



Ten Principles for Protecting Refugees and Internally Displaced People Arising from Burma's Rohingya Crisis

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- 1. Members of the Rohingya ethnic group who have fled from Burma to Bangladesh are refugees and should be recognized as such. They are entitled to all rights that attach to refugee status.**

[More than 600,000](#) Rohingya Muslims have fled from [Burma](#) to [Bangladesh](#) since August 25, 2017. Counting previous flights of Rohingya refugees, including after the 2012 and 2016 violence in Rakhine State, the number of Rohingya refugees in Bangladesh could reach one million.

Not only those who fled the recent Burmese military campaign of ethnic cleansing, but Rohingya who have fled previous government crackdowns, were either directly forced to leave their homes amid killings and other assaults and destruction of their property or felt compelled to leave their homes and country to avoid persecution, including threats to their lives, physical abuse, destruction of their homes, and other severe human rights abuses. The existence of economic or personal motives does not forfeit a refugee's claim to protection based on well-founded fears of being persecuted.

The effective denial of citizenship for the Rohingya — who are not recognized on the official list of 135 ethnic groups eligible for full citizenship under the 1982 Citizenship Law — has facilitated enduring rights abuses, including restrictions on movement; limitations on access to health care, livelihood, shelter, and education; and arbitrary arrests and detention. The Burmese government should take immediate steps to amend this law to conform with international standards and help end decades of discrimination and statelessness.

Based on the objective circumstances in Burma that have given rise to this and previous exoduses, the Rohingya who have fled Burma should be regarded presumptively as

refugees unless evidence proves an individual was wrongly recognized or is excluded from refugee status under the provisions of international refugee law.

2. Donor governments and intergovernmental organizations should urgently provide generous support to meet the humanitarian needs of Rohingya refugees in Bangladesh, and internally displaced people (IDPs) of all ethnicities remaining in Burma. Humanitarian assistance should be provided based on principles of impartiality and nondiscrimination, and in consultation with the affected populations.

During the latest Rohingya crisis, Bangladesh has been generous in providing sanctuary for Rohingya facing persecution in Burma. Ordinary Bangladeshis, despite widespread poverty and the huge challenge of monsoon floods, have responded with enormous kindness. For example, despite substantial recent inflation in the cost of rice, large numbers of Bangladeshis have contributed rice for Rohingya relief.

Without prejudice to the compelling needs in many other refugee and IDP situations worldwide, donors should urgently provide generous support to meet the humanitarian needs of Rohingya refugees in Bangladesh and IDPs inside Burma. Humanitarian assistance should be provided based on principles of impartiality and nondiscrimination, as articulated in the Humanitarian Charter and Minimum Standards in Humanitarian Response ([Sphere standards](#)). All affected populations, including members of the local host communities, should be consulted to ensure assistance best meets their needs, particularly vulnerable and socially excluded people, and should be engaged to help provide such assistance.

Donors should also provide necessary bilateral support for Bangladesh, not only to allow refugees in Bangladesh to live in safety and dignity but also to ensure the Bangladeshi government keeps its borders open to asylum seekers and to respect the rights of refugees to freedom of movement and to education, health, work, and other social and economic rights.

Humanitarian assistance should incorporate protection measures, targeted services, and staff training to meet the particular needs of refugees and IDPs with special needs, such as unaccompanied children, families traveling with young children, victims of human trafficking, people who have suffered or are at risk of gender-based violence (forced marriage, domestic abuse, etc.), women traveling on their own and female heads of

household, pregnant and lactating mothers, lesbian, gay, bisexual and transgender (LGBT) people, and persons with disabilities.

The Burmese military's ethnic cleansing campaign against the Rohingya since late August involved widespread sexual violence. The Bangladeshi government, with the help of international partners, should create outreach programs to the Rohingya community to reduce stigma around sexual violence and inform the refugee population about available, free, and confidential medical and mental health services, including for post-rape care, and to create more accessible women-friendly spaces to help women and girls access medical services. Given the long-term impact of rape and sexual violence on health, the government and partners should prepare to provide long-term post-rape healthcare and psychosocial services. The Bangladeshi government should also support efforts to ensure accountability for sexual violence crimes by, for example, introducing protocols for clinics and other medical facilities to certify their treatment of rape survivors.

3. Bangladesh should keep its border open to asylum seekers.

This principle stems from article 14 of the Universal Declaration of Human Rights, which articulates the right to seek and enjoy asylum from persecution in other countries, and from [United Nations High Commissioner for Refugees \(UNHCR\) Executive Conclusion No. 22](#) (1981) on the Protection of Asylum-Seekers in Situations of Large-Scale Influx. In such situations, the UNHCR conclusion states that asylum seekers “should be admitted to the State in which they first seek refuge and if that State is unable to admit them on a durable basis, it should always admit them at least on a temporary basis.”

4. Bangladesh should fully respect the principle of nonrefoulement for refugees on its territory and at its border.

Bangladesh is a state party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Convention against Torture”). Although Bangladesh is not a party to the UN Refugee Convention, that convention's protections for refugees are regarded as customary international law and binding on all states. Bangladesh is thus bound by both its treaty obligations and customary international law's prohibition on refoulement not to forcibly return anyone to a place where they would face a threat to life or a real risk of persecution, torture or other ill-treatment. The principle of nonrefoulement prohibits a government forcing a person back to face these dangers in

“any manner whatsoever.” This includes situations in which governments put so much direct or indirect pressure on individuals that they have little or no option but to return to a country where they face serious risk of harm. UNHCR Executive Conclusion No. 22 provides that “[i]n all cases the fundamental principle of non-refoulement including non-rejection at the frontier must be scrupulously observed.”

Article 3(1) of the Convention against Torture establishes a legal obligation on Bangladesh not to “expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” Field research by the UN, nongovernmental organizations, including Human Rights Watch, and the media has established the use of torture and other ill-treatment by Burma’s security forces against the Rohingya. Article 3(2) adds that “For the purposes of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.” Such a pattern is present in Burma.

Although in the past Bangladeshi authorities have often pushed asylum seekers traveling by boat back out to sea, during the current crisis they have generally respected the principle of nonrefoulement and non-rejection at the border.

5. Burma should fully respect refugees’ right to return.

The Burmese government is obligated to respect the Rohingya’s right to return. Respecting this right means ensuring that claims to return are resolved fairly and that individuals are permitted freely and, in an informed manner, to choose whether to exercise it. All returns must also proceed in a fair, safe, and orderly manner. Governments and intergovernmental organizations should press the Burmese government to ensure that the right to return is fully respected.

Although Burma is not a party to the International Covenant on Civil and Political Rights, which states in article 12(4) that no one should be arbitrarily deprived of the right to enter their own country, the principle is regarded as a customary norm of international law.

The right to return is not by itself a sufficient condition for the promotion of voluntary repatriation as a durable solution for Rohingya refugees. Voluntary repatriation in safety

and dignity will be feasible only if Burma is willing and able to ensure full respect for returnees' human rights, equal access to nationality, and security among communities in Rakhine State.

Many refugees have told Human Rights Watch that they want to return home, but none interviewed believe it was safe in present circumstances or that it will be for the foreseeable future.

6. Refugee return must be voluntary, based on a free, informed, individual choice, in safety and dignity.

Refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information about conditions in prospective areas of return, including security conditions, and availability of assistance and protection to reintegrate in Burma. There needs to be a genuine choice between staying or returning.

If in the future the Bangladeshi government does not provide a real choice or uses coercive measures, such as reducing essential services to refugees, not providing them a legal status, or subjecting them to other restrictions of their basic rights, or if humanitarian assistance is insufficient to meet basic needs, the choice to leave may not be considered an act of free will.

7. Refugees and IDPs have the right to return to their homes or places of habitual residence, and for redress for their losses, including their lands and properties.

Refugees and IDPs who were arbitrarily or unlawfully deprived of their former homes, lands, properties or places of habitual residence have the right to return to their place of residence or of choice and the return of their property. Those unable or unwilling to return to their homes have the right to choose compensation from the government for the loss of all their homes and properties. These rights are articulated in the UN [Pinheiro Principles](#) regarding “Housing and property restitution in the context of the return of refugees and internally displaced persons.” These principles state that, “All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.” Refugees and IDPs who have been arbitrarily or

unlawfully deprived of their liberty, livelihoods, citizenship, family life, and identity also have the right of restitution.

8. Bangladesh should continue and complete refugee registration.

Completing individual, biometric registration of refugees as quickly as possible after they cross the national border is vital for establishing identity and protecting rights, including preventing arbitrary arrests and refoulement, avoiding family separation, identifying extremely vulnerable individuals, enabling the fair distribution of food and humanitarian assistance, and providing for durable solutions. In accordance with [UNHCR ExCom Conclusion No. 91](#) (2001), registration should be confidential and individual and fully respect the dignity of refugees. The confidentiality of their personal information should be strictly protected.

To date, the Bangladesh government has completed biometric registration of over 300,000 refugees. International aid agencies have been registering refugees by households to enable the targeted delivery of humanitarian assistance and to ensure protection issues are identified.

9. Refugee camps are not sustainable and the protracted housing of refugees in camps should be avoided.

While refugee camps may be necessary for providing assistance during a refugee emergency, they do not constitute a sustainable model for protracted refugee situations. The Bangladeshi government and its humanitarian partners should regard refugee camps as a temporary expedient during the Rohingya crisis and should transition as soon as practically possible to accommodations that are conducive to free movement and that promote dignified self-sufficiency.

Construction of a large refugee camp has been underway in the Cox's Bazar district of Bangladesh and Bangladeshi [officials have said](#) they plan to surround camps with barbed wire. Bangladeshi authorities [have previously suggested](#) that Rohingya refugees could be relocated from the Cox's Bazar area to Thengar Char island, an uninhabited, undeveloped coastal island that is highly susceptible to flooding. This would deprive refugees of their rights to freedom of movement, livelihood, food, and education, in violation of Bangladesh's obligations under international human rights law.

10. IDP camps and “safe zones” in Burma are not an acceptable solution for returnees.

The Burmese [government](#) has indicated that Rohingya who wish to return to the country should live in IDP camps. As with the internment of Rohingya IDPs after the 2012 anti-Rohingya violence in Rakhine State, any such camps would invariably limit basic rights, segregate returning Rohingya refugees and IDPs from other Burmese, and exacerbate ethnic and religious discrimination. Moving returning refugees to camps or designated zones would restrict their movements, reduce returnees’ ability to reconstruct their homes, work their land, regain livelihoods, and reintegrate into Burmese society. Such camps also run the risk of overcrowding, poor sanitation, increased illness, and creating dependency on aid.

Establishing “safe zones” on the Burmese side of the border, [as proposed by the Bangladeshi government](#), would likely be used as a pretext for the forced return of refugees and would infringe on the right to seek asylum by effectively preventing further flight from northern Rakhine State.

Many of the [principles and concerns Human Rights Watch has voiced](#) with respect to “safe zones” in Syria and other countries apply to Burma.