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## Norwegian Refugee Council (NRC) Submission to the International Development Committee on the Rohingya Crisis

17 April 2020

### Overview

1. Since violence broke out in northern Rakhine State, Myanmar, in August 2017, over 700,000 Rohingya have been forcibly displaced across the border to neighbouring Bangladesh and remain in a state of legal limbo. In Bangladesh, Rohingya refugees lack any form of legal status while in exile and are not allowed to work lawfully, leave the camps they live in (without specific permission and only under certain circumstances) or lawfully travel abroad. They remain unable to return to Myanmar due to the lack of conducive conditions there, including structural discrimination based on ethnicity, and no pathway to citizenship under Myanmar's 1982 Citizenship Law.
2. The ongoing **Covid-19** pandemic has raised grave new concerns for the Rohingya population. No cases of coronavirus have been reported so far amongst the Rohingya refugee population in Bangladesh, although the consequences of an almost inevitable Covid-19 outbreak could be catastrophic owing to the densely populated and overcrowded camp environments. Quarantine and isolation facilities are extremely limited and health and hygiene facilities are already severely overstretched.
3. The Norwegian Refugee Council's (NRC) **operations in Myanmar** are well-established, including in Rakhine State. NRC is one of the few agencies able to implement cash programming in the hard to reach areas of Northern Rakhine. NRC provides Information Counselling and Legal Assistance (ICLA) services in Rakhine, with the objective of ending discrimination, segregation, barriers to obtaining citizenship and restrictions on movement. In addition the ICLA programme addresses critical housing, land and property policy and practice issues that pose serious risks to Rohingya rights. NRC also provides ICLA, camp management, shelter, food security, water, sanitation and education services to over 225,000 displacement-affected people across all regions of Myanmar.
4. NRC has played a key role in defining the principled humanitarian framework under which aid agencies can best operate in Myanmar. One concern relates to the implementation of the Government of Myanmar's '*Camp Closure*' plan in Central Rakhine.<sup>1</sup> which started in 2019 as part of Government efforts to bring about durable solutions for long-term **Internally Displaced People** (IDPs) in Central Rakhine. However, current activities undertaken by the

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<sup>1</sup> Since April 2017, the Government of Myanmar has initiated a series of initiatives, ostensibly as per its commitment to implement the recommendations of the Advisory Commission on Rakhine State (RAC). However, thus far, the Government's plan has been mainly focusing on the construction of permanent housing for IDPs in displacement sites in central Rakhine, first in Kyauktaw, Myebon and Pauktaw and more recently in Sittwe Township. The Government has already announced the official closure of three IDP camps (the '*Camp Closure Strategy*'). In reality, except for access to individual houses, the IDPs remain in the exact same situation as the one they have been living in since 2012, with no freedom of movement and no access to livelihoods opportunities and services (health, education, etc.).



NORWEGIAN  
REFUGEE COUNCIL

Government in the framework of the 'Camp Closure' plan appear to be further contributing to the permanent segregation of Rohingya (and Kaman) IDPs and have not improved their access to basic human rights. Through NRC's protection and camp management programmes, NRC has helped develop a common humanitarian position to ensure that the establishment of new displacement camps does not further contribute to curtailing human rights or lead to the prolonged internment of Rohingya IDPs.

5. In **Bangladesh**, NRC's current programme coverage is more limited owing to recurrent bureaucratic obstacles mainly associated with requirements to get official project and programme approvals and related visa processes. However, NRC's operational coverage is expanding and is now focusing on support and assistance to refugees and local host communities through education and ICLA activities aimed at reducing vulnerabilities and building the resilience of Rohingya refugees. NRC is an active participant in inter-agency advocacy efforts in relation to the enormous Cox's Bazar refugee camps, particularly on protection issues linked to access to housing, land and property rights for Rohingya refugees.
6. In view of the scale and severity of the ongoing Rohingya refugee crisis, and due to its presence in both Myanmar and Bangladesh, NRC recognises the importance of a greater level of political and diplomatic attention on the crisis in order to help support durable solutions for Rohingya refugees. NRC therefore thanks the International Development Committee (IDC) for the opportunity to provide written input through responding to the following questions:

**Q. Please could you update us on the general situation in Cox's Bazar and your primary ongoing concerns for refugees in the camps.**

1. As of January 2020, over 900,000 stateless Rohingya refugees reside in Ukhiya and Teknaf Upazilas, in the Cox's Bazar District of Bangladesh. The vast majority live in 34 extremely congested camps. The largest single site, the Kutupalong Balukhali Expansion Site, hosts approximately 626,500 Rohingya
2. The **conditions in the camps** are consistently challenging. The size of the influx and scale of the crisis means that there are enormous needs. The 2019 UN-led humanitarian appeal for the Rohingya crisis (Joint Response Plan) was funded at just over 70 per cent, or US\$650 million received against US\$921 million requested to respond to 1.2 million people in need, including 500,000 Bangladeshis. There is concern that **donor support** to the crisis will tail off in coming years as the crisis becomes more protracted and new priorities and financial constraints emerge in the context of the Covid-19 pandemic.
3. This critical humanitarian emergency has been further compounded by the onset of **recurrent monsoon and cyclone seasons**. The camps are already dangerously overcrowded – with the average usable space just 10.7 square meters per person. Dense and fragile living arrangements, usually bamboo huts stacked up against each other on steep, landslide-prone slopes, are a cause of a wide range of risks including communicable diseases (including but not only Covid-19), community tensions and domestic and sexual violence.
4. Rohingya communities in the camps have basic **access to essentials**, such as food, water and health care, but they are still extremely vulnerable, living in highly challenging circumstances, exposed to the elements and entirely dependent on humanitarian aid.



NORWEGIAN  
REFUGEE COUNCIL

5. Refugees report concerns related to **camp safety and security** and restricted access to some basic services such as formal education and livelihoods. Refugee women and girls experience restrictions to free movement due to social and cultural norms, as well as security and safety fears limiting their access to humanitarian services.
6. Recent securitisation efforts (known as ‘fencing’), which have moved at pace during the first few months of 2020, are exacerbating concerns about further **curtailment and restrictions on the freedom of movement** of Rohingya refugees. Fencing refers to the construction of a complete multi-layer security fence around the perimeter of the camps in Cox’s Bazar by the Bangladeshi authorities.
7. The concentration of refugees in the camps in Cox’s Bazar is amongst the densest in the world, in a location where land is scarce and local communities are already facing challenges in meeting their own needs. There is therefore an urgent need for more **appropriate land** to decongest the camps. This will not only improve safety, security and protection for the refugees and local communities, but also stem the environmental damage being wrought on the land by the over-demand for water, firewood and construction materials, and by contamination from latrines and other waste.

**Q. What is your latest assessment of the plan to move some of the Rohingya to the island of Bhashan Char in the Bay of Bengal? Can this ever be a solution?**

1. The Government of Bangladesh has identified Bhashan Char – a large silt island in the Bay of Bengal – as a site to potentially relocate over 100,000 Rohingya refugees. The Government has proposed this relocation as a means of decongesting the heavily overcrowded settlements in Cox’s Bazar.
2. The proposed relocation of Rohingya refugees to the island is a government-led process. Aid agencies have been in conversation with relevant government agencies at all levels to voice concerns and highlight some of **the potential risks** associated with the proposed relocation plans, including:
  - **Natural disasters**, owing to the low-lying position of Bhashan Char. Potentially refugees who are relocated there to avoid natural disasters in Cox’s Bazar may be subjected to the same or greater risks during cyclone and monsoon season.
  - **Deprivation of basic rights**, due to the fact that refugees may have their access to services impaired, such as health, food and education, if humanitarian access is not guaranteed.
  - **Arbitrary detention**, if refugees are unable to exercise freedom of movement to and from the island or are not given the means i.e. transport, to do so.
  - **Lack of voluntariness**, if refugees are not given a free and informed choice to relocate, do not have the choice to leave and return to Bhashan Char if they relocate, or are not given the option of staying where they are if they choose not to relocate.
  - **Dependency on humanitarian aid**: Without prospects for livelihoods on Bhashan Char or the ability to seek livelihoods elsewhere, refugees will become dependent on humanitarian aid.
3. No relocations of refugees to Bhashan Char should happen without thorough and **independent technical and protection assessments** by the UN’s refugee agency (UNHCR) and other international and national humanitarian actors to determine the feasibility and



NORWEGIAN  
REFUGEE COUNCIL

desirability of relocating refugees there. This must include an assessment of the safety, habitability, and protection implications of transporting and housing 100,000 refugees, and in particular protecting them during natural disasters.

**Q. What is being done to repatriate refugees and what are the obstacles?**

1. Repatriation efforts remain ill-advised owing to the **lack of conducive return conditions** in Myanmar. The continuation of armed conflict in Rakhine State means that civilians remain at risk of forced displacement and the situation is also not currently conducive to IDP returns.
2. Bangladesh should be commended for its ongoing provision of crucial protection space for Rohingya fleeing persecution in northern Rakhine and for allowing Rohingya to enter its jurisdiction unimpeded. Under both international human rights law and international refugee law, Bangladesh has an obligation to provide refugees with protection including in particular against the **expulsion or return** of a refugee in any manner whatsoever to a territory where their lives or freedom would be threatened, known as *refoulement*.
3. The principle of **non-refoulement** is a norm of customary international law, binding the international community of states, including those not party to the 1951 Refugee Convention, such as Bangladesh. Non-refoulement is also an obligation under international human rights law, under which States may not transfer individuals to another jurisdiction where they would face a real risk of a violation of the right to life, torture or other ill-treatment or other serious human rights abuses.
4. In this regard Bangladesh should continue to **keep its borders open** for Rohingya fleeing persecution in Myanmar. Closing its borders or putting in place measures that prevent people from being able to seek asylum in Bangladesh, may constitute refoulement. Given the ongoing persecution of Rohingya in Myanmar, any attempt by any State to repatriate refugees to Myanmar at this time on a non-voluntary basis would constitute refoulement, at all times prohibited in customary international law.
5. If Rohingya refugees in Bangladesh decide to return to Myanmar, the governments of Myanmar and Bangladesh need to ensure that the following conditions are met for repatriation to be completely voluntary, in safety and dignity and in line with international standards:

**In Bangladesh:**

- Rohingya communities should be meaningfully engaged by the Government of Bangladesh in discussions and decision-making about their future including about their safe return, through an **inclusive process** involving children, youth, women and persons with specific needs.
- Refugees must be **protected against forced returns** to a country where the violence and human rights abuses from which they fled are still ongoing and from which more people continue to flee.
- Refugees should be able to **make informed decisions**, on an individual basis, to return to Myanmar based on comprehensive and independently verifiable information about the conditions in the locations of return.
- Comprehensive and **independent information** about any repatriation plans should be communicated transparently, sensitively, and accurately with refugees to avoid fear and



NORWEGIAN  
REFUGEE COUNCIL

panic. For any return to be voluntary, the option of remaining in Bangladesh must always remain on the table.

- **UNHCR** should have a lead role in any repatriation operation in line with international standards on voluntary repatriation. This includes giving UNHCR full access to refugees in Bangladesh to provide refugees with impartial information on conditions and modalities of return and to ascertain that they are choosing voluntarily to go back.
- Deciding not to exercise the right to repatriate voluntarily now does not prevent a refugee from taking the decision to return later. Refugees who decide not to return at this time should be able to **remain in Bangladesh** and return to their shelters in the camp.

**In Myanmar:**

- The Government of Myanmar's verification that a Rohingya refugee is eligible to return to Myanmar is distinct from the **individual's free and informed decision** to repatriate. The repatriation of refugees must be based upon a free and informed decision, taken on an individual basis, to return. Returnees should be allowed to return to their original homes and/ or land, or to a place of their choice.
- There should be no form of **closed camps** or camp-like settlements. International NGOs should not operate in such camps, if they are created, as the international humanitarian community should not de facto subsidize internment camps nor further legitimize the Government's policy of segregation.
- A process for fair and equitable compensation and/ or **restitution of land**, property and assets lost, destroyed or confiscated in Myanmar should be established as a condition of return.
- The **full and equal rights** of returnees must be guaranteed. This includes ensuring full and equal rights to freedom of movement, freedom of religion, freedom of expression and association, rights to work and own land and property, education, including higher education, health care and other basic services.
- Humanitarian agencies should be granted **unfettered and sustained access** to all affected populations to independently assess needs and provide comprehensive assistance and protection to all communities according to their need and to support the creation of an enabling environment for safe and sustainable return.
- **UNHCR** should have guaranteed access to all areas of return to monitor the safety and security of returnees before, during and after any repatriations take place.
- Concrete plans and efforts to **address root causes** of the refugee crisis should be an integral part of any returns process. The recommendations of the Advisory Commission on Rakhine State report, including those on citizenship, should serve as a blueprint for addressing these root causes.
- Humanitarian NGOs working in Bangladesh are not against repatriation. They share and support the position of the Government of Bangladesh and UN agencies that **repatriation** should be safe, dignified, voluntary, and sustainable.
- NGOs are not influencing **refugees' decisions**. The Rohingya are well informed about the conditions in Myanmar. They are making their own choices about repatriation based on information available to them through regular contact with family and relatives in Myanmar.



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