

Repatriation Rights of Rohingya Refugees in Bangladesh: Applying UN Human Rights Principles

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ABSTRACT

Bangladesh, known for its high population density, has become a significant destination for Rohingya refugees fleeing abuse and persecution, including women and children. This influx has created numerous challenges for the host country, which is struggling to accommodate and support these displaced individuals while safeguarding national security. This study examines the right to repatriation for the Rohingya in Bangladesh and the United Nations human rights principles about refugee deportation. Moreover, the study proposes how those principles might be applied to Myanmar regarding Rohingya repatriation. The research explores the responsibilities of both the UN and states in addressing this issue by analyzing secondary sources such as articles, books, reports, and online materials, as well as international treaties and conventions. The findings indicate that the Rohingya refugees desire to return to their homeland, Myanmar, and possess the right to repatriation according to UN principles. Despite Myanmar's non-ratification of the Refugee Convention of 1951, it remains obligated under international instruments to facilitate the return of the Rohingya.

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Contribution/Originality: This study contributes to the existing literature by critically examining the repatriation rights of Rohingya refugees in light of UN human

rights principles. This study is one of very few studies which have investigated the legal obligations of host and home states. The paper contributes the logical analysis from a Bangladesh-focused perspective.

1. Introduction

Bangladesh, situated in South Asia neighboring India and Myanmar, is a parliamentary democracy known as the People's Republic of Bangladesh. Within Myanmar's Northern Rakhine State (NRS), there exists a minority group known as the Rohingyas, who have distinctive ethnic, linguistic, and religious backgrounds. They are only one of the many refugees and asylum seekers who have flooded Bangladesh without wondering what their futures may contain.

The Rohingya, often referred to as "the world's most persecuted minority," have faced systemic discrimination in Myanmar for decades. Denial of citizenship, restrictions on movement, limited access to education and healthcare, and targeted violence have created a dire situation for the Rohingya community. [Oxfam International \(n.d.\)](#) reported that the culmination of these injustices reached its peak in August 2017, when a brutal military crackdown forced over 700,000 Rohingya people to flee to Bangladesh, joining an already significant number of displaced individuals.

Bangladesh serves as a transit country for the majority of Rohingya refugees, who register there with UNHCR before being permitted to leave for other nations. Though Bangladesh has ratified many significant international treaties as a signatory party, carefully monitoring its own national and regional interests, such as eight of the nine significant conventions have been ratified by this country. However, Bangladesh's current human rights condition is not virtuous and does not meet international standards even to protect and give security to refugees staying in [\(Islam et al., 2022\)](#).

Any society that hosts refugees does not enjoy the practice, and the case of Rohingya refugees is no exception. The first Rohingya refugees arrived in Bangladesh in the 1970s [\(Milton et al. 2017\)](#). An unauthorized Rohingya diaspora, however, started to expand when the Myanmar Citizenship Law 1982 was implemented. It denied citizenship to the Rohingya and even forbade them from using the name Rohingya, preferring to refer to them as Bengalis. During the 1990s, over 250,000 individuals resided in refugee camps within Bangladesh; however, the majority, except for 20,000 individuals, was repatriated to Myanmar in the early 2000s, often involuntarily [\(Shukla & Thompson, 2005\)](#). In more recent times, a million Rohingya refugees have sought shelter in Bangladesh, leading to numerous complexities and presenting Bangladesh with a challenging situation [\(Islam & Karim, 2016\)](#).

Currently, the Rohingya refugees can be identified as one of the most marginalized communities globally. The Myanmar government has repeatedly forced them to flee to Bangladesh, and the recent acts of violence perpetrated by the same administration have exacerbated their plight. Despite Bangladesh's challenging socioeconomic conditions and delicate demographic balance, it has become a host to over a million Rohingya refugees [\(Babu, 2020\)](#). Consequently, Bangladesh faces a multitude of challenges, including adverse social, environmental, legal, and economic consequences.

Bangladesh receives both refugees and asylum seekers under a variety of circumstances. Some of them are escaping oppression, while others are broke, some are victims of exploitation of people, and yet additional have ended up abandoned on Bangladeshi shores. Currently, Rohingya refugees in Bangladesh have three options: return or repatriation to Myanmar, assimilation into Bangladesh, or seeking asylum in other nations (resettlement). However, The Bangladeshi government thinks repatriation is the only long-term option for the Rohingya in Bangladesh (Susetyo & Chambers, 2020). The Rohingya might as well have complete freedom to go back to Myanmar in accordance with historical precedent and international law. However, this alternative is extremely difficult due to the Myanmar regime's attitude, the Rohingya population's mistrust of the Myanmar government, and the absence of assistance from the surrounding nations.

This study aims to investigate the right to the repatriation of Rohingya in Bangladesh, considering their status as refugees fleeing persecution in Myanmar. The research aims to explore the UN principles on human rights concerning refugee deportation and examine how these principles could be applied to facilitate the repatriation of Rohingya to Myanmar. The study relies on secondary sources such as articles, books, reports, newspapers, and online materials. It also involves analyzing international treaties, conventions, and national instruments to gather data on the responsibilities of the UN and States.

2. Rohingya Refugee Influx in Bangladesh: An Overview

The Rohingya predicament encompasses economic, political, and religious dimensions (Shams & Wolf, 2015). According to Myanmar's Buddhist population, the Rohingya are perceived as being economically prosperous but viewed as a threat to their cultural heritage. In the Rakhine region of Myanmar, a widespread anti-Islamic sentiment exists towards the Rohingya community. Given the proximity of Islamic nations like Bangladesh, Malaysia, and Indonesia to Myanmar, Buddhists fear that the Rohingya might defend Myanmar in the event of an attack from any Islamic country. Consequently, the Rohingya face discrimination based on cultural biases, economic exploitation, and political marginalization by the Myanmar government (Wolf, 2017).

The ancestry of the Rohingya and the Arakan State has been the subject of numerous discussions. According to two competing views, the Rohingya people are either Arakan natives descended from the Islamic ancestry adapted to the Island of Ramree or undocumented immigrants from Bangladesh, which is nearby (Forster, 2011). While there are two competing theories regarding the Rohingya's ancestry, undoubtedly, there have been a significant number of Muslims in Arakan for a long time (Alam, 2019). According to Human Rights Watch (2013), the Muslim-populated Maungdaw, Rathedaung, and Buthidaung Townships are particularly affected by the sectarian strife, located in the northern section of Rakhine. It has evolved into ethnic cleansing and genocide as a result of the massive Rohingya ethnic violence that has been occurring in Rakhine over the past few years (Nawoyski, 2013).

Myanmar is the major producer of refugees in the Asian continent, which is one of the continent's highest-producer regions (Ahsan Ullah, 2016). One of the groups that are most neglected and mistreated across the world is the Rohingya people. Maungdaw, Buthidaung, and Rathedaung are the three townships that makeup North Rakhine State in Myanmar, which is home to around 1 to 1.5 million Rohingyas (Parnini et al., 2013). There has been a lot of discrimination and unfair treatment against this population

group. They serve as a stark reminder of how human rights are being violated. The Rohingya crisis poses a significant challenge for Bangladesh, it has been grappling with the issue of refugees since 1978. This tragic history was tragically replayed in 2017-2018 when a staggering number of over 400,000 Rohingya refugees fled Myanmar's Rakhine state and sought refuge in Cox's Bazar district in Bangladesh (Khatun, 2017).

Due to the persecution carried out by military forces, a significant number of Rohingya individuals have just fled Myanmar, crossing the Naf River by boat (Bahadur & Tanner, 2014). The Naf River serves as a shared coastal area between Bangladesh and Myanmar. United Nations High Commissioner for Refugees (March, 2018) reported that Myanmar has been plagued by violent conflicts between Buddhists and Muslims, prompting Rohingya people to seek refuge in Bangladesh to escape discrimination based on their ethnicity and religion by Myanmar's security forces. The report also expressed that Bangladesh has generously taken in over 1,000,000 Rohingya refugees, surpassing the previous population of 300,000 Rohingya residing there (UNHCR, March 2018). The outbreak of violence in Myanmar's Rakhine state on August 25, 2017, triggered a fresh wave of mass exodus, compelling approximately 1,000,000 Rakhine residents to flee and seek shelter in Bangladesh (UNHCR, March 2018). Furthermore, by early 2018, an estimated 12,000 migrants had arrived in Bangladesh, with a majority being women and children (International Organization for Migration, March 2018). Among them, children under the age of 12 constituted more than 40%, facing severe deprivation of necessities for survival (Islam et al., 2022).

The Myanmar government's treatment of the Rohingya population has been harsh, with the UNHCR labeling it as "ethnic cleansing." According to the Cox's Bazar District Commissioner Office, a total of 605,000 Rohingya individuals arrived in the district between August 25 and October 25, 2017 (Babu, 2020). Moreover, before this influx, 203,431 Rohingya refugees settled in Cox's Bazar's Ukhiya and Teknaf Upazilas from July 2005 to August 2017 (Babu, 2020). The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) (2017) reported that approximately 821,000 Rohingya refugees had arrived in Cox's Bazar between August 25 and November 5, 2017. The majority of Rohingya refugees can be found in the Cox's Bazar Upazilas of Ukhiya and Teknaf, residing in makeshift settlements where they struggle with illness, starvation, and inadequate clothing. Additionally, there are approximately 200,000 Rohingyas residing in Bandarban and other districts surrounding Cox's Bazar (Khatun, 2017). Furthermore, Centre for Policy Dialogue (2017) assessment estimates that the current number of Rohingya refugees residing in Bangladesh is 1,008,431.

The Rohingya crisis has become an urgent and pressing issue for Bangladesh, a country already grappling with a high population density, as an increasing number of refugees seek refuge within its borders. As Bangladesh strives to meet these refugees' basic needs, it faces many socioeconomic, political, and economic challenges (Jalil & Mia, 2021). Bangladesh is not officially recognized as a shelter or final destination for refugees due to its non-adherence to international conventions such as the 1951 Refugee Convention, its 1967 Protocol, and the 1954 and 1961 Statelessness Conventions (Adnan, 2014). Nevertheless, driven by humanitarian reasons, Bangladesh has provided shelter to the Rohingya refugees. Despite its willingness to assist, Bangladesh faces financial constraints in adequately supporting the Rohingya population. The country is grappling with the "Rohingya Crisis" while simultaneously seeking to restore its reputation within the international community. Additionally,

Bangladesh lacks comprehensive internal laws governing refugees or political asylum, adding further complexity to the situation.

The Rohingya people, an ethnic group, were forcibly displaced from Myanmar and sought refuge in Bangladesh. The Bangladeshi government, various foreign organizations, and NGOs have responded to the complex "Rohingya Crisis," which has garnered global outrage due to the Myanmar government's mistreatment of Rohingya refugees within Bangladesh (Lewa, 2011). There is a crucial need for heightened awareness of this multifaceted catastrophe in this dire situation. Global leaders must approach the Rohingya Crisis with diplomacy, organization, and open-mindedness. The large-scale migration of Rohingya individuals and their concentration in Cox's Bazar has raised significant concerns regarding regional relations, the economy, the environment, and, most importantly, security. Two key factors contributing to security concerns are the potential for conflict between the Rohingya and the host population and the vulnerability of the Rohingya to hidden challenges, religious bias, and other atrocities (Babu, 2020). This assessment aims to identify the overall impact, crises, and security-related challenges associated with the Rohingya Crisis.

3. Right to Repatriation under National and International Instruments

Since the arrival of Rohingya refugees, the Bangladesh government has provided assistance and refuge to them. However, the primary policy objective of the Bangladesh authorities has been to ensure the safe and swift repatriation of refugees to Myanmar. This objective has significantly influenced the treatment of the refugees by the Bangladeshi government (Islam, Mia & Islam, 2021). In response to local opposition to the presence of the refugees, the Refugee Repatriation Action Committee and the Refugee Repatriation Coordination Council were established. These committees have accused foreign NGOs and the UNHCR of having hidden motives to delay repatriation (Abrar, 1995). Currently, the repatriation process has come to a halt, leading to heightened tensions within host communities due to the prolonged stay of a large number of refugees. This situation has also adversely affected the region's economy and ecology. Researchers have undertaken a project to study the impact of Rohingya refugees in this context (Abrar, 1995).

Mistakes made in the past have been repeated once again. The current Rohingya crisis, which strongly emphasizes repatriation, necessitates a critical analysis, despite the UN and the international community's focus on "lessons learned." Similar to any other territory, the Republic of the Union of Myanmar can be considered the homeland and country of the Rohingya. However, this time, the push for repatriation differs due to the substantial support received by the UN-led campaign addressing human rights and transparency concerns. There are credible allegations of humanitarian violations, potentially even amounting to genocide, and the issue is attracting significant media coverage (Gorlick, 2019).

Repatriation encompasses the process through which refugees can safely and dignifiedly return to their home country. Although the suspension clauses are presumed to be related, the 1951 Convention does not explicitly address the issue of voluntary repatriation. According to Article 1C (4) of the 1951 Convention, the refugee status of an individual ceases if they voluntarily return to their country of origin. The successful completion of a voluntary repatriation program can serve as evidence, under Articles 1C

(5) and 1C (6) cessation clauses, that the original reasons for fleeing are no longer applicable.

Similarly, whether undertaken individually or collectively, voluntary repatriation leads to the termination of refugee status. Within the aforementioned legal framework, the UNHCR asserts that voluntary repatriation should encompass the essential elements of safety and dignity. This entails not only the return to the home country but also the establishment and preservation of conditions that ensure material, legal, and physical safety, thereby fully reinstating national protection.

The fulfillment of security and the restoration of national protection are essential prerequisites for a successful return, often lacking in practice. In the absence of these conditions, repatriation may not be feasible, and the affected refugees may have to remain in their host country seeking asylum. Creating favorable circumstances for repatriation poses a significant challenge for both the country of origin and the international community, whose support is typically crucial. This challenge is particularly pronounced in situations where substantial investments of resources, time, and effort are required to establish peace, uphold civil rights, improve infrastructure, normalize ideological, financial, and social aspects, restore justice processes, and foster long-term stability.

The desire of many host nations for swift voluntary repatriation, especially after hosting refugees for an extended period, must be balanced against the harsh reality of these complex tasks. The decline in international support for the conservation efforts of these nations may trigger concerns about long-term resource shortages. When the necessary conditions for repatriation appear to be lacking, the UNHCR often faces the challenge of managing unrealistic expectations held by states while aiming to identify lasting solutions. Regrettably, refugees often find themselves in a precarious situation, caught between the ongoing insecurity in their home country and the limited safety and assistance available in their host communities.

Pitaway points out that a major point of disagreement and an obstacle in finding solutions to the current situation is the issue of voluntary repatriation (Pittaway, 2008). The Refugee Convention does not explicitly include the concept of voluntary return, as it focuses on the idea of "safe return." It assumes that the state will ensure the safety of returnees (Goodwin-Gill, 1995). Some experts argue that if a state determines that the place of origin is safe, it has the authority to revoke a refugee's status (Hathaway, 1997). The evaluation of a "safe return" and its subjective and objective aspects has become crucial in the discussion. Chimni (2004) states that one of the fundamental principles of non-refoulement and voluntary repatriation is that refugees cannot be forced to return to a home country they perceive as not having significantly improved. The UNHCR emphasizes that decisions should be based on factual information. However, it can be argued that the UNHCR and states' understanding of what is "objective" is subjective, as it aligns with their current activities (Ighodaro, 2002). Chimni (2004) argues that this "objectivism" disregards the perspective of the refugee when determining the safety of returning home.

Furthermore, there is a clear deficiency in the fundamental reforms and human rights protections implemented by the Tatmadaw and the government of Myanmar, making it challenging to instill the necessary confidence for secure, honorable, and sustained repatriation. The long-term viability of these reforms remains uncertain, especially

considering their track record of severe human rights violations, previous unsuccessful repatriation efforts, and other problems. Given these circumstances, the level of assurance required to protect the rights of the Rohingya community is considerably higher.

Government officials' alleged involvement in heinous crimes such as human trafficking is frequently reported by national human rights groups, NGOs, and the media, sometimes resulting in criminal convictions of those individuals (Mia et al., 2022). While this essay does not delve into an extensive analysis of this matter, it remains crucial given the prevailing climate where many advocate for the Rohingya's return to Myanmar. However, the implementation of proper legal procedures can enhance the safety of returnees. A secure return necessitates particular prerequisites, including both material safety and physical security, as well as access to land. These elements can be incorporated into a tripartite agreement between the UNHCR, the country of origin, and the country of asylum.

Despite Bangladesh's commendable efforts and commitment, Myanmar has not implemented any changes that would create the necessary conditions for safe and voluntary repatriation. Despite the continued prioritization of repatriation as a solution by Bangladesh, concerned governments, and the UN, little to no progress has been made in establishing the required circumstances for sustainable and secure returns while safeguarding the civil rights of Rohingya refugees. The Bangladesh Foreign Secretary raised the issue during discussions at the UN Security Council, along with other concerns. The Bangladeshi government has reached its limit in accommodating Rohingya refugees, as expressed by the Foreign Secretary, who also stated that prospects for their return are minimal (Gorlick, 2019). Additionally, the UN General Assembly's resolution on the "Situation of civil rights in Myanmar," adopted on December 22, 2018, calls for various operational and accountability measures.

"... a full and independent investigation of the human rights violations and abuses committed ... against the Rohingya Muslims and persons belonging to other minorities ... to ensure that those responsible for such crimes are held accountable; [and encouraging] the international community to (a) assist Bangladesh in providing humanitarian assistance to Rohingya refugees and forcibly displaced persons until such time as they are voluntarily repatriated to Myanmar in safety and dignity; and (b) assist Myanmar in the provision of humanitarian assistance to affected persons of all communities who have been forcibly displaced, including in camps for internally displaced persons within Rakhine State; ... and requests the Secretary General to call the continued attention of the Security Council to the situation in Myanmar with concrete recommendations for actions towards resolving the humanitarian crisis, promoting the safe, dignified, voluntary and sustainable return ... and ensuring accountability for those responsible for human rights violations" (United Nations General Assembly, 2017).

It is imperative to uphold the honor and human dignity of individuals. The right of refugees to freely return to their homes should not be restricted, and if they choose to do so voluntarily, they should have the freedom to proceed at their own pace without being compelled to march in convoys. National authorities in a country should acknowledge their presence, commit to safeguarding their fundamental human rights enshrined in the

constitution, treat them with dignity, and ensure they are not separated from their families (Billah et al., 2024). In practice, UNHCR must assess several factors to ensure the principles of safety and dignity are upheld throughout the different stages of their return journey, including on the road, during and after their return, upon arrival at their final destination, and when they are officially recognized. These factors include ensuring the security of refugees' physical well-being, fostering familial unity, providing care for vulnerable populations (such as the sick, injured, elderly, pregnant women, and children), facilitating smooth border procedures, allowing refugees to bring their available belongings, preserving agricultural and educational systems, enabling freedom of movement, and respecting human rights.

4. The Role of UN Principles on Repatriation as Human Rights

Undoubtedly, the process of resettling populations uprooted by conflict encounters various international challenges. Many peace agreements incorporate provisions that uphold the rights of refugees and forcibly displaced individuals to return to their original homes, establish residency in their habitual areas, or relocate to other regions within their own country. The principle of the right to return is acknowledged in international humanitarian law as a customary norm. A significant number of international and regional agreements acknowledge the universally recognized human right for individuals, regardless of their place of birth, to access the borders of their own nation. Furthermore, these instruments affirm that all those who have been displaced should be allowed to return in a safe and dignified manner. The right of return applies even if the person in question was born outside their country of nationality. Recognizing the return of refugees and internally displaced people as essential for long-term peace and stability, these principles contribute to the enduring well-being of affected regions (Rosand, 1997).

The protection of people abroad and any required repatriation are typically covered under the policy of diplomatic and consular affairs, a huge field of law that is mostly engaged with maintaining inter-state links (Bagheri & Bisset, 2022). One aspect would be the defense of citizens and their interests. The possibility of diplomatic protection serving as a justification for repatriation has thus been questioned. Although established diplomatic protection is a state-owned right, the choice of whether and when to use it rests entirely with the state in question. As a result, its administration is highly dependent on state discretion. In some national judicial rulings, it has been stated that the state's confidentiality is not unchallengeable and that government directives may be overturned, notably when there is an international violation of fundamental rights.

However, through customary international law and various components of international human rights law, international law offers a structure of responsibilities and rights regarding freely returning home. Repatriation may signify a state's attempt to remove foreigners living on its soil, but because it is voluntary, it acknowledges the refugees' right to self-determination and their entitlement to protections under international law relating to human rights. International customary law serves as the main guiding principle for this field of refugee law. Under international human rights law and international refugee law, refugees are given a set of privileges about returning to their nation of citizenship or region of usual residence when they are prepared. Most significantly, having a refugee status only disappears by returning to its origin.

UNHCR is still looking into the prospect of future repatriation, and Burmese and Bangladeshi governments have pressured them. Article 34 of the 1951 Convention specifies that nations must make efforts to encourage the integration and citizenship of refugees, although this is not a requirement in terms of finding solutions for refugees. One interpretation of the Preamble is that it emphasizes the value of resettlement in other countries rather than burdening particular nations. Moreover, the Preamble implicitly establishes the principles for voluntary repatriation in paragraphs 1 and 2, which refer to the Universal Declaration of Human Rights (UDHR) of 1948 and assert that refugees should have the assurance of exercising their fundamental rights and freedoms to the fullest extent possible. The right to return to one's own country is affirmed in Article 13(2) of the UDHR, which was subsequently incorporated into Article 12(4) of the International Covenant on Civil and Political Rights. This provision states, "No one shall be arbitrarily deprived of the right to enter his own country." While the right to repatriate to one's place of origin is indisputable, it is important to note that the principle of non-refoulement, which imposes obligations on states to ensure the safety of refugees, emphasizes that the decision to return home should always be a voluntary choice.

Furthermore, Article 8 (c) of the UNHCR's 1950 Statute emphasizes the responsibility of the High Commissioner to safeguard the well-being of refugees falling within their jurisdiction by supporting both government and private efforts to facilitate voluntary repatriation or integration into new national communities. Article 9 of the Universal Declaration of Human Rights also highlights that "everyone has the right to leave any country, including their own, and to return to their homeland," a principle reiterated in Article 13 (2) of the same declaration. The right to repatriation has been enshrined as an inherent right in Article 12 (4) of the International Covenant on Civil and Political Rights (ICCPR), which stipulates that no one should be arbitrarily denied access to their native homeland. Resettlement and repatriation of refugees around the world have been made possible by international organizations like the UNHCR. However, for instance, approximately 4,600 Angolan refugees willingly returned to their country of origin in 2015, capping a process that saw 18,000 Angolan refugees return since 2014 (UNHCR, 2015). Almost 5,000 Rwandans went home voluntarily that same year, bringing the overall number of returnees since 2000 to over 160,000 (Islam et al., 2021). One hotly debated topic is UNHCR's strategy of encouraging voluntary repatriation. In the aforementioned recent operations, UNHCR strongly encouraged voluntary return prior to a material change in circumstances in the originating nation. When can UNHCR begin actively promoting repatriation is the question that now emerges. What conditions UNHCR can urge repatriation under are not specified in the 1951 Convention, 1967 Protocol, or ExCom Conclusions. Therefore, if and when it determines that there is no longer a risk to life or freedom, UNHCR may advocate for voluntary repatriation. Consequently, refugees should not be supported as a group if there is a slight improvement or change in their place of origin (Abrar, 1995).

In terms of repatriation, UNHCR's mandate can be summed up as follows: to keep an eye on the voluntary character of refugees' repatriation; to promote the creation of circumstances that permit relocation in safety and dignity; to promote the resettlement of refugees after certain requirements have been completed; to support impromptu repatriation of refugees should it happen without the requirements being met that allow UNHCR to arrange such an event; collecting money to help governments' on repatriation or reintegration initiatives; coordinating NGO aid in this area, keeping both short- and

long-term requirements in mind; and monitoring the status of individuals who have been returned to their nation and the fulfillment of any duties toward them.

The most crucial part of UNHCR's job is deciding whether to encourage repatriation or only to make it easier, depending on the situation and the promises received. Its exact responsibilities regarding the refugees vary depending on the strategy it opts for. The UNHCR need not be involved in government repatriation plans, which is a sad reality. The Executive Committee's recommendations are only meaningless statements of purpose that do nothing more than permit UNHCR to communicate with the relevant parties if no arrangement is achieved between UNHCR and the relevant states or between the two nations engaged in the deportation. However, the UN principles outlined the repatriation matter in the way given below.

4.1. Universal Declaration of Human Rights (UDHR) roles in repatriation

The Universal Declaration of Human Rights (UDHR) aims to uphold the equality and dignity of all individuals and promote social progress and improved living standards. It asserts in the first Article that every person is born free and entitled to equal rights and respect. According to Article 2 of the UDHR, everyone is entitled to all the freedoms and rights outlined in the declaration without any exceptions, regardless of factors such as race, color, sex, language, religion, political opinion, national or social origin, property, birth, or any other status. Furthermore, no distinctions should be made based on the political, legal, or international status of the country or territory in which a person resides, including if it is an autonomous region, a trust territory, a non-self-governing territory, or subject to other limitations on statehood. All individuals also possess the right to self-defense, freedom, and personal safety which have been stated in Article 3 of the UDHR.

Articles 6 and 7 of the UDHR state that everyone should be treated equally before the law, irrespective of their location, and should receive equal protection under the law. Additionally, everyone has the right to nationality, and no one should be arbitrarily deprived of their nationality or the right to change it according to Article 15 (1 & 2) of the UDHR. It is crucial to note that neither this declaration nor any provision within it should be interpreted as granting any nation, group, or individual the right to engage in activities or behaviors aimed at undermining any of the freedoms and rights outlined in the UDHR.

4.2. Repatriation rights under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

The primary objective of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is to promote and foster global respect for and adherence to fundamental freedoms and human rights for all individuals, regardless of their race, sex, language, or religion.

When implementing measures aimed at ensuring the progress of specific racial or ethnic groups or individuals who require protection to guarantee their equal enjoyment and exercise of human rights and fundamental freedoms, racial discrimination should not be considered. However, according to the Article 1 (4) of ICERD, it is essential to ensure that such policies do not perpetuate exclusive privileges for particular ethnic groups.

States Parties to the Convention condemn all forms of propaganda and organizations that promote racial discrimination, taking into account the principles outlined in the Universal Declaration of Human Rights and the specific rights enumerated in Article 5 of the ICERD. States Parties also commit to upholding the fundamental rights and obligations outlined in Article 2 of the Convention. These include the right to freedom of movement and residence within the boundaries of the state, protection of individuals from aggression or physical harm by either government officials or specific groups or organizations, the freedom to leave any country, including one's own, and the right to return, the right to nationality, and the right to freedom of peaceful assembly and association, among others (Article 5, ICERD).

4.3. International Covenant on Civil and Political Rights (ICCPR)

Recognizing that the realization of the ideals of freedom and the enjoyment of civil and political rights, as well as freedom from fear and want, can only be fully achieved in line with the principles set forth in the Universal Declaration of Human Rights, provided that conditions are established to enable everyone to exercise their civil and political rights as well as their economic, social, and cultural rights (Preamble of the ICCPR).

The right to life is inherent and inviolable for all individuals. According to the Article 6 (1) of the ICCPR, no one should be arbitrarily deprived of their life, and appropriate legal safeguards must be in place to protect this right. Moreover, Article 10 (1) and 12 (4) state that no one's right to enter their own country should be arbitrarily denied, and individuals deprived of their liberty must be treated with compassion and respect for their inherent dignity as human beings.

4.4. International Covenant on Economic, Social, and Cultural Rights (ICESCR)

Acknowledging that the realization of a society where individuals live freely, without fear and deprivation, can only be achieved by creating conditions that enable the enjoyment of civil, political, economic, social, and cultural rights in accordance with the principles of the Universal Declaration of Human Rights (Preamble of the ICESCR). The parties to this Covenant recognize that every person has a fundamental right to education, which is essential for their full participation in a free society. According to Article 13, education plays a crucial role in fostering friendship, understanding, and harmony among people of different races, religions, and ethnicities and contributes to the United Nations' efforts to promote global peace.

4.5. Return to State of Origin under International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)

The provisions of the Convention shall apply to all migrant workers and their family members throughout the entire process of migration, including preparation for migration, departure, transit, and the entire duration of their stay while engaging in remunerated activities in the state of employment, as well as their return to their home country or state of domicile. According to Article 7, States Parties are committed to respecting and ensuring the rights enshrined in the Convention to all migrant workers and their family members present on their territory or under their jurisdiction, without any form of discrimination, in accordance with international human rights treaties. Workers holding temporary visas and their family members have the right to enter and remain in their home country at any time.

5. Possibility Of Repatriating Rohingya Refugee In Myanmar: A Way Forward

Rohingya were not eligible for citizenship or fundamental human rights since the Myanmar government classified them as illegal Bangladeshi immigrants. The Rohingya people, who may trace their origins back more than a thousand years, assert that they are inhabitants of NRS (formerly known as Arakan state). They sought refuge in several nations, notably Bangladesh, after suffering persecution from both government troops and a radical subset of the country's Buddhist majority (Azad & Jasmin, 2013). Life for migrants became more and more challenging as time went on because the initial warm reception by the locals did not persist for very long. Since the government labels unregistered citizens as "illegal immigrants" from Myanmar, their condition is far worse, and they constantly live in fear of being persecuted, arrested, and deported (Uddin, 2021).

The Rohingya have endured a profoundly distressing experience of losing their identity, which has caused immense suffering. Despite their contributions to Myanmar's society and economy as citizens, their origin, nationality, and identity have been persistently questioned. The Myanmar government, for instance, labels them as "Illegal Bengali Immigrants to Myanmar" (Babu, 2020). In contrast, the Bangladeshi government refers to them as "Forced Displaced Myanmar Citizens." Bangladesh has ratified various international human rights treaties, some indirectly supporting refugee rights but lacking enforceability in court. As part of efforts to address the crisis, Bangladesh has issued identity cards to the Rohingyas, designating them as "Myanmar Nationals." The Department of Immigration and Passport in Bangladesh has registered each of these Rohingya citizens, utilizing their biometric data. In Bangladesh, humanitarian assistance is provided to them through material support, medical care, and housing.

The Rohingya people have grown more and more desperate to find a safe future due to persecution in both their native and host countries and the loss of hope in long-lasting solutions. According to Human Rights Watch (2013), numerous Rohingya people are making dangerous maritime voyages in an effort to reach Malaysia, Thailand, and Australia. According to the government and media of Bangladesh, many Rohingyas are allegedly using fake Bangladeshi passports to travel abroad (Azad & Jasmin, 2013). A long-lasting resolution for refugees is one that ends the trend of relocation by alleviating their hardship so that they can live peaceful lives, and repatriation might be the most long-lasting answer.

Three long-lasting solutions to the refugee issue are provided by international law: voluntary repatriation, local integration, and resettlement. Most repatriation of Rohingyas to Bangladesh that took place between 1978 and 1992 was not voluntary (Barnett, 1999). Since 2005, the UNHCR has halted the repatriation process and admitted that it is not a practical resolution for Rohingya refugees. The return of the somewhat more significant unregistered population is also not a topic of discussion. Bangladesh cannot permit local integration due to its dense population and resource restrictions. The resettlement program came to an end in 2010 after a modest number of refugees were successfully placed in several third-world nations. As a pull factor, it was stopped by the Bangladeshi government. Another wave of Rohingyas has been displaced as a result of the resurgence of violence against them in Myanmar since June 2012. There is little reason to believe that the Rohingya will voluntarily return to Myanmar in the immediate or long-term future (Azad & Jasmin, 2013). Despite the fact that the government of Myanmar does not recognize Rohingyas as citizens, Rohingyas living in

Bangladesh—including young Rohingyas who were born and raised in Bangladesh—want to return to Myanmar if given safety and dignity.

In the absence of significant actions from international bodies such as the UN, regional institutions like the SC, ASEAN, or the OIC, or major political developments within Myanmar that would enable safe and sustainable repatriation, it is important to consider various temporary measures and mitigating solutions. While some Rohingya refugees desire to return to their homeland, many do not share the same sentiment. However, there is a consensus that certain fair conditions must be met before considering repatriation to Myanmar. These conditions include the assurance of safety and dignity upon return to their native villages and areas, compensation for the losses they have suffered, acknowledgment and guarantee of their security and human rights, including physical protection within Myanmar, and granting civil status, including full citizenship in Myanmar.

The Myanmar government must demonstrate a strong political commitment to meet these expectations. Before attempting to move toward a return, the Rohingya may feel that their demands must first be met. Another alternative is that some Rohingya would consent to return in exchange for minimal assurances and the promise of future, longer-term benefits like citizenship. As a result, properly carried out voluntary repatriation is a matter of personal preference. Who would be responsible for ensuring that any such agreement is followed is a crucial practical task, especially given UNHCR's restricted access and mobility in Myanmar, particularly in NRS.

To alleviate the burden on Bangladesh and alleviate the Rohingya's plight, the Bangladeshi government and the international community have identified several potential solutions. Although neither new nor unheard of, these suggestions haven't gotten much attention because of the predominately pro-repatriation rhetoric. Whereas the significance of repatriation should be maintained, interested parties, including key state actors, international organizations, and others, should consider alternative options to make them workable (Gorlick, 2019).

In preparation for repatriation, it is crucial to ensure that each refugee has the autonomy to make an informed decision about returning home, taking into consideration the potential benefits and drawbacks they may encounter in their country of origin. The United Nations alone cannot carry out a safe, sustainable, transparent, and voluntary repatriation effort. The primary responsibility lies with the country of origin, Myanmar. However, if the government chooses to address the Rohingya situation without significant external assistance, it may face growing public criticism and hostility if viable solutions are not provided. The concerns about the creation of a second Gaza Strip should not be dismissed, and the willingness of Bangladesh to accept nearly a million stateless refugees as potential citizens from a neighboring nation remains uncertain. Another alternative, if a repatriation solution cannot be reached, is that Bangladesh might be compelled to consider the full integration of a substantial number of Rohingya refugees (Gorlick, 2019).

The international community is confronted with an immense challenge in the ongoing Rohingya refugee crisis, which commenced on August 25, 2017, following the release of a report by the advisory commission led by the late United Nations Secretary-General Kofi Annan (Gorlick, 2019). Bangladesh has experienced a significant influx of Rohingya refugees during this period. However, accommodating such a large number of

prospective citizens from a neighboring country is a daunting task for Bangladesh, especially considering the current political climate that hampers the prospects of long-term solutions like voluntary repatriation. Despite the diplomatic efforts of Bangladesh, supported by the international community and the UN, including human rights assessments and concrete initiatives for fairness and accountability, progress toward ensuring a safe, dignified, and sustainable return has been limited. Therefore, exploring alternative approaches and strategies to address the Rohingya crisis is crucial. Justice and accountability measures, regardless of their nature, are long-term endeavors that may span several years, and it remains uncertain whether they will effectively facilitate voluntary repatriation or potentially hinder it. It is essential to involve and genuinely listen to the Rohingya refugees in any initiatives undertaken on their behalf to ensure that the solutions are credible, acceptable, and enduring.

The 1951 Convention and the ExCom Conclusions on International Protection address voluntary repatriation and do not explicitly specify whether UNHCR should facilitate repatriation. However, Article 1/C/5 of the Convention, which pertains to the implementation of the Cessation Clause, suggests that if the circumstances that forced a refugee to flee and seek asylum undergo significant changes, the refugee should theoretically be able to return to their country without risking their life or freedom (Abrar, 1995). By applying this example, it is reasonable to argue that UNHCR can actively and positively promote repatriation if it determines that the conditions in the country of origin, which initially compelled the refugees to flee, have sufficiently improved to ensure the safety and freedom of the returnees. Thus, the critical question revolves around whether the situation in Myanmar has undergone sufficient changes for UNHCR to recommend and engage in repatriation promotion activities.

Two contrasting perspectives exist regarding the encouragement of repatriation. NGOs argue that there have been no substantial changes to justify promoting repatriation, citing reports from Asia Watch, the US State Department of Human Rights, and the UN Special Rapporteur. On the other hand, UNHCR holds an opposing view, contending that repatriation should only be encouraged when the conditions have significantly improved to ensure the safety, liberty, and freedom of returnees. UNHCR supports its position by highlighting the positive developments in the human rights situation in Arakan, its presence, and its ability to engage with refugees to address safety concerns, which influenced its decision to facilitate repatriation. It also acknowledges that a complete transformation of circumstances in the country of origin may take considerable time, leaving refugees in camps with limited prospects for integration into the host country. UNHCR believes that the current partial stabilization of the situation resembles the conditions when refugees were initially displaced, making it an opportune moment to promote their return actively.

The research focused on investigating how the evolving dynamics between the governments of Bangladesh and Myanmar and their relationship with UNHCR influenced the crucial issue of repatriating Rohingya refugees. It was observed that both governments directly handled the matter of repatriation, reaching a bilateral agreement on the process, including the modalities, number of refugees, and approval procedures. In this context, the role of UNHCR was limited to facilitating voluntary return for refugees who expressed their willingness to go back. Furthermore, it was emphasized that adherence to international refugee law necessitates a discernible and significant change in the circumstances that forced the refugees to flee their home country. Suppose there is even a remote possibility that any future change will not be truly effective in

ensuring their safety and well-being. In that case, a valid argument exists for allowing refugees to maintain their protected refugee status in the host country without any limitations. However, considering the substantial increase in the global refugee population, donor fatigue, and the unique political and historical context of this particular caseload, there may be a justifiable need to adopt an exceptionally flexible approach to the principle of repatriation.

The UNHCR and other international organizations are exerting additional pressure on the Bangladeshi government to resolve the Rohingya refugee issue more efficiently. The governments of Bangladesh and Myanmar must engage in patient discussions, prioritizing the humanitarian aspect, in order to seek a solution. Given Myanmar's repeated failure to address the challenges associated with the Rohingya refugees, the international community's involvement becomes imperative (Zahed, 2021).

At present, the ongoing bilateral discussions are insufficient, necessitating the ethical duty and responsibility of the global community to take decisive actions toward a permanent resolution of the Rohingya refugee issues. Considering the concerns related to infectious diseases and criminal backgrounds, the Bangladeshi government may consider strengthening the screening process for Rohingya refugees. Sometimes their criminal activities might lead to committing international and transnational offenses such as human trafficking, and cross-border smuggling which need to be proven with exact modes of criminal liability in prosecuting them (Billah & Saripan, 2024). In such a scenario, local and international relief groups should provide additional support to expedite the humanitarian reception of refugees in Bangladesh. Increasing domestic and foreign aid, levels can help mitigate violent religious extremism and criminal activities in the region. Collaborating with international mediators such as the OIC, UN, and EU, the governments of Myanmar and Bangladesh can work towards a comprehensive response to address the escalating Rohingya refugee situation in Bangladesh.

Furthermore, it is vital to implement culturally appropriate approaches to tackle the severe mental health challenges the refugee community faces, including persistent anxiety, grief, depression, and post-traumatic stress disorder (Azad & Jasmin, 2013). These efforts and appropriate political initiatives are necessary to achieve a positive and expeditious resolution to the current situation.

We have given considerable consideration to the uncertain future of the Rohingya people and the most effective measures to alleviate their suffering. Extensive studies conducted by the UNHCR have aimed to address the plight of the Rohingyas, yet the majority of proposed solutions primarily focus on improving immediate care and maintenance rather than addressing the underlying long-term challenges. It is crucial to recognize that the primary root cause of this issue lies in complex political dynamics (Azad & Jasmin, 2013). Therefore, political perspectives should be at the forefront when seeking a comprehensive solution.

While the UNHCR operates as a social organization with the primary mandate of safeguarding refugees, it is not inherently a political entity. Expecting significant progress from quasi-leaders in a country where democratic leaders disregard human rights and non-violent religious figures propagate a politics of hatred would be unreasonable. We firmly believe that applying international pressure, backed by credible influence, is necessary to bring about meaningful change. Humanitarian engagement in this context should be impartial and devoid of limited national interests.

Assistance must be provided to those in need rather than being contingent on advocacy or exchanges.

6. Conclusion

The Rohingya refugee issue lacks a long-term solution unless Myanmar fulfills its international obligations and respects the rights of the Rohingya minority. The refugee regime offers three potential long-term options: local integration, resettlement, and voluntary repatriation, all aiming to restore national protection to the refugees. However, the acceptability and accessibility of these solutions may vary among different refugee groups. The Rohingya community is aware that neither Bangladesh nor Myanmar wants them, leaving them caught between the two. National security concerns associated with this population also need consideration.

Bangladesh is trying to form a society where the rule of law is going to be implemented nationwide without any problems (Billah, 2021). Hence, government, civil society, the UN, and human rights organizations are actively exploring various proposals to address the Rohingya crisis that helps their safe return to Myanmar and smooth implementation of domestic laws in Bangladesh. The Asian region and Bangladesh have accumulated significant experience in dealing with refugees, providing insight into the challenges and potential paths forward. However, it is essential to recognize that humanitarian crises require political solutions, as stated by the former UNHCR Chief, Sadako Ogata. Negotiated settlements must be complemented by protection and rights-based measures in both the short and long term.

Politics and law work together at the national and international levels to resolve global problems (Billah et al., 2022). Therefore, Bangladesh can contribute to solve the underlying causes of the refugee crises by enacting effective national legislation on refugees and migration, identifying and registering all Rohingya refugees, and seeking bilateral or multilateral agreements with other countries through a good political motive. At the same time, the international community must persuade Myanmar to address the refugee-related problems that have burdened Bangladesh for over two decades.

Powerful nations should use their influence to pressure Myanmar to create the conditions, protections, and oversight for a sustainable repatriation process. Regional pressure and assistance are crucial to promoting responsibility sharing and accelerating local solutions for repatriation. Failure to address the needs of the Rohingya refugees may lead to security challenges on various levels. However, the cooperation between Bangladesh, the Rohingya community, and national and international NGOs offers promise and must be supported with immediate humanitarian aid.

Looking ahead, it is essential to involve the refugees in decision-making processes that affect them, particularly those related to repatriation. Like other refugee groups, the Rohingya should have a voice and ownership in any suggestions or solutions proposed.

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