

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: *Fourth Cycle, 44th Session*

BANGLADESH

I. BACKGROUND INFORMATION

Bangladesh is not a State Party to the *1951 Convention relating to the Status of Refugees*, nor to its *1967 Protocol*. Furthermore, Bangladesh has not acceded to the *1954 Convention relating to the Status of Stateless Persons*, nor to the *1961 Convention on the Reduction of Statelessness*.¹ In the absence of a national asylum framework relating to asylum seekers and refugees, the 1946 Foreigners Act is the main legislation that applies to all foreigners, including refugees and other persons under UNHCR's mandate. Despite the absence of a national legal framework for the identification and protection of stateless persons, the Government has taken measures to prevent and reduce statelessness. In this connection, while an important amendment was made to the 1951 Citizenship Act in 2009 to allow Bangladeshi women to pass citizenship to their children, the provision does not go far enough to reduce statelessness and its application is inconsistent.

Bangladesh currently hosts nearly 955,000² Rohingya refugees from Myanmar, of whom over 97% reside in 33 extremely congested camps in Cox's Bazar District of Rohingya. The majority arrived after 2017, with two camps hosting Rohingya who have been registered as refugees since the nineties. In December 2020, the Government of Bangladesh (GoB) declared its intent to relocate 100,000 refugees from the refugee camps to Bhasan Char Island owing, in part, to concern over extreme congestion in the camps and has to-date moved approximately 30,000 persons to the island.³ Bangladesh is also host to 76 refugees of various nationalities who have been recognised by UNHCR under its mandate, given the absence of a national asylum system to determine refugee status.

The Rohingya response is now entering its seventh year and Bangladesh continues to generously host Rohingya refugees from Myanmar, making it one of the largest protracted refugee situations in the world. Nevertheless, the Government of Bangladesh maintains its position that voluntary repatriation in safe, dignified, and sustainable conditions is the only feasible solution for Rohingya refugees, and for this reason regards their stay in the country as temporary. Consequently, refugees in Bangladesh do not have the right to work, freedom of movement, or access to public services, except as part of public health measures.

Given this situation, Rohingya refugees in Bangladesh remain fully reliant on humanitarian assistance for survival; however, the conditions in the camps have the potential to deteriorate, especially in the face of a reduced funding outlook.⁴ With competing large-scale humanitarian

¹ Bangladesh has however acceded to the International Covenant on Civil and Political Rights (with a reservation to Article 14) on 6 September 2000, the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment on 5 October 1998, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children on 12 September 2019. In addition, Bangladesh ratified the Convention on the Rights of Persons with Disabilities on 30 November 2007, and the Convention on the Rights of the Child on 3 August 1990, with a reservation to Article 14(1), whereas Article 21 would apply subject to the existing laws and practices in Bangladesh. It also ratified the Convention on the Elimination of All Forms of Discrimination Against Women on 6 November 1984, and it does not consider as binding upon itself the provisions of Article 2, 16 (1) (c) as they conflict with Sharia law based on the Quran and Sunnah.

² Of whom approximately, 41,000 individuals are from the residual caseload from the 1990s.

³ [Rohingya relocation to Bhasan Char. - Permanent Mission of the People's Republic of Bangladesh to the United Nations \(bdun.org\)](#).

⁴ [UNHCR - UNHCR appeals for renewed support and solutions for Rohingya refugees.](#)

emergencies, donors have warned of a decrease in humanitarian funding, despite the fact that prospects for large-scale return to Myanmar for the Rohingya population is unlikely for the foreseeable future.

Furthermore, the security situation in the camps remains challenging. Reliance on humanitarian aid compounds vulnerability of the refugees and increases their risk of being exploited and falling victim to criminal activities. The UN has repeatedly called on the various law enforcement agencies to step up patrolling and policing in a timely, comprehensive, coordinated and protection-sensitive manner. Concern has also been raised about increasing anti-Rohingya rhetoric, including stereotyping and scapegoating them as the source of crime and other problems..

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 147.164: “Continue efforts to host the forcibly displaced Myanmar nationals until they voluntarily return to their homeland in safety, security and dignity (Yemen)”.

Repatriation based on an informed and voluntary decision in safety and dignity will not be possible for the foreseeable future for the overwhelming majority of Rohingya refugees in Bangladesh owing to developments in Myanmar. Nevertheless, in January 2018, UNHCR and the Government of Bangladesh signed a Memorandum of Understanding on the voluntary repatriation of this population, which paved the way for the registration of the Rohingya refugees to take place. Registration is crucial to ensure this population is able to access assistance and protection and that those with specific needs or vulnerabilities are identified and referred to appropriate services and support. Registration also contributes to establishing the identity and place of former residence in Myanmar of Rohingya refugees, to support their right to return to Myanmar in the future. In addition to providing a means for documentation to be issued to the refugees, registration has also helped keep families together or reunite them if they have been separated.

Linked to 3rd cycle UPR recommendations no. 148.24: “Strengthen those measures that have been taken to ensure that all children and young persons among the refugees have effective access to the right to education [...] (Argentina)”, no. 148.23: “Step up efforts to guarantee the rights of refugees [...] (Mexico)”, and no. 148.22: “Continue improving Rohingya refugees’ conditions [...] (Holy See)”

UNHCR commends the Government of Bangladesh for introducing the Myanmar curriculum for the education of Rohingya refugee children. By December 2022, 253,070 out of 328,608 refugee students (76%) had transitioned to primary and junior secondary education in the Myanmar curriculum.

UNHCR further commends the Government of Bangladesh for approving the ‘Volunteer Engagement Guidance’, which has paved the way for thousands of refugee volunteers serving their community as teachers, community health workers, water and sanitation staff, first responders in times of natural disasters etc. to receive remuneration through incentives and the ‘Framework on Skill Development for Rohingya refugees/FDMNs and host communities’, which aims to build refugees’ capacities commensurate with the opportunities in Rakhine State, while they wait in Bangladesh to return voluntarily, in safety and dignity to Myanmar.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations

Issue 1: Fair and efficient asylum procedures

Linked to 3rd cycle UPR recommendations nos. 149.14-17 on accession to the 1951 Convention (Côte d'Ivoire, Georgia, New Zealand, Switzerland)⁵

UNHCR acknowledges the contribution of Bangladesh in continuing to host and provide protection to Rohingya refugees, who have fled discrimination, persecution, and violence in Myanmar. Given the continuing volatile security situation and political instability in Myanmar, including in Rakhine State, individuals fleeing Myanmar to seek safety from serious harm remain in need of international protection. However, Bangladesh has reiterated that its borders would remain closed and no one from Myanmar would be allowed to enter the territory due to the deteriorated situation in Rakhine State.⁶

Recommendations:

UNHCR recommends that the Government of Bangladesh:

- a) Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*;
- b) Amend the 1946 Foreigners Act, to classify refugees and asylum-seekers as a special category of foreigners who should not be penalised for irregular entry and stay and provide them with access to asylum procedures and documentation, in line with international standards;
- c) Establish all necessary safeguards to ensure respect for the principle of non-*refoulement*, ensuring access to territory and protection of all refugees against rejection at the border or forcible return, in line with customary international law, Article 7 of the International Covenant on Civil and Political Rights, and Article 3 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment;
- d) Establish a regular information sharing and referral mechanism with UNHCR to enable early identification of asylum-seekers/refugees and an appropriate response mechanism, with UNHCR's support; and,
- e) Continue to encourage access to livelihood opportunities that will contribute to the enjoyment of basic rights for Rohingya while in exile in Bangladesh and fully prepare the refugees' sustainable reintegration upon return to Myanmar.

Issue 2: Trafficking in persons

Linked to 3rd cycle UPR recommendations nos. 147.57-58, and 149.61-62 (Turkmenistan, Islamic Republic of Iran, Djibouti, Guyana)⁷

UNHCR acknowledges the efforts made by the Government of Bangladesh to prevent all forms of trafficking in persons, especially of women and children, and to enhance investigation and prosecution of perpetrators, including in cases of Rohingya victims. UNHCR notes that

⁵ No. 149.14: "Accede to the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees in order to better assist and protect these persons in distress (Côte d'Ivoire)", no. 149.15: "Consider becoming a party to the Convention relating to the Status of Refugees, of 1951 (Georgia)", no. 149.16: "Become a party to the Convention relating to the Status of Refugees, of 1951 (New Zealand)", and no. 149.17: "Ratify the Convention relating to the Status of Refugees, of 1951 [...] (Switzerland)"

⁶ See, <https://unb.com.bd/category/Bangladesh/bgb-vigilant-none-can-enter-from-myanmar-now/99982>. Official statistics refer to 537 Myanmar nationals detained and returned to Myanmar by the Bangladesh Border Guard Bangladesh between January and December 2022: <http://www.bgb.gov.bd/site/page/14887513-883b-47d4-91e1-3ee1c7dc57ca/Human-Traffic>.

⁷ No. 147.57: "Continue the efforts to enable tangible progress in combating trafficking in persons (Turkmenistan)", no. 147.58: "Continue efforts to eliminate human trafficking (Islamic Republic of Iran)"; no. 147.61: "Continue efforts to combat trafficking in humans, particularly the exploitation of children, by stepping up measures against traffickers (Djibouti)", and, no. 147.62: "Enhance cooperation at all levels to address trafficking in persons, in particular women and girls (Guyana)"

Rohingya refugees in Bangladesh are at particular risk of forced labour, child and forced marriage, and sex trafficking, both internally and transnationally. The risks of trafficking arising within the camps are linked to limited opportunities for education, vocational training and income generating activities.

Recommendations:

UNHCR recommends that the Government of Bangladesh:

- a) Enhance mechanisms for border and law enforcement officials to screen and identify victims of trafficking, including Rohingya victims, and establish an Anti-Trafficking Tribunal in Cox's Bazar to ensure effective investigation and prosecution of trafficking cases; and,
- b) Take measures to facilitate access to national legal aid mechanisms for vulnerable refugees, including refugee victims of trafficking, in line with the Legal Aid Services Act (2000).

Issue 3: Gender-based violence, child protection and protection of persons with disabilities and those from other minority groups

Linked to 3rd cycle UPR recommendations nos. 149.51-53, 149.55-56, and 149.60 (Iceland, Italy, Brazil, Uruguay, Islamic Republic of Iran, Lao People's Democratic Republic)⁸

Gender-based violence (GBV) continues to be a pervasive problem in the camps due to local gender norms, systematic discrimination against women, unequal power relationships and misconceptions about intimate partner violence. GBV is also related to the significant lack of livelihoods opportunities, and general levels of poverty and is linked to other harmful practices, including human trafficking and sexual exploitation.⁹ Rohingya refugee children continue to be exposed to protection risks, including violence, exploitation, abduction, smuggling/trafficking, child labour, child marriage, and arrest and detention. Due to lack of legal status, various administrative restrictions, and lack of skills and livelihood opportunities, refugee adolescents are at risk of resorting to harmful coping mechanisms or being exploited by criminal actors. On the other hand, transgender persons and other sexual minorities are at increased risk of physical, psychological, and sexual harassment and abuse within their communities, while preventative and remedial action and services are inadequate.

In addition, congestion in the camps and the installation of perimeter fencing has made it increasingly difficult to find additional space for important services, while shelters are susceptible to fire hazard and environmental degradation. This is especially concerning as Bangladesh is vulnerable to climate change and natural disaster risks. The environment compounds the risks faced by and the vulnerability of refugees with disabilities, who are already significantly impacted by lack of services and opportunities for livelihoods and education.

Recommendations:

UNHCR recommends that the Government of Bangladesh:

⁸ No. 149.56: Adopt legislation criminalizing all forms of violence against women and girls, including marital rape (Iceland); No.149.55: Take further steps to fight all forms of violence and discrimination, in particular against women, children, and lesbian, gay, bisexual, transgender and intersex persons (Italy); no. 149.60: Ensure access to justice to refugees and stateless individuals, in particular women and girls [...] (Brazil); no. 147.51: Strengthen existing law and practice to guarantee effectively the rights of children, in particular by combating violence against children, child labour and forced marriages [...]; no. 147.52: Establish a comprehensive national system for the protection of children to prevent and respond to violence against children [...] (Uruguay); no. 147.152: Continue to advance the rights of persons with disabilities, including by ensuring that public places are friendly to persons with disabilities (Islamic Republic of Iran); no. 147.153: Facilitate the access to education, health care and public services for persons with disabilities (Lao People's Democratic Republic).

⁹ [UNHCR - Young Rohingya volunteers confront gender-based violence in crowded Bangladesh camps.](#)

- a) Continue to work with all stakeholders, especially Rohingya refugee women and girls, to promote their meaningful participation and empowerment in community life, while ensuring their safe and dignified access to social services;
- b) Support refugee women's groups, including refugee women religious leaders and teachers' networks, women community outreach members and women elected representatives;
- c) Ensure that irrespective of their legal status or nationality, refugees, including survivors of gender-based violence in Bangladesh, have access to formal justice mechanisms to seek and enjoy legal redress as guaranteed by the national legal framework;
- d) Take active measures to promote the rights and wellbeing of refugee children, consistent with its obligations under the Convention on the Rights of the Child;
- e) Continue to support the scale up of quality education based on a formal (Myanmar) curriculum in the Rohingya refugee camps, through recruitment of sufficient numbers of qualified teachers and the introduction of certification;
- f) Encourage access to tertiary education abroad by means of complementary education pathways;
- g) Adopt and implement necessary measures to address discrimination against refugees with disabilities, including women and girls with disabilities;
- h) Improve the protection environment for men, women, boys and girls with disabilities by improving accessibility to services in refugee camps and surrounding host communities;
- i) Ensure the effective inclusion and participation of persons with disabilities and their representative organizations in the design and implementation of humanitarian programming;¹⁰
- j) Promote an enabling environment to address gender stereotypes in which quality support and services are provided to persons belonging to sexual minorities; and,
- k) Take steps to address systematic discrimination against and exclusion of persons belonging to sexual minorities.

Additional protection challenges

Issue 4: Relocation to Bhasan Char Island

Since December 2020, the Government of Bangladesh has relocated nearly 30,000 Rohingya refugees from the camps in Cox's Bazar District to the island of Bhasan Char. In October 2021, the Government and UNHCR, on behalf of the UN, signed a Memorandum of Understanding relating to Bhasan Char, aimed at guaranteeing the voluntary nature of relocations, allowing for movement between the camps and the island, and setting minimum standards for the delivery of quality services and livelihood opportunities on the island.

Recommendations:

UNHCR recommends that the Government of Bangladesh:

- a) Continue to ensure the voluntariness of relocation movements by enabling refugees to make free and informed decisions to move to the island;
- b) Ensure continued ownership and dedicated resources, particularly for facility management, transport to and service delivery on the island and basic water and sanitation infrastructure;
- c) Establish reliable connectivity with the mainland for logistics, trade and livelihoods purposes, including regular and predictable movements to/from the mainland for Rohingya refugees for family, medical, livelihoods and other reasons;
- d) Establish skills development, and livelihood opportunities, allowing for financial remuneration for refugees in line with applicable policies, rules and regulations; and,

¹⁰ CRPD, *General Comment No 3 (Article 6: Women and girls with disabilities)*, CRPD/C/GC/3 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en.

- e) Allow for integrated humanitarian-development programming on the island, within and outside the Joint Response Plan, including flexibility in the use of long-term development funding to ensure the sustainability of the Project.

Issue 5: Risk of statelessness for children born out of mixed marriages

UNHCR acknowledges the contribution and efforts of Bangladesh in providing access to civil documentation to Rohingya refugees.

Rohingya newborn children are registered in the UNHCR-Government of Bangladesh joint registration database (proGres) based on the documents issued by healthcare facilities in the camps such as antenatal cards, vaccination cards, and birth notifications. However, UNHCR notes with concern that birth certificates are not yet issued to Rohingya refugee children by the Government of Bangladesh.¹¹

Marriages and divorces among Rohingya refugees are registered by Bangladesh officials in the Rohingya camps, based on standard procedures established in cooperation with UNHCR since January 2020. Significant efforts in registering marriages and divorces at camp level have been made. UNHCR notes, however, that ad-hoc restrictions to registration of divorces have been applied in some camps (lack of approval of divorce).

Moreover, marriages between Bangladeshi nationals and Rohingya refugees are not registered either in the national system or in the camps. Consequently, children born from mixed marriages are not registered in the national official system, and restrictions to their registration in the joint UNHCR-Government of Bangladesh database have sometimes been applied, resulting in several children being left out of any birth registration process.

The 2009 amendment to the 1951 Citizenship Act enabled Bangladeshi mothers to pass citizenship to their children born in Bangladesh. Prior to the amendment, only Bangladeshi fathers could do so. However, this amendment does not apply retroactively, meaning that children born to a Bangladeshi mother prior to 31 December 2008 are not entitled to Bangladeshi citizenship. In particular, when the father is stateless, this increases the risk of the child becoming stateless as well. Furthermore, UNHCR is aware of children born to Bangladeshi mothers and Rohingya fathers who are not recognized as Bangladesh citizens, despite the enactment of the 2009 amendment.

Recommendations:

UNHCR recommends that the Government of Bangladesh:

- a) Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*;
- b) Amend the 1951 Citizenship Act to allow children born to Bangladeshi mothers before 31 December 2008 to acquire Bangladeshi citizenship;
- c) Ensure that all Rohingya children born in Bangladesh have access to birth registration and are issued birth certificates by the Government of Bangladesh, including children born from mixed marriages between Rohingya and non-Rohingya parents, in line with Section 2(n) of the Birth and Death Registration Act (2004) and Art. 7 (1) of the Convention on the Rights of the Child;
- d) Guarantee the timely and systematic registration of marriages and divorces of Rohingya refugees in the camps, ensuring that the procedures for the registration and issuance of marriage and divorce certificates are followed across all camps; and,

¹¹ In June 2022, the Government of Bangladesh introduced a new procedure for the issuance of birth certificates to Rohingya children requiring the endorsement by a Court for all birth certificates issued (Law and Justice Division Notice No. 439, June 2022) for specific purpose of certifying children's birth in connection with potential repatriation of their families to Myanmar. While this is a significant improvement towards formal birth registration of Rohingya refugee children and prevention of statelessness, the limited scope of its application remains a concern.

- e) Remove the existing restrictions for marriages between Rohingya refugees and citizens, ensuring that all marriages are registered.

UNHCR
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