASILE data management plan to ensure the anonymity of all interviewees, all audio recordings of interviews were stored in TSD, a platform for researchers at the University of Oslo and other public research institutions in Norway, which collects, stores and analyses sensitive research data in a secure environment as part of an integrated solution for collecting and managing sensitive data (*Nettskjema*).

² Refugee Studies Unit (RSU) of the Centre for Peace and Justice (CPJ), BRAC University (<https://cpj.bracu.ac.bd/overview-of-rsu-2/>).



Status

Many years ago, Hannah Arendt in *The Origins of Totalitarianism* argued that “the right to have rights” was dependent on one “not only [being] a person but also a citizen” because many of the human rights we have in theory are guaranteed in practice by the fact that we are citizens of countries (Gessen, 2018). The paradox of living such a life is that it is thick with impermanence and immobility. So, on the one hand, from the moment when refugees are forced to leave their country, a sense of impermanence begins to impact their lives, yet when refugees arrive in the State that hosts them, their lives become immobile due to the limited right to movement (ibid.). With a minimal ‘right to have rights’, the status of Rohingya refugees in Bangladesh is ‘precarious’.

Bangladesh is not a State Party to the 1951 Refugee Convention or its 1967 Protocol. It does not have a dedicated national law that addresses refugee matters and grants refugees judicially enforceable rights (Ramasubramanyam, 2021). The overwhelming majority of Rohingya refugees currently residing in Bangladesh do not have refugee status. Although numbers vary, between 30,000 – 35,000 Rohingyas were “registered by UNHCR and given refugee status by the government through an executive order” in the early 1990s (Khan and Rahman, 2020: 10). These realities do not necessarily mean they are governed without a framework that offers them some protection. In the absence of formal refugee status, several special agreements or Memorandums of Understanding (MOUs) between the UNHCR and the Governments of Bangladesh and Myanmar, a bilateral agreement between the Governments of Bangladesh and Myanmar, the Bangladesh Constitution, the Foreigners Act 1946, the National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh 2013, and the biometric ‘smart card’ jointly issued to Rohingya refugees by the Bangladesh Government and UNHCR, make up the framework that extends a degree of protection towards Rohingya refugees, mainly through adherence to the principle of *non-refoulement*.

The key partners of the refugee response, i.e. Bangladesh Governmental entities and UN Agencies, are guided by this framework. The Bangladesh Government, through several bodies, ministries and agencies, including but not limited to the National Task Force (NTF), the Ministry of Disaster Management and Relief, and the Office of the Refugee Relief and Repatriation Commissioner (RRRC), gives leadership this partnership. Through its Camps-in-Charge (CiCs), the RRRC leads the total coordination, management and guidance of the day-to-day affairs of refugee camps. A representative of the Bangladesh Government



described the role of the CiCs as persons who looked after the “shukh dukkho” (overall well-being) of the Rohingya refugees.³ Therefore, on matters related to everyday camp affairs, the RRRC has the deciding authority. The other significant Bangladeshi institution that has shaped the Rohingya’s status is Bangladesh’s Supreme Court (SC). During fieldwork, it became apparent to me that the key partners of Bangladeshi Governmental entities, i.e. UN Agencies, namely the UNHCR, IOM, WFP, WHO, UNFPA, UNICEF, FAO, UNDP, and UN Women, collectively identify themselves as “humanitarian actors” (ISCG, 2022: 15) or “humanitarians”.⁴ These ‘humanitarians’ are led by the Strategic Executive Group (SEG) which guides and engages with the Bangladesh Government at the national level “including through liaison with the NTF and relevant line Ministries” (ibid.). The Inter-Sector Coordination Group (ISCG) which was established in 2013 after the adoption of the National Strategy for Myanmar Refugees and Undocumented Myanmar Nationals (Moretti, 2021: 49), liaises with the RRRC and other governmental bodies and “ensures the overall coordination of the response” at the field level in Cox’s Bazar (ISCG, 2022: 16).

Under the National Strategy, IOM was the UN agency entrusted with the responsibility of “coordinating humanitarian activities in favour of a much larger number of [Rohingyas]” compared to UNHCR which was “in charge of two refugee camps hosting 30,000 or so registered [Rohingya] refugees who entered the country during a previous influx in the early 1990s” (Moretti, 2021: 49). During this time, IOM was also perceived as a closer partner of the Bangladesh Government because of familial ties between one of its employees and a close family member of Prime Minister Sheikh Hasina.⁵ Alongside the fact that Bangladesh did not want to formally identify Rohingya people fleeing from Myanmar as ‘refugees’, this is also why, IOM was initially made the “lead agency” of the refugee response following the mass displacement of 2017, despite it not having a “protection mandate” (Moretti, 2021: 45). After the passage of some time, “new coordination arrangements” were set in place by the UN which gave UNHCR “more space [...] to *de facto* exercise its mandate” (ibid.). As a result, the UN Resident Coordinator, UNHCR Representative and IOM Chief of Mission in Bangladesh were made SEG Co-Chairs (ISCG,

³ Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 08 Feb 2022, on file with the author.

⁴ Interview with BD1, a former Representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

⁵ *op. cit.*; See also, Moretti, 2021.



2022: 15). Furthermore, UNHCR and IOM were allocated an equal number of refugee camps to work in,⁶ giving rise to a 'Refugee Coordination Model' which moved away from the traditional arrangement where UNHCR would "lead the entire cycle of a refugee response" (Moretti, 2021: 45).

In addition to the abovementioned key partners, the Bangladesh Rohingya Response NGO Platform which comprises more than one hundred local and international NGOs function as implementing partners of the UN Agencies. With the Bangladesh Government, the "humanitarian community" has collectively "engaged in multi-sectoral needs assessments, consultations and strategic planning" to produce a total of five Joint Response Plans (JRPs) since 2017, which "[lay] out a vision for a coordinated response to address the immediate needs of the refugees and mitigate the impacts on affected host communities" (ISCG, 2018: 8). These efforts revolving around the JRPs are complemented by several other humanitarian organizations, such as the IFRC and Bangladesh Red Crescent (BDRCS), and Médecins Sans Frontières (MSF), which have separately mobilized resources and contributed to the response (ISCG, 2021: 13).

One of the significant successes of the Bangladesh Government regarding the Rohingya refugee response is staying true to the principle of *non-refoulement* since 2017. This success can be attributed to Bangladesh's engagement with international refugee law, its gradual economic rise, and the acquisition of necessary political will. Maja Janmyr (2021: 212) has demonstrated not long ago that the impact of the 1951 Refugee Convention is not limited to playing a "central role [...] in States that are party to the Convention". The Convention also 'significantly influences non-signatory States' by structuring their responses to refugees, and such States also "engage with, and help shape developments within, international refugee law" (ibid.). Non-signatory States "participate in the evolution and interpretation of international refugee law" and spread "international refugee law norms" by their presence and active engagement in forums like the UNHCR Executive Committee (ExCom) and by "negotiating soft law instruments" such as the New York Declaration for Refugees and Migrants (NYDRM) and the Global Compact on Refugees (GCR) (ibid.: 212-213). Through its engagement with the Refugee Convention, soft law instruments such as

⁶ op. cit.



the NYDRM and the GCR (UN, 2016; BDUN, 2023), and participation in the ExCom, ‘non-signatory’ Bangladesh has demonstrated that it is not an exception to Janmyr’s findings.

The practical outcome of Bangladesh’s engagements with the core and some of the softer instruments of international refugee law is the sustained adherence to the principle of *non-refoulement* since 2017, concerning over one million Rohingya refugees. Although this marked a clear departure from the way Bangladesh responded in the late 1970s and early 1990s when it forced many Rohingya refugees to return to Myanmar in “premature, involuntary and unsafe” conditions (Azad 2016: 60; Crisp 2018: 13), Bangladesh’s recent positive attitude towards *non-refoulement* does not come as much of a surprise. The ‘voluntary return’ of Rohingya refugees to Myanmar was consistently emphasized by representatives of the BG during the general debates of the UNHCR Executive Committee (Ahsan 2016: 2; Ahsan 2017: 2; Ahsan 2018: 2; Rahman 2021: 2-3; Hoque 2022: 2-4). In May 2017, a bench of the High Court Division of the Supreme Court (SC) of Bangladesh handed down a significant judgment relating to the principle. After a Rohingya refugee named Md Rafique was found in detention long after completing a prison sentence under Section 14 of the Foreigners Act 1946, the SC held that he could not be sent back to Myanmar because he was protected under the principle of *non-refoulement*. The SC directed the Bangladeshi State authorities to immediately release Rafique from prison and entrusted the Refugee and Migratory Movements Research Unit (RMMRU) to make arrangements with UNHCR so that he could reside in a refugee camp in Cox’s Bazar (Hossain, 2021).

Engaging with international refugee law through commitments to uphold the principle of *non-refoulement* on the international plane and the May 2017 judgment of the Supreme Court enforced on the domestic plane certainly impacted the Bangladesh Government’s decision to adhere to it after the mass displacement of Rohingya refugees later that year. However, statements made at UNHCR ExCom meetings, and a judgement handed down by the Supreme Court are insufficient to fully explain Bangladesh’s behavioural change concerning the cornerstone of refugee protection. A representative of a major national NGO believes Bangladesh’s clear shift towards adhering to *non-refoulement* rests in Prime Minister Sheikh Hasina’s realization that the presence of large numbers of Rohingya refugees would inevitably attract large amounts of funds from foreign donors, which, properly utilized, would positively impact the infrastructural and health sectors in the



country's south-eastern region.⁷ Scholars have argued that Bangladesh's comparatively improved economic status, which encompasses the ongoing industrialization of its economy and the real prospect of it graduating from LDC status within a few years are shaping how Bangladesh engages with international law (Ahmed 2021: 33). Bangladesh's relative economic rise has certainly empowered Prime Minister Sheikh Hasina to be more assertive than previous Bangladeshi Heads of State when it comes to responding to refugee situations. For instance, in September 2018, during an event on the Global Compact held at the UN Headquarters in New York, Sheikh Hasina proposed 'A Model for Greater Solidarity and Cooperation' which critiqued the GCR and called for it to exhibit a "stronger commitment in addressing [...] root causes" instead of focusing only "on response to an emerging situation[s]" (BDUN 2023). Prime Minister Hasina demonstrated her assertiveness again in 2020 when Bangladesh began the relocation of several thousand Rohingya refugees to one of its large housing projects built originally for poor Bangladeshi families affected by climate-induced disasters in Bhasan Char, an island in the Bay of Bengal, without the involvement of the UN. At the time, the Bangladesh Government claimed it did not involve UN agencies because of their "negative campaign, unrealistic conditions and static position" about the relocation drive (Hossain, 2021a; Hossain and Janmyr, 2022).

However, changing economic realities also only partly explain why Bangladesh has responded to Rohingya refugees differently after 2017. After all, economically affluent States have yet to ever meaningfully open their doors like Bangladesh. According to the 'National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh 2013'⁸, Bangladesh "gave refuge to ... Myanmar (Burmese) refugees" in 1978 and 1991 not just out of "humanitarian considerations" but also because of its experience "during [the] War of Liberation in 1971" (Ministry of Foreign Affairs, 2014: 1). Multiple interviewees believed that Bangladesh's own experiences from the Liberation War of 1971 – when 10 million Bengalis facing mass atrocities committed at the scale of international crimes by the Pakistan Army fled to neighbouring India as refugees, inspired Bangladesh to acquire the political will to provide safer space to the Rohingya in its own land and adhere to *non-refoulement*. "Bangladesh knows what it is like to be a refugee", a

⁷ Interview with BD38, a representative of a major national NGO, Dhaka, 28 March 2022, on file with the author.

⁸ On file with author.



representative of a major national NGO told me.⁹ During an interview in Dhaka, this person who was deeply engaged in the refugee response in 2017 shared how the bulletins published by her NGO during the mass displacement of the Rohingyas in 2017 reminded her of her family's own experiences survival in refugee camps in neighbouring India in 1971. She was not only able to relate to the plight of the Rohingya but felt this was her chance to "give back".¹⁰ Another Bangladeshi interviewee from a UN Agency was also deeply involved in the refugee response in 2017. "I felt I could see what happened in 1971. I was tremendously ("tibro bhabey") affected", he said. Prime Minister Sheikh Hasina's personal experiences of being a refugee after the assassination of most of her family members in 1975, and the ethnoreligious bonds between the Rohingya and Bengali people, played a role in the notable shift in Bangladesh's engagement with and adherence to the principle of *non-refoulement*.¹¹ In a speech given before the National Parliament on 11 September 2017, Prime Minister Hasina talked about the plight of Bengalis in 1971 (Hasina, 2017). She went on to say:

It is difficult to keep so many people here, to shelter them. But they are human beings. We can't just discard them ("amra toh feley ditey pari nah"). Because we are victims, we know. I was also a refugee for six years. When my parents, brothers and sisters were killed in 1975, I could not come to the country. My younger sister Rehana and I understand the pain of being a refugee – how humiliating it is. This is why we gave them shelter for humanitarian reasons.

Intriguingly, various Bangladeshi institutions have also made exaggerated claims concerning Bangladesh's commitments to norms of international refugee law beyond the principle of *non-refoulement*. For instance, in the same 2017 judgment that upheld the principle, the Bangladesh Supreme Court made the "highly debatable" (Janmyr 2021: 207) claim that the 1951 Refugee Convention had "become a part of customary international law which is binding upon all countries of the world, irrespective of whether a particular country has formally signed, acceded to or ratified the Convention or not" (Bangladesh Supreme Court 2017: 9-10). I have argued elsewhere that such a stark classification of the

⁹ Interview with BD38, a representative of a major national NGO, Dhaka, 28 March, 2022, on file with the author.

¹⁰ Op. cit.

¹¹ Op. cit.; Interview with BD1, a former representative of a UN Agency, Dhaka and Cox's Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author; Interview with BD30, a representative of a UN Agency, Dhaka, 12 March 2022, on file with the author; Interview with BD35, a representative of a UN Agency, Cox's Bazar, 24 March 2022, on file with the author.



Refugee Convention should be treated with caution, given that Bangladesh consciously refrains from ratifying the Refugee Convention despite being a major refugee-hosting nation (Hossain, 2021). Furthermore, in the National Report submitted during the most recent Universal Periodic Review conducted in 2018, the Bangladesh Government claimed that it has been “hosting refugees and forcibly displaced Rohingyas from Myanmar with full respect to [the] international protection regime” (Bangladesh, 2018: 19). If these claims were accurate, the status of Rohingya refugees would undoubtedly be far less precarious.

In reality, the goal of facilitating the “early voluntary and sustainable repatriation [of Rohingya refugees]” (ISCG, 2022: 10), however important, overshadows the need to lay out and enhance their judicially enforceable rights. As the Bangladesh Government (BG), UN Agencies and implementing partners collectively respond to this protracted refugee situation, the framework that extends a degree of protection to the Rohingya, mainly through the principle of *non-refoulement*, also has embedded within it points of tension that fuels their precarious status. These include, but are not limited to, 1) the usage of different labels by key partners to refer to the Rohingya in the absence of formal refugee status; 2) ambiguity around what their judicially enforceable rights are; 3) the imposition of a top-down biometric registration process that did not take into account the thoughts and needs of its subjects; and 4) uncertainty around how many Rohingya people actually live in Bangladesh.

The usage of different labels by key partners to refer to the Rohingya in the absence of formal refugee status –

As mentioned earlier, the overwhelming majority of the Rohingya people in Bangladesh are not recognised as refugees or granted refugee status by the Bangladesh Government. Instead, it identifies them as ‘Forcibly Displaced Myanmar Nationals’ (FDMN). The UN system, on the other hand, refers to them as “Rohingya refugees, in line with the applicable international framework” (ISCG, 2022: 3). After the passage of five years of the Rohingya refugee situation, the FDMN and refugee labels no longer appear to be a matter of great concern to the key partners. All interviewees representing the Bangladesh Government and local politicians frequently used the word ‘refugee/refugees’ to describe the Rohingya. One of them acknowledged that irrespective of how they were labelled, the BG, despite not wanting to grant ‘refugee status’, knew that the majority of the Rohingya people in the country were



refugees.¹² Intriguingly, many interviewees felt that even if ‘refugee status’ was formally granted to the Rohingya people, they would not necessarily receive more than the support they are receiving now. This ‘feeling’, of course, is incorrect. The 1951 Refugee Convention includes a range of rights and obligations (UNHCR, 2011: 4) from which the Rohingyas could benefit if they were granted refugee status. Because they were *de facto* either labelled as FDMN or refugees following their mass displacement in 2017 instead of being subject to individualised refugee status determination processes, the practices of using different labels to describe them merit further scrutiny. This scrutiny sheds light on the reasons why Bangladesh does not want to grant the Rohingya refugee status or call them refugees, and ultimately point towards the pervasive ambiguity around the judicially enforceable rights of the Rohingya.

Bangladesh’s usage of the label FDMN is connected to why it does not want to grant refugee status to the Rohingya and hence label them refugees. At the heart of the decision not to grant refugee status is the belief that giving such a status would result in taking on additional obligations towards and increasing the rights of the Rohingya, which Bangladesh feels it does not have the capacity to fulfil.¹³ Nasir Uddin (2020: 114-115), who has written extensively on the plight of the Rohingya people, argues that the BG justifies its decision due to a combination of three reasons: 1) Bangladesh is not a state party to the 1951 Refugee Convention; 2) it is a developing and over-populated country and cannot host nearly a million refugees; and 3) if given ‘refugee status, the Rohingya will claim various rights guaranteed under international law, none of which the BG intends to provide. Supplementing Uddin’s findings, Bangladesh’s refusal to grant refugee status also stems from the belief that doing so would close the door to their voluntary repatriation. A senior representative of a major national NGO interviewed during the first round of fieldwork claimed that Bangladesh’s reluctance is based partly on the experience of recognising Rohingya people who fled from Myanmar in the early 1990s as refugees at the insistence

¹² Interview with BD24, a representative of the Bangladesh Government, Bhasan Char, 15 February 2022, on file with the author.

¹³ Interview with BD19, a representative of a national humanitarian organisation, Cox’s Bazar, 28 March 2021, on file with the author; Interview with BD33, a local politician, Ukhiya, 23 March 2022; Interview with BD35, a representative of a UN Agency, Cox’s Bazar, 24 March 2022, on file with the author; Interview with BD38, a representative of a major national NGO, Dhaka, 28 March 2022, on file with the author.



of the UNHCR.¹⁴ This created greater obligations towards these refugees but did not result in their repatriation to Myanmar.¹⁵ At the time, despite UNHCR's assurances to the then Bangladesh Government that recognising the Rohingya as refugees would leave the UNHCR better placed to negotiate for their repatriation, they remained in Bangladesh indefinitely.¹⁶ The interviewee explained that this was why the BG decided against granting refugee status to the Rohingya people who arrived in large numbers in 2017. A representative of a UN Agency echoed this view during the second round of fieldwork. Giving the Rohingya refugees more rights in Bangladesh would create an environment where they may not want to repatriate to Myanmar, where their rights are minimal. "If they are given more rights, will they ever go back?" the representative of a UN Agency asked me.¹⁷ There are those in the BG who believe that addressing the Rohingya as 'Forcibly Displaced Myanmar Nationals' would facilitate their repatriation to Myanmar.¹⁸ According to a refugee studies researcher, the 'FDMN' label, unlike the 'refugee' label, preserved the "Myanmar connection" necessary to put pressure on Myanmar to revise its laws and recognise the Rohingya people as its own citizens.¹⁹ The FDMN label also reflects the BG's desire to demonstrate that it has a degree of control over the refugee situation.²⁰ A local politician told me that if Bangladesh called the Rohingyas 'refugees', it would be bound by rules set by the UN and UNHCR.²¹ Calling them FDMN enabled the BG to respond to the refugee situation by applying its own laws.²²

The usage of the FDMN label by the Bangladesh Government, however, is not a mere reaction to its belief that it is unable to enhance the rights of Rohingya refugees, the desire to facilitate their voluntary repatriation to Myanmar or to exert control over the refugee situation. What accompanies the granting of refugee status and the usage of the 'refugee'

¹⁴ Interview with BD11, a senior representative of a major national NGO, Dhaka, 18 March 2021, on file with the author.

¹⁵ *op. cit.*

¹⁶ *op. cit.*

¹⁷ Interview with BD35, a representative of a UN Agency, Cox's Bazar, 24 March 2022, on file with the author.

¹⁸ Interview with BD20, a Representative of the Bangladesh Government, Cox's Bazar, 07 February 2022, on file with the author.

¹⁹ Interview with BD37, a researcher specialising in refugee studies, Dhaka, 27 March 2022, on file with the author.

²⁰ Interview with BD19, a representative of a national humanitarian organisation, Cox's Bazar, 28 March 2021, on file with author; Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with author.

²¹ Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with author.

²² *op. cit.*



label is the idea that refugees are 'stateless'. From a *de facto* perspective, this is true. After all, refugees experience refugeedom because they were compelled to flee their homeland and enter countries where they were not citizens. From a *de jure* perspective, being forced to leave one's homeland does not mean a refugee becomes stateless. His or her state remains. It is just that the refugee cannot go back to it unless circumstances significantly change. Before his assassination, Muhib Ullah, one of the leading figures representing the Rohingya people, unequivocally expressed his dissatisfaction towards being called 'stateless'. He said (Ullah, 2019),

Today we are branded Kalar. They call us Illegal immigrants, Bengalis, Muslim terrorists. We are not any of these. We are citizens of Myanmar. We are Rohingya. We are not stateless. Stop calling us that. We have a state. It is Myanmar. So, we want to go home to Myanmar with our rights, our citizenship, and international security on the ground.

The importance, therefore, of acknowledging that Rohingya refugees have a State cannot be overstated. The Bangladesh Government achieved this from the outset through its FDMN label, which recognised the Rohingya as citizens of Myanmar and paid attention to the root causes of their plight.

Arguably, the most intriguing part of the story around the practices of using different labels is that the Rohingya people being referred to as 'refugees' in documents published by UN Agencies does not mean that they benefit from the rights and obligations of refugees enshrined in the 1951 Refugee Convention. UN Agencies may use the word 'refugee' out of a political commitment to the word as a constant reminder to the world of the Rohingya's plight and exert pressure on Bangladesh to grant them refugee status. UNHCR, which proudly identifies as 'UN's Refugee Agency', does not appear to publicly campaign for Bangladesh to ratify the 1951 Refugee Convention, after which refugee status would be granted. In its submissions on Bangladesh during the Universal Periodic Reviews in 2008, 2012 and 2018, UNHCR recommended that Bangladesh accede to the 1951 Refugee Convention (UNHCR, 2008: 3; UNHCR, 2012: 3; UNHCR, 2018: 3). While these submissions are available online, they are not widely publicised. On the other hand, the five Joint Response Plans published since the mass displacement of the Rohingya in 2017 do not discuss Bangladesh acceding to the 1951 Refugee Convention or granting refugee status even once. One cannot count out the possibility that the UN system did so out of consideration towards why Bangladesh is reluctant to give refugee status to the Rohingya. In reality, key partners, i.e. the Bangladesh Government and UN Agencies, use their respective labels to describe the same



Rohingya population but work together to offer them a common set of rights and entitlements. The usage of multiple labels by key partners, particularly the casual use of the word 'refugee' to refer to the Rohingya people in the absence of formal refugee status, reveals the gap between the legal and 'everyday' uses of the term 'refugee' and, in the process, contributes to the precarity of Rohingya refugees in Bangladesh.

Ambiguity around what judicially enforceable rights of Rohingya refugees are –

The Statute of UNHCR allows UNHCR to conclude a range of agreements, usually with refugee-hosting States, under Articles 8 sub (b), 10, 12, and 16 (Zieck, 2006, 60). One of these include special agreements, also known as Memorandums of Understanding (MoUs), which are forged to promote the implementation of measures “calculated to improve the situation of refugees and to reduce the number of refugees requiring protection” (ibid: 62). The relationship between Bangladesh and UNHCR began in 1971 when the latter served as the UN system’s “focal point” in “the major relief and repatriation operation conducted for the benefit of Bengali refugees in India” during Bangladesh’s Liberation War (UNHCR, 1972: 25). Although UNHCR went on to play important roles in several large-scale refugee situations in Bangladesh over the next five decades, its relationship with Bangladesh was formalised for the first time through the signing of an MoU in May 1993 after hundreds and thousands of Rohingya refugees entered Bangladesh between 1991 and 1992. Following the mass displacement of the Rohingya people in 2017, at least three MoUs were signed between the UNHCR and the Bangladesh Government. The first one on data sharing was entered into in early 2018. According to a UNHCR Operational Update, this MoU ensured that “any use of information [relating to refugees] for purposes other than assistance and identification or transfer to third parties would need to be approved by UNHCR” (UNHCR, 2018a: 1). This was followed by another MoU, which was signed in April 2018. A UNHCR Press Release stated that this MoU ensured the “voluntary returns of Rohingya refugees once conditions in Myanmar are conducive” (UNHCR, 2018b). A third MoU, which established “a common protection and policy framework for the Rohingya humanitarian response on the island”, was signed in October 2021 (UN, 2021). In June 2018, UNHCR and the UNDP entered into a separate MoU with Myanmar, as the first step to “creating conducive conditions for the voluntary, safe, dignified and sustainable repatriation of refugees from Bangladesh and for helping to create improved and resilient livelihoods for all communities living in Rakhine State” (UNHCR, 2018c).



From the perspective of refugees, the importance of these MoUs is profound. This is because, in the absence of a domestic law to address refugee matters, these MoUs lay the basic foundations of the Rohingya refugee response and remain the only documents that are solely dedicated to laying out the framework of their governance in Bangladesh and stipulate what the rights of refugees are. Yet, all the MoUs mentioned above are confidentialised, meaning that their subjects, i.e. Rohingya refugees, are unaware of the contents that shape their experience of refugeehood. While these MoUs have empowered UNHCR to play a more substantial role in the Rohingya refugee situation, the fact that they are confidentialised means that they have not done much to alleviate the precarious status of Rohingya refugees. Furthermore, the extent to which these MoUs are legally enforceable remains to be seen, creating uncertainty around whether the rights included in them can be enforced in a Bangladeshi court of law.

While conducting archival research at the UNHCR Headquarters in Geneva, Switzerland, I was able to access the MoU signed in 1993.²³ This is because, as per UNHCR's policy, confidentialised documents are made available to the public after the passage of 20 years "unless they fall under one of the restriction categories and would not fall within any exceptions to those restrictions" (UNHCR, year unknown). The May 1993 MoU gave Rohingya refugees the right to exercise their "freedom of option" regarding repatriation to Myanmar. It also placed a responsibility of the BG to collaborate with UNHCR to organize "periodic information sessions [...] to raise the level of awareness of the refugees of their options and responsibilities to the host country and to other fellow refugees." Furthermore, perhaps most importantly, this MoU gave Rohingya refugees the right to "legal assistance provided by UNHCR". Since the 2018 MoUs between UNHCR and the Governments of Bangladesh and Myanmar remain confidentialised, it was not possible to determine whether any of the rights and obligations included in the 1993 MoU found their way into the 2018 MoU. However, exploring the contents of the 2021 MoU relating to Bhasan Char was possible after a journalist published a digital copy from his Twitter account.²⁴ Assuming that the contents of this MoU are accurate, it provides a range of rights to Rohingya refugees, including psycho-social counselling, health services, vocational training, capacity-building activities, education, telecommunication services, etc. Alarming, it does not give refugees the right to freedom of movement, which, if

²³ On file with author.

²⁴ On file with author.



ensured, would have enabled them to travel back and forth between the island and refugee camps on the mainland. As Bangladeshi and international media outlets began publishing news of Rohingya refugees undertaking risky journeys to escape from the island, it was unsurprising that commentators likened Bhasan Char to a 'prison island'. In May 2022, Maja Janmyr and I, contributing to *Lacuna Magazine*, critiqued the absence of the right to freedom of movement of Rohingya refugees in Bhasan Char (Hossain and Janmyr, 2022). To curb escape attempts, the Bangladesh Government decided to allow Rohingya refugees in Bhasan Char to travel to mainland camps and receive guests on the island. While conducting fieldwork in Bhasan Char, a representative of the Bangladesh Government claimed that this decision had addressed the problem of Rohingya refugees trying to escape.²⁵ While escape attempts have recently decreased, more needs to be done so that these permitted visits to satisfy the right to freedom of movement. According to a Rohingya refugee, processing these permitted visits required paying a small bribe to the local *Majhi* (Rohingya community leader) (Janmyr and Hossain, 2022). Upon receipt of this bribe, the *Majhi* would place the application before RRRC in Bhasan Char (*ibid*). The refugee told me many could not afford to pay bribes (*ibid*).

In addition to the rights that are included in MoUs, the Bangladesh Constitution guarantees several inalienable and fundamental rights to Rohingya refugees, which include, the right to protection of the law (Article 31), the right to life and personal liberty (Article 32), safeguards to arrest and detention (Article 33), prohibition of forced labour (Article 34), protection in respect of trial and punishment (Article 35), and the freedom of thought, conscience and speech (Article 39). Unlike the remaining rights guaranteed under Part III of the Bangladesh Constitution, the abovementioned rights apply not just to citizens but to all persons residing in Bangladesh and are, at least in theory, judicially enforceable.²⁶ Unfortunately, for a long time, many of these rights were repeatedly violated through the enforcement of the Foreigners Act 1946 against the Rohingya. Over the years, many Rohingya refugees have been detained and sentenced under the Foreigners Act after being found beyond the boundaries of refugee camps where the Bangladesh Government directs them to stay (Mizan, 2014). Alarminglly there are also cases where Rohingya victims of

²⁵ Interview with BD23, a representative of the Bangladesh Government, Bhasan Char, 14 February 2022, on file with author.

²⁶ See, The Constitution of the People's Republic of Bangladesh.



human trafficking were also detained under the Foreigners Act 1946 (ibid; Hoque, 2016: 11; Bangla Tribune, 2021). In 2016, C R Abrar, a migration studies expert currently serving as the Executive Director of RMMRU, called upon the Bangladesh Government to resolve the “discrepancy [...] between Section 14 of the Foreigners Act (that provide for 5 years imprisonment for illegal entry) and the National Strategy that acknowledges the community’s need for humanitarian assistance” (Abrar, 2016). Abrar further argued that this discrepancy could be quickly resolved if the Rohingyas in Bangladesh were exempted as a group of people from the application of the Foreigners Act under Sections 3 and 10 (ibid). In 2018, in light of “increasing gender-based violence against unregistered Rohingya females and girls”, UNHCR recommended that Bangladesh needed to “Bangladesh ensure that all refugee and stateless women and girls had effective access to justice without being threatened with arrest, by amending the 1946 Foreigners Act” (UNGA, 2018: 10). While amendments to the Foreigners Act 1946 are yet to take place, in recent years, the number of Rohingya refugees charged under the Foreigners Act 1946 have gone down. A representative of the Bangladesh Government explained that this had to do with the BG taking a softer and more humanitarian tone towards refugees found beyond camp boundaries.²⁷

According to a Legal Protection Factsheet published in June 2022, UNHCR and its partner organisations, namely BLAST and BRAC, provide limited legal aid to Rohingya refugees. These include “legal awareness, legal counselling, mediation, assistance to lodge complaints at police stations and courts, and representation in court” (UNHCR, 2022: 1). Refugees who are arrested or detained also receive legal assistance (ibid). This factsheet further states that in the event of the commission of serious crimes, “UNHCR and legal partners engage with police, camp administration officials, and justice sector actors to advocate for appropriate and timely interventions by law enforcement agencies” and, in turn, “reinforce refugees’ access to the national justice system” (ibid). This account is only partly true. Formal courts in Bangladesh remain largely inaccessible to Rohingya refugees due to their limited economic means and the restricted right to freedom of movement they are given. These realities have created a unique justice system within camp settings where Camps-in-Charge (CiCs) representing the Office of the Refugee Relief and Repatriation (RRRC) dispense justice according to the gravity of crimes committed by and against

²⁷ Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 07-08 Feb, 10 Feb 2022, on file with the author.



refugees on an ad hoc, informal and discretionary basis. When I asked a representative of a UN Agency about this, he quietly smiled and said that the justice system inside camps is fundamentally different from the rest of the world.²⁸ In this system, the CiCs are empowered to enforce a range of punishments on Rohingya refugees found to have behaved ‘out of line’. These include, for instance, requiring refugees to do “*maati katar kaaj*” (soil excavating work), pay fines or be detained within camp premises.²⁹ In a rare instance, a CiC was seen to have physically beaten a refugee who committed a crime.³⁰ Interviewees representing a UN Agency and the Bangladesh Government both confirmed that CiCs involve the Police only when a serious crime takes place.³¹ The latter explained to me: “Imagine the position of a Provost (administrative head) of a students’ hall at Dhaka University ... If there is a scuffle between students, would the Provost report them to the Police? ... He wouldn’t ... He would solve the problem. If a bigger fight takes place, then the Police will be involved.”³²

What this translates to is that if crimes of a lesser degree are committed inside camps, they will be dealt with not by the Bangladesh Police or a court of law but rather by a CiC, even if the concerned acts qualify as crimes under The Penal Code, 1860 (Bangladesh’s primary criminal law).³³ A few things must be remembered when analysing this unique justice system inside refugee camps. First of all, the RRRC represents the Bangladesh Government and is a part of the Executive wing of the State. This arrangement clearly blurs the lines marking the ‘separation of powers’ between the Executive and Judiciary in Bangladesh. It violates Article 31 of the Bangladesh Constitution, which provides the ‘right to protection of law’ not just to citizens but also to “every other person for the time being within Bangladesh”. That said, one must also keep in mind what led to the creation of such a unique system in the first place. The representative of a UN Agency believed that empowering CiCs to dispense justice was connected to the Bangladesh Government’s

²⁸ Interview with BD35, a Representative of a UN Agency, Cox’s Bazar, 24 March 2022, on file with the author.

²⁹ *op. cit.*

³⁰ Interview with BD1, a former Representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

³¹ Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 07-08 Feb, 10 Feb 2022, on file with the author; Interview with BD35, a Representative of a UN Agency, Cox’s Bazar, 24 March 2022, on file with the author.

³² Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 07 Feb 2022, on file with the author.

³³ See Section 1 of The Penal Code, 1860.



desire to exert control over the day-to-day affairs of camps.³⁴ It is possible that in light of the severely strained capabilities of the Bangladesh Police in terms of personnel,³⁵ the evolution of such an ad hoc system was inevitable.

The framework created through the MoUs, specific provisions of the Bangladesh Constitution, the role played by the Supreme Court, and the availability of limited legal aid has extended a degree of protection towards Rohingya refugees. However, the confidentialised nature of the MoUs and uncertainty around whether they are enforceable, the compromising of several constitutionally guaranteed rights through the application of the Foreigners Act 1946, formal courts being inaccessible due to Rohingyas' limited economic means and the restricted right to freedom of movement, the presence of a unique justice system inside camps which blurs the separation of powers and dispenses justice on an ad hoc, informal and discretionary basis, all collectively contribute to the precarity of Rohingya refugees in Bangladesh, making it incredibly hard to ascertain what their judicially enforceable rights actually are.

The imposition of a top-down biometric registration process that did not take into account the thoughts and needs of its subjects –

In light of the decades-long irregular movement of Rohingya migrants and refugees, the Bangladesh Government in 2013 framed the 'National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals' (Khan and Rahman, 2020: 18; Cortinovis and Rorro, 2021: 3-4). One of the goals of this strategy was to carry out a biometric "survey/listing" of the estimated 300,000-500,000 "undocumented Myanmar nationals" who had already "entered into Bangladesh in an irregular manner" and were "living outside the [registered refugee] camps" as well as those who were continuing to enter Bangladesh "through illegal means" (Ministry of Foreign Affairs 2014, 2-3). For this Report's purposes, it was not possible to ascertain the extent to which this plan was implemented before 2017. In the immediate aftermath of the mass displacement of Rohingya refugees in 2017, the Ministry of Home Affairs of the BG began the process of biometrically registering Rohingya refugees. In September 2017, UN High Commissioner for Refugees Filippo Grandi said that

³⁴ Interview with BD35, a Representative of a UN Agency, Cox's Bazar, 24 March 2022, on file with the author.

³⁵ Interview with BD31, a Representative of Bangladeshi Security Agency, Dhaka, 13 March 2022, on file with the author.



his office was providing “technical assistance” to the registration drive (Al Jazeera, 2019). Bangladesh’s biometric registration drive became the subject matter of criticism soon after it was initiated. Researcher Zara Rahman thought-provokingly argued that collecting and storing such large amounts of data without adequate safeguards entailed significant risks (Rahman, 2017). Rahman urged the humanitarian community to ensure that the Rohingyas who had already been victims of mass atrocities were not further violated “through data and technology” (ibid). She argued that there was a stark “power asymmetry ... between those designing and carrying out the data collection and those on the receiving end of it” (ibid). Without giving further thought to what kind of data ought to be collected, who would have access to it, what processes would be in place to address machine or human error, what could be the unintended outcomes of such a growing database, and how the data could be abused, Rahman argued that it would be wrong to collect any more Rohingya data (ibid).

Despite such concerns, the biometric registration moved ahead in full steam. In the following few months, the RRRC and UNHCR worked together on three separate occasions to ascertain Bangladesh’s Rohingya population figures. This began in October 2017 with the “Rohingya refugee family counting exercise” to “count refugee arrivals from Myanmar in Bangladesh” (UNHCR, 2018d: 1). This was followed by a “Linking Exercise” in December 2017 “to establish a consolidated population database” which would provide “individual data grouped into families” (ibid.). By the end of January 2018, the BG “with technical support from the Bangladesh Immigration and Passports Department” biometrically registered 1,040,000 Rohingyas (ICSG, 2018: 22). This included 300,000 Rohingyas who arrived before 25 August 2017 (ibid.). At the time, various representatives of the BG claimed that this registration drive would help processes relating to repatriation and relief distribution and prevent the Rohingya people from taking up Bangladeshi identities, applying for National Identity Cards (NIDs) issued to Bangladeshi citizens, passports and making bank accounts (Mahmud, 2018). A representative of Tiger IT, the company which provided technical support to this biometric registration process, claimed that following Germany’s path of “registering Syrian refugees”, as a result of this process, it would “also be able to locate the Rohingyas movement all over Bangladesh” (ibid.).

In 2018, “operational actors” felt the need for “a unified database” containing “biometric information [of] the whole refugee population disaggregated by sex and age” (ISCG, 2018: 30). This database would enable refugees to “exercise their rights”, ensure that



“assistance is effectively targeted to people in need”, “achieve equity in assistance delivery”, “control duplication and manipulation of beneficiary lists”, and “facilitate solutions” (ibid). The 2018 JRP stated, “UNHCR and WFP would support the Ministry of Home Affairs to align and harmonise existing databases, ensuring no one is missed and that assistance can be accurately targeted” (ibid). As a result, the BG and UNHCR signed an MoU on data sharing, which required needing UNHCR’s approval if the data were to be shared for purposes other than assistance, identification or transfer to third parties (UNHCR, 2018a: 1). A “joint verification exercise for Rohingya refugees” undertaken by the BG and UNHCR was launched on 21 June 2018. At the time of writing this Report, 952,309 Rohingya people had been biometrically registered. In exchange for their biometric data, the Rohingyas received “credit card-sized plastic IDs” (UNHCR, 2018e).

A Rohingya refugee I interviewed during the first round of fieldwork allowed me to examine an ID card issued following the joint verification exercise. In addition to the usual pieces of information, such as name, date of birth etc., the front side of the card identifies Myanmar as the “Origin Country” and issues the label of “Forcibly Displaced Myanmar National/Person of Concern to UNHCR” to the recipient of the card. The backside of the card states, among other things, “This person should be protected from forcible return to a country where he/she would face threats to his/her life or freedom. The bearer has the obligation to respect national laws.” While biometric registration does not result in refugees gaining ‘refugee status’, UNHCR claims that it serves as a stepping stone towards them regaining their human dignity and restoring their identities which allows them access to fundamental rights, a range of services and durable solutions (UNHCR Blogs, 2019). My Rohingya interviewees told me that having ID cards felt important, against the background of many having been left without citizenship in their homeland Myanmar through the Citizenship Law of 1982.

The joint verification exercise by the BG and UNHCR, however, had a rocky start. When it began in June 2018, the Rohingya people had inhibitions about the process. They protested the lack of transparency surrounding the exercise and for not being consulted when the ID was being designed (Tiwari *et al.*, 2020: 17-18). They felt that the ID card should have recognised their ‘Rohingya’ identity for which they were persecuted in their homeland and expressed fears over the possibility of their biometric data being shared with the Myanmar authorities (Islam, 2018). At the time, a UNHCR representative confirmed that the collection of biometric data was not linked to repatriation efforts and that the Bangladesh Government and UNHCR jointly



maintained the biometric data (ibid.) One of the Rohingya refugees I interviewed claimed that their initial resistance to taking part in the joint verification exercise was met with an informal message from both the BG and UNHCR authorities that refusal to participate would result in the denial of food rations.³⁶ In essence, the Rohingya had no choice but to register. In June 2021, Human Rights Watch (HRW) published a report stating that the biometric data collected during the joint verification exercise was shared by the Bangladesh Government with the Myanmar Government without the informed consent of Rohingya refugees (Human Rights Watch, 2021). UNHCR strongly disputed this claim. According to a comment published soon after the report by HRW, UNHCR stated that “refugees were separately and expressly asked whether they gave their consent to have their data shared with the Government of Myanmar by the Government of Bangladesh” and that they were “free to refuse data-sharing and that those who refused would still access the same assistance and entitlements as all others” (UNHCR, 2021). In a scathing critique, Zara Rahman (2021) said:

There is no way that the personal data of nearly a million European people would be treated like this without a massive outcry, without resignations and policy overhauls, without fines, firings, and legal ramifications.

The BG sharing of the biometric data of Rohingya refugees raises broader questions relating to what constitutes informed consent. As a researcher who has solely focused on exploring various aspects of the Rohingya refugee situation for two and a half years, I often ask myself whether we have envisioned a bar to satisfy informed consent that is unrealistically high? Does the humanitarian community have a lower threshold for informed consent? During an interview, a researcher specialising in refugee studies told me that although organisations like Human Rights Watch negatively perceived the BG’s act of data sharing, he believed that the Rohingyas were not that concerned about “informed consent”.³⁷ “Are the Rohingya bothered about consent to the extent that Human Rights Watch is bothered?” he asked me. The researcher said that the BG would never repatriate Rohingya refugees unless safe and dignified conditions existed in Myanmar. HRW was, in this case, “wasting bandwidth” by focusing on issues that mattered in a different context and diverting attention away from more pressing matters.

³⁶ Interview with BD2, a Rohingya refugee, Ukhiya, 19 January 2021, on file with the author.

³⁷ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14 February 2022, on file with the author.



While these views warrant attention, the fact remains that the biometric registration of the Rohingyas from the beginning was a top-down process which ignored the thoughts and needs of its subjects. For instance, for unfathomable reasons, the resultant ID Cards did not acknowledge the 'Rohingya' identity. The Rohingya gave their data to the BG and UNHCR but were not even minimally involved in shaping how the process would roll out, what data would get shared and with whom, contemplating the risks of biometric registration and how those risks could be minimised. All of these realities contribute to the precarity of Rohingya refugees. In a country like Bangladesh, where the discussions on the finer issues of data protection and sharing are only starting to attract attention and a national law on such is yet to be enacted, where the 2018 MoU on data sharing remains confidentialised, it is unsurprising that the thoughts and needs of Rohingya refugees with a minimal 'right to have rights' were not taken into consideration when their biometric data was taken from them. That said, a recent document published by Bangladesh's Ministry of Foreign Affairs (2022: 9) acknowledged that global data protection protocols applied when humanitarian actors and Governments shared data. It further stated that based on the 2018 MoU on data sharing, the RRRRC and UNHCR/ISCG would elaborate, among other things, the "assurance that [...] data will not be shared with any third party or country, including the country of origin of refugees unless signed consent by the concerned individual has been received" (ibid: 10).

Uncertainty around how many Rohingya people actually live in Bangladesh –

Despite the extensive efforts to biometrically register the Rohingya people since 2017, there is some inconsistency in how of them are actually in Bangladesh. According to the Population Factsheet jointly issued by the Government of Bangladesh and UNHCR in December 2022, the Rohingya population in Bangladesh is 952,309 (UNHCR 2022a). This figure includes 'newly registered' 915,297 Rohingyas labelled as 'Forcibly Displaced Myanmar Nationals (FDMN)' by the Bangladesh Government and 'refugees' by the UN agencies (ibid.). Also included are 37,012 Rohingyas belonging to the group of refugees registered by the Bangladesh Government with 'refugee status' in the early 1990s, and 28,951 Rohingya refugees recently relocated from mainland camps to Bhasan Char (ibid.). According to this Population Factsheet and other UNHCR sources, the overwhelming majority of the Rohingya reside in 33 "extremely congested" refugee camps in camps



located in the Ukhiya, and Teknaf Upazila of Cox's Bazar, a district placed in the south-eastern tip of Bangladesh (ISCG, 2022: 13).³⁸

Up until this point, Rohingya population figures appear to be uncomplicated. Confusion around these figures begins to creep in when one comes across discrepancies between data provided by UNHCR's 'Operations Data Portal' dedicated to the 'Refugee Response in Bangladesh' and previous documents published by the BG, UNHCR and IOM. According to the UNHCR data portal, 799,413 Rohingyas arrived in Bangladesh following the Myanmar military-led crackdown on 25 August 2017.³⁹ This figure is similar to the figure (773,972) stated in IOM's Monthly Situation Report of October 2022 (IOM, 2022), implying that before August 2017, more than 150,000 Rohingyas were already living in Bangladesh.

This, however, contradicts not only UNHCR and IOM data, but also population data on unregistered Rohingya living beyond camp boundaries published in other Bangladesh Government documents. For instance, Bangladesh's 2013 National Strategy estimated that 300,000-500,000 undocumented Myanmar nationals who had entered in an irregular manner were "living outside camps" (Ministry of Foreign Affairs, 2014: 2).

Intriguingly, the UNHCR population figures on how many Rohingyas were in Bangladesh prior to August 2017 do not align with figures it provided in the past. An Operational Update published in October 2017 states that an estimated 307,500 Rohingya refugees had entered Bangladesh before 25 August 2017 (UNHCR, 2017: 1). Another report by UNHCR from 2007 relied on a Government estimate to state that there were "between 100,000 – 200,000 Rohingya living illegally outside the camps" (UNHCR, 2007: 8, 12). In this report, it was also stated that these so-called illegal Rohingyas were likely "a mix of former repatriated refugees who returned to Bangladesh, extended family members of Rohingyas in Bangladesh, and/or, seasonal workers and economic migrants" all of whom "left Myanmar because of repressive state policies and practices against them" (ibid: 12). According to Kiragu *et al.* (2011: 10), in 2005, UNHCR estimated that around 200,000 unregistered

³⁸ Originally, there were thirty-four refugee camps. In 2021, the BG closed Camp 23/ Shamlapur, bringing the total number of Rohingya refugee camps in Cox's Bazar to thirty-three. According to BD20, the Shamlapur Camp was closed because of its proximity to the Parjatan Road and the sea and as a result residents of the camp were transferred to various camps in Kutupalong. See, Interview with BD20, a Representative of the Bangladesh Government, Cox's Bazar, 08 Feb 2022, on file with the author; and Interview with BD11, a senior representative of a major national NGO, Dhaka, 18 March 2021, on file with the author.

³⁹ See, UNHCR Data Portal, Bangladesh (<https://data.unhcr.org/en/country/bgd>).



Rohingya had “taken up residence in Bangladesh [...] but continued to be publicly silent about the number and needs of people in this category”.

Due to these discrepancies, there are reasons to be sceptical as to whether Rohingya refugees who arrived in Bangladesh before 25 August 2017 are appropriately represented in the UNHCR portal and the Population Factsheet jointly issued by the Bangladesh Government and UNHCR in December 2022 or IOM’s Monthly Situation Report of October 2022. Based on these two documents, just over 150,000 Rohingya people were living in Bangladesh before August 2017. It is possible to argue that the number of Rohingyas living in Bangladesh before August 2017 decreased with time. This would be the case if a portion of Rohingyas returned to Myanmar or found the means to move on to a third country. However, due to statements made by various Bangladesh government representatives and the UN High Commissioner for Human Rights, it appears that this is unlikely. As mentioned earlier, the BG biometrically registered 1,040,000 Rohingyas, including 300,000 Rohingyas who arrived before 25 August 2017 (Mahmud, 2018; ICSG, 2018: 22). In July 2018, Bangladesh’s Home Minister Asaduzzaman Khan reported to the *Jatiya Sangsad*⁴⁰ that 1,118,576 Rohingyas had been biometrically registered (New Age, 2018). The Home Minister also said at the time that there were no longer any unregistered Rohingya in Bangladesh (ibid.). In subsequent years, this figure provided by the Home Minister has been echoed by other representatives of the Bangladesh Government, including Prime Minister Sheikh Hasina and UN High Commissioner for Human Rights Michelle Bachelet, who said that Bangladesh hosts 1.1 million Rohingya refugees (BDUN, 2020; BDUN, 2020a; UN News, 2022). This begs several questions:

- 1) What is the correct number of Rohingya refugees in Bangladesh? Is it 952,309, as per the Population Factsheet issued in December 2022, who key partners of the refugee response identify as people in need and are targeted, or is it 1,118,576 as per the Bangladesh Home Minister, the Prime Minister and UN High Commissioner for Human Rights?
- 2) How many Rohingya refugees residing in Bangladesh before August 2017?

⁴⁰ *Jatiya Sangsad* is the Bengali term for the Bangladesh Parliament.



- 3) If 1,118,576 Rohingya refugees were biometrically registered by July 2018, and the 1.1 million figure is regularly claimed by the Bangladesh Prime Minister and others, what is the fate of over 150,000 Rohingya refugees unaccounted for in the Population Factsheet issued in December 2022?⁴¹ UNHCR claims that its Population Factsheet “includes all refugees from Myanmar except some in a few locations within the host community” (UNHCR, 2018d). In the Operational Data Portal, UNHCR reiterates: “Some refugees living in host communities and in certain locations beyond the camp boundaries may not have been included in the family counting exercise.” Are these 150,000(>) Rohingya refugees the “[s]ome refugees living in host communities” described by UNHCR? What kind of support do they receive, if at all? Or have they left Bangladesh?

It is worth keeping in mind that the RRRRC and UNHCR have worked together on three separate occasions to ascertain Bangladesh’s Rohingya population figures prior to the BG and UNHCR launching the joint verification exercise. As a result of these initiatives, by 2019, “the biometric registration of all Rohingya refugees living in the camps” was complete and “those over the age of 12” were given “individual identity documents” (UNHCR, 2020). It is possible that the joint registration drive by UNHCR and the Bangladesh Government targeted the ‘visible’ Rohingya and did not comprehensively include the ‘invisible’ or “unregistered” Rohingya refugees living beyond camp boundaries amidst host communities without any form of support or “formal legal status” (Azad 2016: 60). This number is by no means negligible. The dearth of clear answers to the questions mentioned above despite such extensive counting exercises by the BG and UNHCR contributes to the precarious status of the Rohingya in Bangladesh.

The points of tension discussed in this section that fuels the precarious status of Rohingya refugees can be addressed if Bangladesh legislates a national law dedicated to dealing with refugee matters and enshrines their rights. A campaign to enact such a law, where RMMRU played a vital role, goes back many years. In 2000, C R Abrar correctly predicted the unlikelihood of South Asian states acceding to the 1951 refugee Convention and the development of a regional framework in the near future (Abrar and Malik, 2000: 46). Abrar believed that a national law for refugees was the next best alternative and that this was something refugees in Bangladesh were constitutionally entitled to under Article 31 which

⁴¹ 1,118,576 – 952,309 = 166,267



states that every person in the country possessed the right to protection of the law (ibid: 46). According to Abrar, “a national law, embodying the basic principles of international humanitarian law would equip the state with proper procedures to distinguish between a genuine asylum seeker and those who have crossed the border for other reasons” and “a formal refugee law would help bring about administrative efficiency” (ibid: 45-48). He further argued that the absence of such a law created “confusion, *ad hocism* and bureaucratic red-tapism” and a law on refugees would not just resolve these problems but also assist Bangladesh in conducting foreign relations with other States (ibid: 47). Following a series of informal consultations organised by UNHCR, a group known as the Eminent Persons Groups of various South Asian nations produced a National Model Law for Refugees in November 1997 to support these ideas. This model law included some fundamental tenets of international humanitarian law and offered broad guidelines and a framework for the administration and protection of refugees (ibid). Following that, RMMRU took on the responsibility of sparking conversations about Bangladesh's need for a specific refugee law. A forum of lawmakers, judges and members of civil society was organised by RMMRU in Dhaka in September 1999 (ibid: 48). Kamal Hossain who served as the Chairman of the Constitution Drafting Committee of Bangladesh in 1972 argued that having a law would help Bangladesh better manage the flow of refugee and respond in a qualitatively better manner (ibid: 53). Hossain pointed out that the existence of such a law would not attract refugees to Bangladesh because the experiences of other States with similar laws demonstrated that “refugee inflow” takes place as a consequence of “other compelling reasons” (ibid: 54). Wilbert van Hövell, who served at the time as UNHCR Representative, that the model law would not attract more refugees to come to Bangladesh because it offered only a minimum set of rights (ibid: 71). Kamal Hossain also felt that enacting a “Model National Law on Refugees” would enhance Bangladesh’s prestige at the global stage, an argument which late Law Professor Shah Alam lent support to (ibid: 73). Not everyone attending the September 1999 meeting in Dhaka spoke in favour of a refugee law. Barrister Ziaur Rahman, for instance, cautioned that enacting such a law would be tantamount to “fashioning a hammer, which will beat [Bangladesh] to death”, which is why it would be unwise to adopt such a law alone unless affluent States demonstrated greater responsibility (ibid: 65, 69). Despite this view expressed by Barrister Rahman, participants agreed that adopting a model law for refugees should be seriously considered.

Although such a law remains unrealised to this day, Bangladesh should not lose sight of acquiring the political will to enact a law in the not-too-distant future. This law shall not incorporate all rights and obligations of the 1951 Refugee Convention or grant refugee



status to Rohingya refugees. Instead, this law shall take inspiration from the 1951 Refugee Convention and Bangladesh's invaluable experiences collected along the long and lonely journey of hosting over a million Rohingya refugees. At the end of the day, Bangladesh faces a simple choice. Will it preserve the precarious status of Rohingya refugees or strive to reduce it? Ideally, a national law that clearly lays bare the rights of Rohingya refugees and resolves the administrative challenges usually inherent in protracted refugee situations shall play a crucial role in reducing the precarious status of the Rohingya because it shall give them the 'right to have rights'. Bangladesh shall do so not because its global prestige will be enhanced. In a world where poorer States, compared to affluent States, shoulder far greater responsibility in hosting refugees, pursuing enhancing one's prestige feels unnecessary and meaningless. Bangladesh shall do so because it possesses a strong political will, the kind it acquired in 2017 concerning the principle of *non-refoulement*, which it has adhered to till today.



Vulnerability

With a minimal ‘right to have rights’, that Rohingya refugees in Bangladesh are very vulnerable is something which is not seriously contested in academia. Unsurprisingly, therefore, words and phrases like ‘vulnerable’, ‘highly vulnerable’ and ‘most vulnerable’ are seen to be commonly used in the context of the Rohingya refugee response in Bangladesh. Much like other protracted refugee situations, such as in Jordan, which are adversely impacted by the availability of limited funds to respond to humanitarian need at a massive scale (Turner, 2023), key partners in Bangladesh tailor their responses by taking into account the multifaceted vulnerabilities of Rohingya refugees. In the first Joint Response Plan (JRP) published in 2018, the phrase “exceptionally vulnerable” was used to describe Rohingya refugees (ISCG, 2018: 11). It highlighted the need for “properly targeted interventions” to “address their protection needs” (ibid.). One of the main methods deployed to facilitate targeted interventions is vulnerability assessments, whose purpose, it is said, is to understand vulnerability beyond “typical humanitarian categories” and thus assist humanitarian agencies in “providing a more nuanced response to needs [of refugees] based on evidence” (ACAPS, 2019: 2). In simpler language, vulnerability assessments are undertaken to reduce the precarity of Rohingya refugee. However, irrespective of whether it is intended or not, the creation of categories of vulnerabilities amongst large refugee populations can lead to the allocation of scarce resources and opportunities by the humanitarian community in a discretionary manner reinforcing an idea that certain groups of refugees are less deserving of protection than others (Turner, 2021). In the past, vulnerability assessments aiding the process of selecting refugees for resettlement or “more humane accommodation” sparked a “vulnerability contest” where the “most heavily traumatized” refugees were neglected (Howden and Kodalak, 2018). Although few Rohingya refugees from Bangladesh have been resettled historically, in December 2022, the US Government announced the “establishment of a resettlement program for vulnerable Rohingya refugees” in collaboration with the Bangladesh Government and UNHCR (US Department of State, 2022). Nevertheless, vulnerability assessments are important because they demonstrate through evidence the precarity of the Rohingya people. This Section takes a closer look at the practice of conducting ‘vulnerability assessments’ and critiques the efforts to address the multifaceted vulnerabilities of Rohingya refugees. It draws in part from desk-based research accessing data published by key partners. It also relies on data from interviews with representatives of local and international NGOs, UN agencies and the Bangladesh Government.



Once the “initial emergency phase” subsided after the mass displacement of the Rohingya in 2017, key partners felt the need for “comprehensive information on the needs and vulnerabilities of affected populations” which would “inform the design and implementation of effective inter-sectoral programming” (ISCG, 2019: 1). To address this need, various assessments were undertaken, which in turn revealed multi-faceted vulnerabilities of refugees and the host community in south-eastern Bangladesh, enabled tracing and “understanding of the evolution of needs and service gaps across time” and also identified those who were found to be ‘most’ or ‘highly’ vulnerable (ISCG, 2022a: 4). Consistent with stereotypical understandings of vulnerability, Rohingya women (particularly single mothers, pregnant and lactating women), children, elderly refugees and refugees with disabilities are frequently identified as “most vulnerable” in these assessments (Burton, 2019; Kotowski, 2021). Two such large-scale “representative assessments” are the Joint Multi-Sector Needs Assessment (J-MSNA) and the Refugee Influx Emergency Vulnerability Assessment (REVA) (ACAPS, 2022: 1). Led by the ISCG, the preliminary findings of the J-MSNA published in October 2020 identified refugee households without an income or male family members as “most vulnerable” with regard to food security and livelihoods (ISCG, 2020: 12). A more detailed J-MSNA published that year identified female-headed households and households without a male of working age, households with persons with disability, and large households with more than five members or households with a high dependency ratio (> 2) as “most vulnerable” (ISCG, 2020a: 39). These findings were reiterated in the J-MSNA on Rohingya refugees published in 2022 (ISCG, 2022a: 44).

The other prominent ‘assessment’ is the ‘Refugee Influx Emergency Vulnerability Assessment’ (REVA) conducted under the leadership of the World Food Programme (WFP). The core objectives of REVA include understanding “the priority needs of the Rohingya refugees and the Bangladeshis in the host communities” and unearthing the extent of food insecurity, the depth and characteristics of socio-economic vulnerability and the measures needed to make their lives better (WFP, 2018: 4). In recent years, field volunteers of UNHCR and other national and international NGOs assisted enumerators recruited and trained by WFP who employed a range of methods to collect data for REVA (WFP, 2021: 11) which looked at the “food security status”, “the ability of a household to meet essential needs” and “coping strategies” (ACAPS, 2022: 7; WFP, 2022: 17). REVA-4, for instance, was conducted through an extensive quantitative household survey, which was supplemented by focus group discussions and key informant interviews (WFP, 2021: 11). On the other hand, the most recent REVA, known as REVA-5, was conducted through “a panel



survey of households” supplemented by focus group discussions “to support contextual analysis and triangularization of some of the quantitative data” (WFP, 2022: 10, 13). An important finding of REVA-4 was that non-registered refugees were more vulnerable than registered refugees and the host community (WFP, 2021: 14).⁴² “High vulnerability” was exhibited among registered Rohingya households with, 1) at least one member with a disability or chronic illness; 2) children under the age of 5; 3) adolescent girls; 4) over five members; 5) no working age males; 6) no active income-earning member; and 7) irregular earnings (ibid.). The focus group discussions identified households (in descending order) with elderly members, those led by women or children, and those with a person with a disability as “most vulnerable” (ibid.). REVA-4 also found that the absence of economic opportunities exacerbated the vulnerabilities of the Rohingya and that the “high vulnerability” of Rohingya households living inside camps declined over time, implying that ‘new arrivals’ in refugee camps were far more vulnerable (ibid.). According to REVA-5 which was published last year, vulnerability levels of Rohingya households remain “alarmingly high” (WFP, 2022: 5). Echoing REVA-4, it concluded that the absence of income sources and livelihood opportunities exacerbated the vulnerabilities of the Rohingya, leaving them “entirely dependent on humanitarian assistance” (ibid.).

The ‘most vulnerable’ Rohingya refugees are also emphasised in the JRPs. For instance, the first JRP, published in 2018, stated that “female headed households” were “most vulnerable to food insecurity” (ISCG, 2018: 15). Later on, in this document, it identified “households with more than five members, women headed households and families with children” as “most vulnerable among refugees” (ibid: 39). It went on to state that child-headed households, households with more than four children, single mothers, widows and Pregnant and Lactating Women (PLW) were the “most vulnerable” within this category (ibid.). The JRP, published the following year in 2019, called for “a more focused response [...] to meet the needs and mental well-being of the most vulnerable [refugees]” (ISCG, 2019: 11). This time, the JRP identified elderly refugees, refugees with disabilities, refugee women and children at risk and survivors of violence as the ‘most vulnerable’ group and were “at risk of marginalization” (ibid: 11, 16, 57). One of key partners from the Bangladesh Government is the Ministry of Health & Family Welfare (MHFW), which works with the Armed Forces Division, UN Agencies, and international, national and local NGOs to deliver

⁴² See Section 1 on ‘Status’.



health services to the Rohingya. According to the most recent 'Health Situation & Interventions Update' on Rohingya refugees published by MHFW, families with separated children, unaccompanied children, disabled members, older persons at risk with children, people with severe medical conditions, people with specific needs, single male parents with infants, and single female parents, were identified as “vulnerable groups” (MIS-DGIS, 2023).

In addition to Rohingya refugees, the findings of J-MSNA, REVA as well as the JRPs demonstrate the vulnerabilities of the host community in south-eastern Bangladesh. For instance, the 2021 J-MSNA expanded the findings of J-MSNA's undertaken in 2019 and 2020 and found that households from the host community were still affected by the Covid-19 pandemic which led to “an erosion of coping strategies” and “deterioration living standards” (ISCG, 2022b: 4). REVA-5 found that “reduced income opportunities and market volatility during the COVID-19 lockdown in a population highly dependent on daily wage labour” caused vulnerabilities of the host community to remain high (WFP, 2022: 5). According to an analysis by ACAPS, which compared the findings of J-MSNA and REVA as well as other reports and studies, food consumption scores of the host community had gone down (ACAPS, 2022: 2). Limited income opportunities meant that members of the host community like Rohingya refugees had become increasingly reliant on humanitarian aid (ibid.). The cost of educational facilities being used as temporary shelters for refugees and temporary camps for law enforcement agencies was that the education of children from the host community suffered (ibid.). Those who take an informed view on affairs relating to Bangladesh will not be surprised by these findings. With “malnutrition, health status and food insecurity [...] at crisis levels”, and a “poverty rate [that] is well above [the] national average”, Cox's Bazar (where the refugee and host community live) is one of Bangladesh's “most vulnerable” districts (ISCG, 2018: 16). The mass displacement of the Rohingya people in 2017 impacted the lives of the host community in that region at unprecedented levels in the areas of “market access, labour competition, deforestation, and inflation” (ibid: 16-17).

In addition to the categories mentioned in previous paragraphs, one must note that more generalised forms of vulnerability also adversely impact the lives of Rohingya refugees and the host community. These relate to hazardous weather conditions and the COVID-19 pandemic. The 33 camps and adjacent regions, which host the majority of Rohingya refugees, are “extremely vulnerable to a variety of natural hazards” (ISCG, 2022: 14). While



torrential rain, floods and landslides affect both the host and the refugee populations, the precarity of the Rohingya is amplified by their limited right to freedom of movement and their inability to quickly leave the camps surrounded by barbed wire. Vulnerabilities to such hazards were glaringly exposed during the monsoon of 2021 when the district of Cox's Bazar was inundated with torrential rain claiming the lives of eight Rohingya and 15 Bangladeshis. Severe floods and landslides inside and beyond the refugee camps displaced 25,000 Rohingya refugees, ravaged many primary health care clinics, distribution points, latrines, and damaged roads, pathways and bridges, impeding humanitarian access to the Rohingya (UNHCR, 2021a).

The goal to reduce the vulnerabilities of Rohingya refugees and the host community has been featured prominently in the JRPs published since 2018. Two of the five JRPs explicitly identified under its core protection pillars, the need to reduce 'protection risks of vulnerable refugees' as one of the four overarching goals of the key partners of the refugee response (ISCG, 2018: 26; ISCG, 2020b: 12). The JRP published in 2021 stated that ensuring "basic assistance and protection services for communities including men, women, boys, girls, and vulnerable populations" would be encouraged to address living conditions in refugee camps by "promoting alternatives to negative coping mechanisms [...] and mitigating potential tensions between the Rohingya refugees and the host communities" (ISCG, 2021: 9). The most recent JRP published in 2022 did not explicitly discuss vulnerabilities in its protection pillars. However, it highlighted the need to ensure "equitable access to basic assistance and protection needs of all refugee women, men, girls, boys, and persons with specific needs" (ISCG, 2022: 12). Reducing vulnerabilities of refugees and members of the host community, however, cannot be achieved without an awareness of what causes and enhances them and also without possessing an outlook that is open to critically reflecting upon the processes undertaken to reduce them. During extensive conversations with representatives of national and international NGOs, UN agencies, and the Bangladesh Government, all of whom were closely engaged with the Rohingya refugee response, I gained valuable insights into vulnerability categories and the processes involved in assessing and responding to those multi-faceted vulnerabilities.

Similar to the Jordanian experience (Turner, 2023), the word 'vulnerability' is not easily translatable to Bengali or Ruáingga (the language spoken by Rohingya refugees which is closely related to the Chittagonian variety of Bengali). I learned that when these assessments are carried out, words such as 'vulnerability' and 'vulnerable' and associated



Bengali words are never mentioned in the presence of the Rohingya refugee. According to an interviewee, these words were consciously avoided because it would be counterintuitive to remind a 'vulnerable' human being that he or she is vulnerable.⁴³ According to a Psycho-Social Support (PSS) Officer of an international NGO who had been engaged with the Rohingya refugee response for the past three years, vulnerabilities are heightened by the "situation and circumstances" surrounding a human being.⁴⁴ He explained, for instance, that while a range of medical services was made available to Rohingya refugees, the fact remained that trying to gain access to specialised medical support while being restricted to living in camps was in itself a cumbersome process. By the time a Rohingya refugee in need of such a service got specialised medical service or came close to receiving it, their vulnerabilities would increase significantly. A representative of a UN Agency I interviewed believed that the vulnerabilities are amplified by a sense of insecurity created by the fact that Rohingya refugees do not formally have the right to work, many of them have limited skills, and they are residing in a physical space where natural resources are limited.⁴⁵ To further complicate matters, sometimes, categories of vulnerabilities created by key partners who provide aid and other forms of assistance may not be positively received by refugees. For instance, a representative of a national NGO found it challenging to raise awareness against domestic abuse and ending child marriage because many women refugees perceived these practices as acceptable.⁴⁶

An overarching problem, according to a representative of a UN Agency, was that the ability of key partners to alleviate vulnerabilities is dependent on aid, and in the context of the Rohingya refugee situation, the amount of aid available is limited.⁴⁷ Limited funds at the disposal of key partners mean that vulnerabilities often remain unaddressed because addressing them does not satisfy "value for money".⁴⁸ Therefore, identification of vulnerabilities is sometimes restricted to documentation and limited follow-up. The limited availability of funds also means that it is impossible to properly implement inclusive

⁴³ Interview with BD14, a Psycho-Social Support (PSS) Officer of an international NGO, Cox's Bazar, 26 March 2021, on file with author.

⁴⁴ op. cit.

⁴⁵ op. cit.

⁴⁶ Interview with BD34, a Representative of national NGO, Cox's Bazar, 23 March 2022, on file with author.

⁴⁷ Interview with BD35, a Representative of a UN Agency, Cox's Bazar, 24 March 2022, on file with author.

⁴⁸ op. cit.



programming envisioned in project proposals, for example, those written to alleviate the plight of disabled Rohingya refugees. A disabled person's attendance in a session did not necessarily mean that their participation was "meaningful", implying that inclusiveness is at times practiced "namkawastey" (superficially), a UN Agency representative told me. The absence of adequate funding has other negative consequences. According to a Psycho-Social Support (PSS) Officer of an international NGO who had been engaged with the Rohingya refugee response for the past three years, some NGOs working in the Rohingya refugee response were, in effect, increasing the vulnerabilities of the Rohingya by "selling" them as vulnerable "products" to donors for the sole purpose of getting funds, and then using a small portion of those funds to address the needs of refugees.⁴⁹ The interviewee stressed the absence of an effective mechanism that would allow donors to hold unscrupulous NGOs accountable so that they would not further engage in such activities. "It all boils down to what is written down in documents, and documents include both truths and lies", he said.⁵⁰ These activities of certain NGOs adversely impacted the "bhalo kaaj" or good work of other NGOs and organisations and gave Camps-in-Charge (CiCs) an upper hand to refuse 'good' NGOs from doing work that would have otherwise targeted alleviating the vulnerabilities of the Rohingya (Sullivan, 2021).⁵¹ A representative of a major national humanitarian organisation made similar but far more grave allegations. He claimed that the "crude truth" and "hypocrisy" of humanitarians is that they consciously design assessments in ways that inevitably lead to the kind of answers that they always wanted.⁵² According to him, at the end of the day, these assessments were undertaken to legitimise the activities of humanitarian organisations and convince Camps-in-Charge (CiCs) from the RRRC the value of their presence in the refugee response.⁵³ The dearth of funds does not necessarily mean resources are utilised efficiently. The PSS Officer I interviewed alleged that multiple organisations offered the same kind of support to Rohingya refugees in the same camps. For instance, there were cases where three organisations gave psycho-social support of various forms to children residing in the same

⁴⁹ Interview with BD14, a Psycho-Social Support (PSS) Officer of an international NGO, Cox's Bazar, 26 March 2021, on file with the author.

⁵⁰ op. cit.

⁵¹ op. cit.

⁵² Interview with BD19, a Representative of a national humanitarian organization, Cox's Bazar, 28 March 2021, on file with author.

⁵³ op. cit.



refugee camp. This was described as a “wasteful duplication” of support.⁵⁴ He prescribed that existing processes ought to be streamlined whereby the Bangladesh Government and the ISCG would, for example, entrust one organisation with the sole responsibility to render psycho-social support to Rohingyas residing in one camp. This would not just prevent “duplication” but also harmonise the conducting of vulnerability assessments.⁵⁵ The inefficient usage of limited funds goes beyond ‘wasteful duplication’. According to a representative of a UN Agency, large amounts of money are spent on making the vulnerabilities of the refugees “visible” to foreign donors.⁵⁶ “You see, securing funds is a big fight ... the funds come from European taxpayers ... and [to secure funding] visibility is very important ... work and advertising go hand in hand”, he said. Considering these insights, I wondered how much donor money reached Rohingya refugees after all the assessments and advertising were complete.

This section demonstrates the obvious, in the sense that Rohingya are vulnerable in many ways. Clearly, however, members of the host community with whom the Rohingya share space are very vulnerable too. It is undisputed that in Bangladesh’s already protracted Rohingya refugee situation, the resources at the disposal of key partners are nowhere near what is required to appropriately and adequately respond to the needs of the vulnerable. What began as a refugee crisis has warped over the past five years into a protracted refugee situation burdened by extremely challenging realities, which have caused inter-communal, and intra-communal tensions to simmer within and between refugee and host communities.⁵⁷ Multiple interviewees confirmed my belief that the same host community that embraced Rohingya people arriving in large numbers in 2017 are beginning to show lesser levels of hospitality.⁵⁸ A local politician told me that the construction of deep tube-wells in refugee camps had created a “Karbala-like situation” in the region.⁵⁹ As a result, agricultural practices of the host community were disrupted.⁶⁰ Emotions ran high during my conversation with this person. At one point, he likened the prolonged presence of the refugee population to a “gangrene-like” condition. He asked me: “Imagine that your house has a five-person capacity

⁵⁴ Interview with BD14, a Psycho-Social Support (PSS) Officer of an international NGO, Cox’s Bazar, 26 March 2021, on file with the author.

⁵⁵ *op. cit.*

⁵⁶ Interview with BD16, a Representative of a UN Agency, Cox’s Bazar, 27 March 2021, on file with the author.

⁵⁷ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with the author; Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with the author.

⁵⁸ *op. cit.*

⁵⁹ Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with the author.

⁶⁰ *op. cit.*



... If your house continues to host ten people for months and years ... won't there be problems? Won't you feel irritated?"⁶¹ The local politician drew my attention to a much broader question on how and for what purposes different forms of support should be allocated to the refugee and host communities. To tackle the tensions between the refugee and host communities, the Bangladesh Government decided that any organisation engaged in the Rohingya refugee response would have to spend roughly a third of the total amount of money secured on the host community.⁶² While the local politician was appreciative of this decision, he was critical of the current practices of key partners to spend more money on responding to the day to day and more immediate needs of members of the refugee and host communities, as opposed to investing that money to address their long term needs. On the issue of tensions between the host and refugee communities, one thing that stood out during fieldwork was what felt like a peaceful co-existence and co-dependence between Bangladeshi and Rohingya residents in Bhasan Char. "We stay on the island like brothers (*amra bhai bhai er moto kore thaki*)", a Rohingya refugee relocated to Bhasan Char, told me.⁶³ Around 30,000 Rohingya refugees live alongside several thousand Bangladeshis in Bhasan Char, implying that large sections of the living establishments constructed remain unoccupied. This reality likely creates a sense of calm across the island. It remains unclear what Bhasan Char will look like when 100,000 Rohingya people inhabit it and whether the 'peace' between the host and refugee community will remain even then. This is something that the key partners need to prepare for without delay.

During the course of my fieldwork, several interviewees confirmed the presence of an often unspoken but nevertheless deep-rooted tension between the 'host' and 'humanitarian' community.⁶⁴ I came across a general perception amongst several Bangladeshi interviewees that many 'humanitarians' had high-paying jobs in south-eastern Bangladesh because of the continued presence of Rohingya refugees. In reference to this, the local politician said: "To the NGOs, the Rohingya refugees are like the goose that lays golden eggs (*Rohingya hocche shonar*

⁶¹ op. cit.

⁶² op. cit.; Interview with BD9, a Representative of a UN Agency, Cox's Bazar, 15 March 2021, on file with the author.

⁶³ Interview with BD21, a Rohingya refugee, Bhasan Char, 13-15 February 2022, on file with the author.

⁶⁴ Interview with BD13, a Representative of a national NGO, Cox's Bazar, 26 March 2022, on file with the author; Interview with BD19, a Representative of a national humanitarian organisation, Cox's Bazar, 28 March 2022, on file with the author; Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with the author; Interview with BD35, a Representative of a UN Agency, Cox's Bazar, 24 March 2022, on file with author.



dim para hash) ... They don't slaughter the goose ... Rather they want it to lay a golden egg every day."⁶⁵ A representative for a national humanitarian organisation told me: "Brother ... Rohingya presence is good business for everyone."⁶⁶ When I softly raised this issue with an NGO worker during an interview, she quipped: "Well, without the Rohingya, you wouldn't be here as a researcher either!"⁶⁷ At this point, we both burst into laughter. After our laughter subsided, we moved on to other topics. Later that evening, I reflected on how I had conducted my affairs during fieldwork funded by the ASILE Project. I knew that I had deliberately attempted to be as 'frugal' as possible. For instance, I stayed in accommodation that charged around 1000/- Taka per day (roughly 10/- USD). Still, even this amount was often more than what a Rohingya refugee earned after a full day's worth of informal labour or 'volunteerism', which brings to the fore more profound questions about whether the limited money available to respond to and analyse the plight of not just vulnerable Rohingya refugees, but refugees across the globe, is being spent justifiably. It is clear to me that if the goal of identifying vulnerabilities through numerous assessments is to reduce precarity by "providing a more nuanced response to needs [of refugees] based on evidence" (ACAPS, 2019: 2), key partners need to do a much better job.

For this Report's purposes, it was not possible to conclude with certainty that a 'vulnerability contest' is already at play in full steam in Bangladesh. The indications of such a contest, however, are there. Among a range of considerations, if one takes into account the critique of efforts to address the vulnerabilities of Rohingya refugees discussed in previous paragraphs, simmering tensions between the host and refugee communities as well as between the host and 'humanitarian' community, the competition between refugee and host communities to be given a portion of the extremely limited resources secured by key partners, and the establishment of a refugee resettlement program by the US Government, a 'vulnerability contest' taking place at some point in the future in the not too distant future is inevitable.

⁶⁵ Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with the author.

⁶⁶ Interview with BD19, a Representative of a national humanitarian organization, Cox's Bazar, 28 March 2021, on file with author.

⁶⁷ Interview with BD34, a Representative of national NGO, Cox's Bazar, 23 March 2022, on file with author.



Right to Work

In Bangladesh, Rohingya refugees are not formally given the right to work. This significantly contributes to their precarity. This, of course, does not mean that the Rohingya do not 'work' and, in turn, earn money for their services. This becomes particularly evident when one visits a refugee camp buzzing with activity. The presence of Rohingya refugees and their interactions with the local community have reshaped the local economy through a wide array of informal business activities (Filipski *et al.*, 2019). In the course of fieldwork, the sprawling markets, food shops, grocery stores, tailors, and a range of other businesses seen inside the refugee camps supported this view. In addition to participating in informal business activities, a small portion of Rohingya refugees are also engaged by 'humanitarians' as volunteers, for which they get paid for their services. However, this does not mean that the kind of work the Rohingya are engaged in qualifies as 'decent work' or that the Rohingyas' work-related opportunities at present were available to them from the outset of the most recent arrivals of Rohingya refugees in 2017. Based primarily on an interview with a former representative of a UN Agency who was integrally involved in developing the 'Standard Operating Procedure' (SOP) for that Agency's Cash for Work programme, the following account traces the evolution of the Rohingyas' right to 'informally' work in Bangladesh. Drawing from desk-based research and insights gathered from a range of other interviews including Rohingya refugees, the following account explains how and why, at the insistence of the Bangladesh Government and with the support of the 'humanitarian' community, this arrangement is intentionally preserved so that Rohingya refugees are unable to improve their standard of living and perpetually remain in a state where they are primarily and ultimately dependent on the benevolent aid of donors to sustain themselves.

As discussed earlier, most of the Rohingya people currently residing in Bangladesh are categorised not as 'refugees' but as 'Forcibly Displaced Myanmar Nationals' (FDMNs) who do not formally have the right to work. When the mass displacement of Rohingya refugees took place in 2017, alongside the Bangladesh Government (BG), a host of 'humanitarian' organisations came to their aid. Given the unprecedented scale of the displacement, the response was understandably chaotic, and the process of giving life-saving assistance and other forms of aid to the Rohingya took place in the absence of any organisations having



SOPs.⁶⁸ From the outset of the response, some of these organisations employed Rohingya refugees labourers inside the evolving refugee camps. These organisations did not hire Bangladeshis from the host community at the time because they would have to be paid higher wages.⁶⁹ So, for instance, the same job that a labourer from the host community would typically do for 600/- Taka per day, a Rohingya refugee would do for 150 to 200/- Taka.⁷⁰ When ‘humanitarians’ shared the idea of standardising the process of engaging the Rohingya in paid labour within the camps with the Bangladesh Government, the response from the latter was a resounding ‘no’.⁷¹ The concerns of the BG were that engaging the Rohingya as paid labourers would obstruct the economic opportunities of Bangladeshis from the host community who were already suffering from “kajer shongkot” (a lack of jobs) for years.⁷² The Bangladesh Government felt that the Rohingya people should not be engaged in paid labour because it would encourage them to prolong their stay in Bangladesh and ultimately leave the camps altogether and integrate with the host community.⁷³ The former representative of a UN Agency who described much of the above to me in great detail, said: “The more money you give them, the more empowerment you give them, the more they will stay, the more they will integrate, right?”⁷⁴ These beliefs in effect echoed earlier views expressed by the Bangladeshi State Minister for Foreign Affairs in 2019, “If we are offering [the Rohingya] a better life than what they are used to, they will not go back” (Solomon, 2019). According to a researcher specialising in refugee studies, the Bangladesh Government also believed that facilitating the integration of Rohingya refugees would legitimise the Myanmar military junta’s claim that the Rohingya did not belong to Myanmar and were in fact citizens of Bangladesh. This person told me: “If [integration of the Rohingya] becomes an example, then

⁶⁸ Interview with BD1, a former representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

⁶⁹ *op. cit.*

⁷⁰ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author.

⁷¹ Interview with BD1, a former representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

⁷² *op. cit.*; Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with author.

⁷³ Interview with BD1, a former representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

⁷⁴ *op. cit.*



refugees from Assam will also coming. It's not just our south-eastern border we have to worry about."⁷⁵

In the aftermath of the mass displacement of 2017, 'humanitarians' from UN agencies and a local NGO "fought" with the BG to allow employing the Rohingya as paid "volunteers" and giving them "loose cash" for their services.⁷⁶ The former UN Agency representative explained why the Bangladesh Government's rigidity thawed over time. First of all, the BG came to terms with the reality that during the chaotic arrival of the Rohingya and the humanitarian response that soon followed, many organisations had already begun to employ the Rohingya as paid labourers without the BG's blessings. Secondly, the 'humanitarians' pledged to employ only those Rohingya living within the camps and pay them at rates below what a Bangladeshi would be paid for the same job. It was assured that the so-called employment opportunities would be run on an ad hoc week to week basis to remove any sense of 'job security'. 'Humanitarians' categorised these work opportunities as a form of 'volunteerism' through which Rohingya refugees would be able to contribute to their own community and, in exchange for their contributions, earn some loose cash. Such a system would, in effect, streamline the wages of the Rohingya to a minimum rate that would, on the one hand, not be sufficient to empower them financially, but on the other hand, be just enough to sustain themselves.

As a consequence of negotiations between the Bangladesh Government, humanitarians, and Rohingya refugees, an understanding was reached to allow the giving of "direct cash" to the Rohingya only if certain conditions were met.⁷⁷ These conditions, which centred around the core decision that Rohingya could be hired as 'volunteers' only if all employment options from the local community had been exhausted, included: 1) the concerned work was work which Bangladeshis would not be able to perform due to a lack of relevant skill; 2) it was not possible to find Bangladeshis interested in doing that kind of work; and, 3) it was unsafe for Bangladeshis to do that kind of work. Based on this decision, it became possible for Rohingya refugees to be hired as 'volunteers' by humanitarian organisations. As a result, one UN agency, for instance, began to employ them in large numbers in various kinds of "skilled" and

⁷⁵ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author.

⁷⁶ Interview with BD1, a former representative of a UN agency, Cox's Bazar, 18 March 2021, on file with the author.

⁷⁷ Interview with BD1, a former representative of a UN Agency, Dhaka and Cox's Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.



“unskilled” labour, and also as “volunteers” or “enumerators” engaged in data collection inside the refugee camps. It was decided that “skilled and unskilled”⁷⁸ labour would be paid BDT 75/- and 50/- per hour, respectively. The highest amount a Rohingya family would be able to earn per month would range between BDT 7,200 and 12,000/-. Not more than one person from one Rohingya family would get a job. The same person from one Rohingya family would not work continuously for more than two weeks. After the passage of two weeks, another member from the same Rohingya family would get the chance to work.

The former UN Agency representative explained to me the reasons behind the imposition of this ‘cap’.⁷⁹ The first reason related to ensuring a sense of equity between Rohingya families. The objective was to prevent larger families from earning more money than smaller families. The second reason behind imposing this ‘cap’ was that humanitarians believed large amounts of loose cash given to a ‘vulnerable’ Rohingya refugees would inevitably fuel “corruption and terrorism”. This is why, after paying Rohingyas for their labour, at least one UN agency is known to engage in “post-distribution monitoring” which involves its staff visiting Rohingya refugee families and asking them how they spent the money they earned through their jobs. The only agreement between that particular UN agency and a Rohingya refugee it employs is entered into when a cash payment is made. This agreement entails taking consent from the Rohingya refugee that the UN agency can engage them in work relating to site development, data collection etc. According to my interviewee, this agreement was essentially a ‘consent form’. It was the only contractual form Rohingya refugees employed by that UN Agency had relating to their work inside the refugee camps. It is worth noting that only about ten percent of the entire refugee population are employed as ‘volunteers’.⁸⁰ When I asked a representative of the Bangladesh Government why more refugees are not covered under this ‘volunteerism’, he retorted: “How many Bengalis are employed? ... Are we able to engage all our citizens?”⁸¹ “At least the Rohingya get some form of assistance”, he said.

⁷⁸ Unskilled jobs are referred to as *boduilla* or *gadha khata* labour which loosely translates to back-breaking physical work requiring nothing more than rudimentary motor skills.

⁷⁹ Interview with BD1, a former representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with the author.

⁸⁰ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author; Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 07-08 Feb, 10 Feb, 2022, on file with the author.

⁸¹ Interview with BD20, a Representative of the Bangladesh Government, Cox’s Bazar, 07-08 Feb, 10 Feb, 2022, on file with the author.



During the course of my fieldwork, I realised that the opportunity to earn loose cash as ‘volunteers’ or by taking part in informal businesses gives a degree of dignity to the lives of Rohingya refugees in Bangladesh. For instance, working as a skilled labourer entailed receiving training and certification on protection norms, learning how to take surveys, and incorporating incident reports into the KoBo Toolbox.⁸² That said, interviewees working for organisations that hired the Rohingya as ‘volunteers’ conceded that the income generated through these activities was not enough to have a demonstrably positive impact on their living standards. The former UN Agency representative said to me: “You see, when a Rohingya starts to earn more money, they become a threat to the local Bangladeshis. Humanitarians always have to keep this in mind.”⁸³ Bearing in mind that it was always logistically easier to employ Rohingya camp residents oblivious to work-related rights, the same interviewee conceded that the arrangement which allowed Rohingya refugees to work as ‘volunteers’ was “exploitative” at the end of the day.⁸⁴ This person contended that ‘decent work’, required, among other things, employing someone in a job that has a contract, a staffing plan and job security, ensuring that there is scope within the job for the employee’s development, and allows the employee to be supported by human resources. The interviewee acknowledged that these work opportunities for the Rohingya did not qualify as ‘decent work’. While I was away in the field, I did, however, come across some exceptions. A representative of an educational institution that engages Rohingya ‘volunteers’ provided them with appointment letters and contracts which detailed, among other things, their working hours, reporting methods, resignation policy etc.⁸⁵ However, not all is lost. The decision which allowed the Rohingya to get loose cash through work reduced their vulnerabilities, albeit minimally. The work opportunities alleviated their day to day suffering to an extent. When asked about the positive outcomes of the Rohingya being informally granted the opportunity to work, several interviewees felt that it empowered Rohingya women for the first time doing a job meant getting out of their homes. This was echoed in the words of an interviewee, a representative of a UN agency, who said: “The Rohingya are an extremely conservative community. In the past, girls would not be able to

⁸² The IFRC states: “KoBoToolbox is a set of mobile tools that allows National Society staff and volunteers, IFRC staff and International Committee of the Red Cross (ICRC) staff to conduct surveys and collect data.” See: <https://www.ifrc.org/ifrc-kobo>.

⁸³ Interview with BD1, a former representative of a UN agency, Cox’s Bazar, 18 March 2021, on file with the author.

⁸⁴ Interview with BD1, a former Representative of a UN Agency, Dhaka and Cox’s Bazar, 17 Jan, 23 Feb, 28 Feb, 7 March, 18 March 2021, on file with author.

⁸⁵ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author.



leave their homes. The chance to do some work created the opportunity for Rohingya women to leave their homes. The fact that a Rohingya man would not object to a Rohingya woman doing paid work marked a profound change in their day to day lives and facilitated female empowerment.”⁸⁶ A researcher specialising in refugee studies who is also tied with an educational institution that engages Rohingya refugees as ‘volunteers’ told me that the women refugees found the “positive discrimination policy” the institution had in place “liberating”.⁸⁷

The circumstances around the right of Rohingya refugees to informally work in Bangladesh remain volatile. Often the Bangladesh Government wants to reduce the flow of money in camps when it feels that such flow contributes to the drug and arms trade in and around camps, which is a real problem (Khan and Yousuf, 2022). What usually follows is a crackdown on the informal business activities referred to at the very beginning of this section. A representative of a UN Agency I interviewed said that the BG had in the past demanded that all paperwork concerning Rohingya ‘volunteers’ relating to how many were engaged and how much they were paid by the UN Agency be handed over, a demand which was declined.⁸⁸ An interesting and vital development during my fieldwork in Bhasan Char and refugee camps in the mainland, is that representatives of the Bangladesh Government and Bangladeshi politicians are slowly beginning to appreciate the need to formally grant the right to work to Rohingya refugees.⁸⁹ Like refugees living in mainland camps, most Rohingya residents of Bhasan Char have not formally been given the right to work. However, it was also apparent that if a Rohingya refugee wished to engage in some form of money-generating activity on the island, the Bangladesh Government would not bar him or her from doing so. As a result, there is already a vibrant market run by Rohingya refugees. However, the lack of adequate access to livelihood options remains one of the core challenges that remain unaddressed. A representative of the Bangladesh Government stationed in Bhasan Char acknowledged that addressing this was his greatest challenge.⁹⁰ Alongside the reasons that Rohingya refugees on Bhasan Char have a limited right to freedom of movement, there appears to be a connection

⁸⁶ Interview with BD8, a representative of a UN agency, Cox’s Bazar, 18 March 2021, on file with the author.

⁸⁷ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author.

⁸⁸ Interview with BD35, a Representative of a UN Agency, Cox’s Bazar, 24 March 2022, on file with author.

⁸⁹ Interview with BD23, a Representative of the Bangladesh Government, Bhasan Char, 14 February 2022, on file with author; Interview with BD33, a local politician, Ukhiya, 23 March 2022, on file with author.

⁹⁰ op. cit. BD23.



between the lack of opportunities to make a decent living on the island and attempts by Rohingya residents to escape. A Rohingya refugee I interviewed at length in during fieldwork in Bhasan Char told me: “If I had the chance to earn a living on the island, all my sadness (“*mon kharap*”) would go away”.⁹¹

An important question that remains unanswered is: what kind of work will Rohingya refugees do if they were formally granted the right to work in Bangladesh? Decades of marginalisation and disenfranchisement in their home Myanmar have left a significant portion of the Rohingya population without access to comprehensive formal education, which in turn leaves them in a precarious position where most of them find themselves engaged in informal labour. While doing fieldwork in mainland refugee camps, I had many conversations with a Rohingya refugee who was a school teacher in Myanmar. During one of those conversations, he reminded me that Nelson Mandela once that said, “education can change the world”.⁹² “You must educate them [Rohingya]. You must provide them with schools. Without a job, without access to study, what will they do?”, he asked me.⁹³ The limited education and skills development opportunities key partners offer to the Rohingya in Bangladesh are generally taught in the Burmese, Arabic and English languages.⁹⁴ The rationale here is that the education and skills Rohingya refugees learn in Bangladesh will be of value to them when they voluntarily and sustainably repatriate to Myanmar. This rationale is, in fact, embedded in the text of “Strategic Objective 1” of the 2022 JRP, which reads: “Support Rohingya refugees/FDMNs to build skills and capacities commensurate with livelihood opportunities available in Rakhine State, with a view to facilitating their early voluntary and sustainable repatriation and reintegration in Myanmar society.” (ISCG, 2022: 10; Ministry of Foreign Affairs, 2022). This objective is premised on the BG’s strong resistance to Rohingya refugees being allowed to formally integrate with the host community and the expectation that they will ‘go back home’ one day. A representative of a UN Agency fears that the lack of opportunity for Rohingya refugees to put their education and skills to use in Bangladesh will inevitably lead to them forgetting what they learned, which will take everyone “back to square one”.⁹⁵ In light of these realities, coupled with the fact that large sections of the host community are also engaged in informal labour, the prospect of the Rohingya employed in ‘decent work’ in Bangladesh is distant. In a relatively “*chachhachhola*”

⁹¹ Interview with BD21, a Rohingya refugee, Bhasan Char, 13-15 February 2022, on file with author.

⁹² Interview with BD2, a Rohingya refugee, Ukhiya, 19 Jan, 21 Jan, 1 March, 25 March 2021, on file with author.

⁹³ *op. cit.*

⁹⁴ Interview with BD38, a Representative of a major national NGO, Dhaka, 28 March 2022, on file with author.

⁹⁵ Interview with BD35, a Representative of a UN Agency, Cox’s Bazar, 24 March 2022, on file with author.



(crude) assessment of the state of affairs, one of my interviewees confided that the Bangladesh Government, by not formally giving Rohingya refugees the right to work, had failed to appreciate the economic potential of their physical presence in the country.⁹⁶ He believed that appealing to the BG on humanitarian and moral grounds to ensure that Rohingyas formally partake in the Bangladeshi economy would not work. Instead, the ‘humanitarian’ community would have to explain the economic potential of Rohingya refugees participating in the local economy to the owners of local businesses, who would then lobby the BG to grant the Rohingya the right to work. Whether the Bangladesh Government can acquire the political will to formally give Rohingya refugees the right to work in Bangladesh in the future remains to be seen. When responding to the Rohingya refugee situation, as long as poorer countries like Bangladesh continue to take on far greater responsibilities with limited funds, acquiring such ‘political will’ will not be easy. In the coming days, months and years, a lot will depend on the extent to which the Bangladesh Government’s fears about the consequences of formally granting the right to work are addressed.

Conclusion

A non-signatory to the 1951 Refugee Convention, Bangladesh is a major refugee-hosting State from the Global South that upholds the principle of *non-refoulement* concerning over one million Rohingya refugees in a global refugee regime where the culture of responsibility shifting as opposed to responsibility sharing prevails. The importance of a nuanced understanding of the refugee response in Bangladesh cannot be overstated. To that end, this Report explored the status, vulnerabilities and the right to work of Rohingya refugees in Bangladesh and in the process revealed their precarious lives. Section I showed that the framework that extends a degree of protection towards refugees also has embedded several points of tension that fuel their precarious status. These points of tension related to the different labels used to address Rohingya refugees in the absence of formal refugee status, ambiguity around what their judicially enforceable rights are, the imposition of a top-down biometric registration process that did not take into account the thoughts and needs of Rohingya refugees and the uncertainty around how many Rohingya

⁹⁶ Interview with BD22, a Researcher specialising in refugee studies, Bhasan Char, 14-15 February 2022, on file with author.



people actually live in Bangladesh. Section II demonstrated that Rohingya refugees and members of the host community with whom they share physical space have multifaceted vulnerabilities. In light of the overarching reality that the resources at the disposal of key partners are nowhere near what is required to appropriately and adequately respond to the needs of the vulnerable, it critiqued the major assessments undertaken to identify and alleviate vulnerabilities. This Section touched on the simmering tensions within and between refugee and host communities and between the host and humanitarian communities. It revealed the first signs of a ‘vulnerability contest’ at play, which will inevitably play out in fuller steam. Section III took a closer look at the right to work of Rohingya refugees, a right that the Bangladesh Government has not formally granted but is a right that is informally operative. This enabled refugees to earn small amounts of money through informal labour and as ‘volunteers’ of key partners. After explaining the reasons why Bangladesh remains reluctant to formally grant the right to work to refugees, this Section explained how and why, at the insistence of the Bangladesh Government and with the support of the ‘humanitarian’ community, an arrangement prevailed where the money earned from limited work opportunities through ‘volunteerism’ were insufficient to empower them financially, but just enough to sustain themselves. In light of these realities, coupled with the fact that the host community is also engaged in informal labour, the prospect of the Rohingya being employed in ‘decent work’ in Bangladesh remains distant. This Section also found that the BG’s decision to enable the Rohingya to earn some loose cash reduced their vulnerabilities to a small extent but empowered Rohingya women because doing a job meant getting out of their homes.

In many parts of this Report, I have been critical of the role played by key partners of the refugee response, particularly the Bangladesh Government and UN Agencies. The purpose of these criticisms is far from wanting to cancel and replace them with other entities. In an unfair global refugee regime, the first responders to the plight of the Rohingya after the mass displacement of 2017 were the Bangladesh Government acting with the mandate of its people and the UN Agencies. Under highly challenging circumstances, this partnership saved countless Rohingyas fleeing mass atrocities committed at the scale of international crimes in Myanmar. Falling back on my visits to the field, my overall impression is that the framework that offers lifesaving support to the Rohingya is in many aspects no longer “ad hoc, arbitrary and discretionary” as was once described by Pia Prytz Phiri many years ago (Phiri, 2008). It also would not be imprudent to now discount Eileen Pittaway’s assertion from 2008 that in the context of having to find a safe haven either in Myanmar or Bangladesh, the



Rohingya are “like deer caught between two tigers” (2008: 83). Nevertheless, despite an increase in the entitlements of Rohingya refugees, many gaps in the protection framework remain, leaving them in a perpetual precarity with the minimal ‘right to have rights’. This precarious situation enhances the Rohingyas’ existing vulnerabilities, creates new ones, and sustains an environment where the Rohingya are continuously and easily exploited. In *Protecting Civilians in Refugee Camps – Unable and Unwilling States, UNHCR and International Responsibility*, Maja Janmyr begins her concluding ‘Final Words’ with a quote from French philosopher Denis Diderot who is known to have said: “*It is not enough to do good, it must be done well.*” While there are clear attempts to do ‘good’ for Rohingya refugees, doing those things ‘well’ remains a far cry. Those familiar with the plethora of policy documents published by key partners will feel that they belong to a ‘mutual appreciation society’ where, for example, UN agencies shower praise on the Bangladesh Government for its generosity as it continues to host the Rohingya and the Bangladesh Government appreciating UN agencies and other organisations for their involvement and support.

The first steps to doing things well will involve Bangladesh acquiring the political will to enact a national law on refugee matters that provides a set of judicially enforceable rights to refugees. However, such a law will only significantly reduce the precarity of Rohingya refugees if the global refugee regime emphasises real responsibility sharing where more physical space in affluent States is allocated for refugees and pays greater attention to addressing the root causes of refugee crises and situations. At the same time, key partners must internalise the belief that they are not benevolent saviours of refugees because being benevolent towards refugees takes away their sense of agency.



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Annex 1

No.	Interviewee	Organisation	Place	Date(s), Year
1	BD1	Former representative of a UN Agency	Dhaka and Cox's Bazar	17 Jan, 23 Feb, 28 Feb, 7 March, 18 March, 2021
2	BD2	Rohingya refugee	Ukhiya	19 Jan, 21 Jan, 1 March, 25 March, 2021
3	BD3	Rohingya refugee	Ukhiya	19 Jan, 2021
4	BD4	Rohingya refugee	Ukhiya	21 Jan, 2021
5	BD5	Former representative of a major national NGO	Dhaka	10 Feb, 2021
6	BD6	Representative of a UN Agency	Cox's Bazar	9 March, 2021
7	BD7	Representative of an international NGO	Cox's Bazar	11 March, 2021
8	BD8	Representative of a UN Agency	Cox's Bazar	14 March, 18 March, 2021
9	BD9	Representative of a UN Agency	Cox's Bazar	15 March, 2021
10	BD10	Representative of an international NGO	Cox's Bazar	17 March, 2021
11	BD11	Representative of a major national NGO	Dhaka and Cox's Bazar	18 March, 2021
12	BD12	Rohingya refugee	Cox's Bazar	25 March, 2021



13	BD13	Representative of a national NGO	Cox's Bazar	26 March, 2021
14	BD14	Psycho-Social Support Officer of an international NGO	Cox's Bazar	26 March, 2021
15	BD15	Representative of a UN Agency	Cox's Bazar	26 March, 2021
16	BD16	Representative of a UN Agency	Cox's Bazar	27 March, 2021
17	BD17	Representative of an international NGO	Cox's Bazar	27 March, 2021
18	BD18	Representative of an international humanitarian organisation	Cox's Bazar	28 March, 2021
19	BD19	Representative of a national humanitarian organisation	Cox's Bazar	28 March, 2021
20	BD20	Representative of the Bangladesh Government	Cox's Bazar	07-08 Feb, 10 Feb, 2022
21	BD21	Rohingya refugee	Bhasan Char	13-15 Feb, 2022
22	BD22	Researcher specialising in refugee studies	Bhasan Char	14 Feb, 15 Feb 2022
23	BD23	Representative of the Bangladesh Government	Bhasan Char	14 Feb, 2022
24	BD24	Representative of the Bangladesh Government	Bhasan Char	15 Feb, 2022
25	BD25	Rohingya refugee	Bhasan Char	15 Feb, 2022
26	BD26	Rohingya refugee	Bhasan Char	15 Feb, 2022



27	BD27	Bangladeshi lawyer	Dhaka	19 Feb, 2022
28	BD28	Former representative of a UN Agency	Dhaka	01, 03 March, 2022
29	BD29	Researcher specialising in security studies	Dhaka	07 March, 2022
30	BD30	Representative of a UN Agency	Dhaka	12 March, 2022
31	BD31	Representative of Bangladeshi Security Agency	Dhaka	13 March, 2022
32	BD32	Bangladeshi lawyer	Dhaka	15 March, 2022
33	BD33	Local Politician	Ukhiya	23 March, 2022
34	BD34	Representative of national NGO	Cox's Bazar	23 March, 2022
35	BD35	Representative of a UN Agency	Cox's Bazar	24 March, 2022
36	BD36	Local Politician	Ukhiya	26 March, 2022
37	BD37	Researcher specialising in refugee studies	Dhaka	27 March, 2022
38	BD38	Representative of a major national NGO	Dhaka	28 March, 2022
39	BD39	Bangladeshi lawyer	Dhaka	06 April, 2022