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April 14, 2021

Johannes van der Klaauw
UNHCR Representative
Dhaka
Bangladesh



HRW.org

Re: Queries Linked to Human Rights Watch's Investigation into UNHCR's Joint Data Collection Exercise with Bangladesh and Detailed Recommendations

Dear Mr. van der Klaauw,

Following the phone call my colleague Belkis Wille had with members of your team on January 27, and the subsequent letter we sent Fumiko Kashiwa, at the time Acting UNCHR Representative, on February 8, we are writing regarding research Human Rights Watch has carried out on data collection by UNHCR as part of its joint registration exercise with Bangladesh in 2018.

As we finalize our research and to gain a full picture of UNHCR's role in Bangladesh's data sharing with Myanmar, we would like to reiterate our request for the following information:

1. UNHCR's data-sharing agreement with Bangladesh, signed on January 28, 2018;
2. UNHCR's memorandum of understanding with Bangladesh relating to voluntary returns of Rohingya refugees once conditions in Myanmar are deemed conducive, signed on April 13, 2018;
3. The results of UNHCR's Data Protection Impact Assessment that it carried out to assess risks relating to the 2018 joint registration exercise.

Based on our findings thus far, we would like to make the following recommendations to the UNHCR country team in Bangladesh and to UNHCR headquarters:

Recommendations

- UNCHR should request an independent inquiry into the 2018 joint registration process, and examine:
 - The extent to which informed consent was obtained regarding refugees' agreement to have their data shared by Bangladesh with Myanmar for repatriation eligibility assessments between 2016 and 2021;
 - The reason UNHCR staff publicly and in bilateral meetings with Rohingya community leaders repeatedly said that the data collection was not linked at all to repatriations given the reality that it was;
 - The extent to which UNHCR did not conduct a sufficiently robust data protection impact assessment before collecting Rohingya data jointly with Bangladesh that took into account, among other things, Bangladesh's history of forced repatriations of Rohingya to Myanmar and UNHCR's role in assisting with those forced repatriations;
 - Any harms that might have been caused by allowing for the data on individual Rohingya refugees to be included in lists of names given by Bangladesh to Myanmar.
- UNCHR should review and improve data collection practices globally, including on the basis of the proposed independent investigation noted above. Consider the following recommendations;
 - In light of the risk that consent might be given without a full understanding of the consequences when data is being gathered for multiple purposes, do not combine collecting data on individuals to provide services or identification with collecting data for repatriation eligibility assessment or repatriation purposes. Data collection linked to repatriation purposes should remain a separate exercise, ideally with a strict firewall in the databases maintained, and field officers should engage in robust consent discussions with every individual being considered for repatriation;
 - Only share data with countries of origin, or allow data that it collects to be shared by host countries with countries of origin, when individuals have given free and informed consent;
 - Ensure that people who agree to have their data shared for repatriation purposes are able to withdraw that consent, and are informed in a clear manner at the time they give initial consent on how to do so;

- Impose restrictions and safeguards that limit the authorities who can access and share data within the government, and prohibit access to this data by third governments and other parties.
- To ensure independent data assessments, use teams that are supervised in their work by an independent body to conduct data impact assessments before engaging in new programming that requires sensitive data collection. Assessments of this risk should include an examination of the historical context of the communities and countries involved;
- Ensure that all data collection, including biometric data, meets the requirements of necessity and proportionality.

We welcome any inputs that you would like to share with us on background or for publication, either orally or in writing, before April 28. Please direct any questions or comments to my colleague, senior researcher Belkis Wille, via email or phone at [REDACTED]

Thank you for considering our request.

Sincerely,

A large black rectangular redaction box covering the signature area.

Lama Fakh
Director
Crisis and Conflict Division