

Refugee Repatriation Issue between Myanmar and Bangladesh

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Abstract

This paper aims to study challenges and constraints in refugee repatriation process between Myanmar and Bangladesh. Following the Tatmadaw's counter-insurgency operation against the terrorist attacks of Arakan Rohingya Salvation Army (ARSA) in northern Rakhine State in August 2017, it is reported that more than 700,000 refugees have fled to Bangladesh. Most of refugees have sought shelter in established refugee camps along the border and makeshift camps in Cox's Bazar in Bangladesh. Although Myanmar and Bangladesh agreed to a procedural framework for repatriation, no Bengali refugees has returned through official channels. On the other hand, it is becoming an increasingly pressing issue among international community as the mass flows of refugees who left Myanmar. The global media and international Human Rights Council reports have focused on the humanitarian situation of displaced people, human rights violations and the legal status of Bengalis in Myanmar. Therefore, Bengali issue has become more complex for a continuous implementation of repatriation process. At present, the repatriation process between Myanmar and Bangladesh has virtually stagnated. Upon this background, this paper argues that it is crucial that the Governments of Myanmar and Bangladesh commit themselves not only to any voluntary return and safe of refugees but also to the positive steps that will be required to ensure their implementation of repatriation process.

Key words: repatriation, MoU, responses, citizenship, third party, challenges

I. Introduction

The mass exodus of refugees from Myanmar to Bangladesh is not a new phenomenon. In 1978, the Government of Myanmar started securitizing documented and undocumented persons in Rakhine State. This led to mass flows of refugees who abandoned their houses and fled Bangladesh. In this process, more than 150,000 Bengali people have been displaced in Bangladesh borders. The first influx of Bengali refugees into Bangladesh was resolved through bilateral diplomatic initiatives within sixteen months. The second mass exodus of Bengali refugees took place again in 1991 and 1992 as a result of the Myanmar Government's illegal migration checks across the country. Nearly 250,000 Bengali refugees fled Bangladesh. Under a trial agreement between Myanmar, Bangladesh and the United Nations High Commissioner for Refugee (UNHCR), approximately 230,000 refugees had been repatriated and some refugees refused to be repatriated.

On 25 August 2017, a counter-insurgency military operation against ARSA terrorists in Rakhine State led to a mass displacement of Bengalis into Bangladesh. It is the third influx of Bengali refugees and the largest and fastest refugee flow into Bangladesh. On 23 November, an agreement was reached between Myanmar and Bangladesh on the refugee repatriation. The Government of Myanmar shows its willingness to repatriate Bengali refugees in accordance with the bilateral agreement signed between the two countries. Upon this background, the first part of the research deals with literature review on refugee issues written by scholars from different perspectives. In the second and third parts, it explains the different responses of Governments of Myanmar and Bangladesh on refugee repatriation. It also analyzes how far third-party intervention is important to facilitate refugee repatriation

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process. The final part will be discussion and conclusion of the research. In this paper, quotations and references are cited as authors were originally published.

II. Materials and Method

This research is based on qualitative as well as descriptive method. For the second and third parts, the Myanmar-Bangladesh Agreement on refugee repatriation, texts of the Memorandum of Understanding (MoU) between UNHCR and Myanmar, UNHCR and Bangladesh, unclassified papers of UNHCR, statements and documents issued by President Office of Myanmar, comprise important primary sources. Newspapers and scholarly articles constitute secondary source of information for the study.

III. Literature Review

The Article entitled “The UNHCR and its Mandate on Refugee Management: The Case of Bangladeshi and Myanmar Refugees”, published in 1999, was written by Nomita Halder. The author presented a comparative study of Bangladeshi refugees in India and Bengali refugees in Bangladesh in terms of needs, repatriation and power politics. In the context of needs, the author pointed out that in the case of refugees in India, the basic needs of refugees were not met, and even the international organizations ignored their requirements for help and assistance. On the other hand, refugees in Bangladesh received proper care and maintenance and even experienced long-term benefits. In repatriation process, Halder argued that the basic difference in the repatriation stage is that Bangladeshi refugees were more than voluntary. The author also discussed Bengali refugees in Bangladesh who are under a programme of continuous motivation by the UNHCR. In the context of power politics, the author argued that international refugee officials have realized for some time that whatever power they exercise depends largely on the financial and political support of the United States government and other large donor countries. Finally, the author concluded that the UNHCR needs all the authority and influence at his command to defend the interests of the refugees and to fulfill his mandate to protect.

“The State of the World’s Refugees: In Search of Solutions” published by UNHCR in 1995, highlighted UNHCR changing approaches to refugee problem. It expressed several different trends could be discerned in the international community's response to the refugee problem. In the case of refugee repatriation to the Rakhine State in Myanmar, during the refugee flows of 1970s, it became apparent that voluntary repatriation represented the only viable solution for the vast majority of the refugees. It also explained that during the 1980s, however, UNHCR began to play a more proactive role in the search for solutions, actively assisting refugees to return to and reintegrate in their homeland once conditions there had substantially improved. Furthermore, it highlighted that in the early 1990s UNHCR did not have a presence in Myanmar and was unable to monitor the situation of refugee within the country of origin. The book did not explain the refugee repatriation process in detail although there were intense negotiations among UNHCR, the Government of Myanmar and the Government of Bangladesh.

A Ph.D Thesis “The Role of UNHCR in Conflict Management in Northern Rakhine State” was written by Hla Myo Than. In his book, the author argued that beyond its mandate, UNHCR’s assistance to refugee repatriation in northern Rakhine State in the 1990s became more complex and politicized in providing basic humanitarian assistance and protection to conflict-affected persons, internally displaced persons and to other displaced persons. Most of the above-mentioned books have explained the third-party intervention in refugee repatriation

issues in the context of politics. Therefore, this study tries to fill the gap in the literature and it will focus on difference approaches of Myanmar and Bangladeshi governments to refugee repatriation.

IV. Myanmar Government's Response to Refugee Repatriation

In the aftermath of the Tatmadaw's counter-insurgency operations in August 2017, most of Bengalis fled to Bangladesh during the operations. On 23 November 2017, only months after the mass exodus of the Bengali, the Governments of Myanmar and Bangladesh signed a MoU as a preliminary step to begin the repatriation process. (*The Guardian*. (2017, November 23). Retrieved from <https://www.theguardian.com/world/2017/nov/23/myanmar-signs-pact-with-bangladesh-over-rohingya-reparation>) A Joint Working Group on repatriation (JWG) was established, consisting of officials from both of governments pursuant to the MoU. Through their bilateral Joint Working Group on repatriation, Myanmar would receive 150 returnees per day.

Since January 2018, Myanmar has prepared to receive returnees from Bangladesh. The Government of Myanmar set up two reception centers and one transition center to host refugees in northern Rakhine State. (Permanent Secretary of Ministry of Foreign Affairs, High Level Myanmar Delegation Meets with Representatives of Displaced Persons at Cox's Bazar, Bangladesh. (2019, August 1). *The Global New Light of Myanmar*, p.6) For returnees, arrangements were also made by the government to provide humanitarian aid, to assist in their livelihoods, to give training for employment, education, health and to provide freedom of travel in accordance with the law, as well as a cash for-work program through international cooperation. In a press conference on the repatriation of displaced people from Bangladesh to Rakhine State in Nay Pyi Taw on 15 November 2018, U Myint Thu, Permanent Secretary of the Ministry of Foreign Affairs, said that an agreement was made to repatriate 2,261 people as the first batch of returnees. The 2,261 people were on a list of 8,032 people sent by Bangladesh and were scrutinized at the Home Affairs Ministerial Meeting held in Dhaka in February 2018. In the repatriation process, the first batch of displaced people would return by sea route to the Nga Khu Ya reception center, and later, they would be taken to the Taung Pyo Letwe reception center by road. (*Press Conference of the Ministry of Foreign Affairs*. (2018, November). Nay Pyi Taw) However, as of January 2019, no refugees have come back through official channels. The permanent secretary insisted that although preparations for receiving the returnees are complete, Bangladesh could not facilitate the physical arrangements thoroughly.

In terms of legal status of Bengalis in Myanmar, the government officially claimed that the repatriation process is based on the existing laws and regulations of the country and the temporary camps would be an as short as possible solution towards a repatriation. (*United Nations Security Council: The Situation in Myanmar*. (2018). Thessismun, University of Macedonia, p.36. Retrieved from <https://www.thessismun.org/wp-content/uploads/2016/11/UNSC-2018-The-situation-in-Myanmar-Final.pdf>) On 14 January 2018, during a visit to Sittwe Township, Union Minister for Social Welfare, Relief and Resettlement, Dr Win Myat Aye, stated that National Verification Cards (NVC) holders can use the NVC as an official fishing licence and can overcome the difficulties of procuring food, clothing and shelter. In October 2018, during a visit to Cox's Bazar, a delegation from Myanmar distributed brochures to refugees that also stated that travel, fishing rights, social and economic activities and guarantees of life all require the possession of an NVC. (*Report of Human Rights Council on its Forty-Second Session*. (2019, November 27). UNGA, A/HRC/42/2. p.23. Retrieved from <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session42/Pages/42RegularSession.aspx>)

From 27 to 29 July 2019, a government delegation, consisting of 19 members led by Permanent Secretary of the Ministry of Foreign Affairs, U Myint Thu, visited Cox's Bazar and held discussion with refugees on possible return. (*The Global New Light of Myanmar*, p.6) During the meeting, refugees insisted on citizenship and freedom of movement as preconditions for their return. Permanent Secretary briefly explained the displaced persons on the preparations for the repatriation, including the construction of buildings, repatriation process at the reception centers and transit center, prevalence of law and order, access to education and health, citizenship in line with the 1982 Citizenship Law, benefits of NVC Card, creation of job opportunities, and social cohesion among various communities, among others.

In accordance with 1982 Citizenship Law, NVCs are issued as only way to citizenship. It is procedure applied to all in the whole country including the displaced persons from Rakhine State. The NVC process to citizenship, which took two years, has now been shortened to six months. NVC guarantees freedom of movement to the extent that the security condition allows. The holders of NVCs can even travel to Bangladesh, by using border pass. (Myanmar Highlights Support for Humanitarian Assistance in Annual Exam Plenary Session. (2019, October 1). *The Global New Light of Myanmar*, p.5) At General Debate of 74th Session of UNGA, Union Minister U Kyaw Tint Swe explained that NVCs are similar to the “green card” much sought after by immigrants in the United States. (Union Minister U Kyaw Tint Swe Delivers Statement at General Debate of 74th Session of UNGA. (2019, September 30). *The Global New Light of Myanmar*, p.3) Myanmar strongly holds that systematic documentation is of paramount importance in addressing refugee issue.

Since assuming office in 2016, the elected civilian government has placed the highest priority on addressing the issues in Rakhine State. To find a lasting solution, the Government of Myanmar established a Central Committee for the Implementation of Peace, Stability and Development in Rakhine State, chaired by State Counsellor Daw Aung San Suu Kyi and the Advisory Commission on Rakhine State headed by Dr. Kofi Annan. The Committee aimed at finding long-term, durable and practical solutions to these delicate and sensitive issues of Rakhine State. On the other hand, the government priorities to expedite repatriation and to create a more conducive environment for verified returnees under Myanmar-Bangladesh bilateral agreement.

V. Bangladeshi Government's Response to Refugee Repatriation

Bangladesh stands in a very tough position about the Bengali repatriation because a huge amount of population maintenance is very hard for the government. The Bengali refugees and undocumented nationals are posing a serious threat to the security, stability, prosperity, welfare and image of the country through their involvement in serious crimes including drug and human trafficking, smuggling, robbery and other organized crimes.

As part of the Government of Bangladesh policies on Bengalis, on 9 September 2013, Bangladesh's Cabinet approved the “National Strategy Paper on Addressing the Issue of Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh” that is aimed at ensuring enhanced coordination in the work of the government, NGOs and international organizations in addressing this protracted refugee issue. The strategy paper mentioned that there is a huge population of 300,000 – 500,000 undocumented Myanmar nationals living outside the camps, having entered Bangladesh. (*Strategy Paper on Addressing the Issue of Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh: A Summary Presentation*. (2014, March 31). Dhaka, Ministry of Foreign Affairs, Government of the Republic of Bangladesh. p.1. Retrieve from <https://www.scribd.com/document/248296931/Strategy-Paper-on-Addressing->

the-Issue-of-Myanmar-Refugees- and-Undocumented-Myanmar-Nationals-in-Bangladesh)

The strategy paper also described that the protracted presence of the large number of Myanmar refugees and undocumented Myanmar nationals has created a number of adverse effects on Bangladesh's overall socio-economic, political, demographic, environmental, humanitarian and national security situation. It also stated that many of these Myanmar nationals obtained illegal or faked Bangladesh passports to travel to countries of Southeast Asia and Middle East in an irregular manner and have compromised Bangladesh's international image by getting involved in criminal activities and law and order situations in those countries. (ibid) It is mainly framed from national security approach emphasizing enhanced capacity building of the border security agencies with a view to arresting the continued influx of Myanmar nationals through irregular channels. Despite taking a tough policy on the Bengali refugees, the Cabinet proposed to provide basic humanitarian needs such as food, water, medical care, sanitation facilities, and other essential services to Bengalis on a temporary basis before pushing them back to Myanmar.

After third influx of Bengali refugees into Bangladesh in 2017, it is a crucial issue between Myanmar and Bangladesh which pursued harsh policy of repatriation on refugee camps. At the same time, the Government of Bangladesh has implemented strong diplomacy to the international community and tried to reflect the helpless and vulnerable situation of the Bengali refugees, staying at the refugee camp in Cox's Bazar, Bangladesh. From the beginning of the influx, Bangladesh has drawn the importance of the Bengali refugee issue in humanitarian and repatriation ground all over the world. It raised voices in many national, international or regional platforms such as UN platform, International Criminal Court, international summits etc. (Arifuzzaman, G.M. (2018). *Regional and global responses to the Rohingya Repatriation Process: Opportunities and Challenges*, Research Associate, Centre for Genocide Studies, University of Dhaka, Bangladesh, p.15. Retrieved from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjh2a237fPpAhVpIbcAHXRhDkEQFjAAegQIBxA B&url=http%3A%2F%2Fwww.mcrg.ac.in%2FRLS_Migration%2FAbstracts%2FWorkshop%2FArifuzzaman_abstract.pdf&usq=AOvVaw0enSIpzQ078Gh08Bga_FkS) It is observed that the Government of Bangladesh has attempted to take the voices of international organizations including UN Agencies and Organization of Islamic Countries (OIC) in complaining unregistered Bengalis settled in the refugee camps in Bangladesh.

There have been persistent calls to put pressure on Myanmar. Bangladesh Prime Minister Sheikh Hasina has laid out a five-point plan that calls for protection of the Bengali in UN-supervised "Safe Zones" inside Myanmar. At the Asia-Europe Meeting Summit on 13-14 November 2017, the foreign ministers of member countries called for an immediate cessation of hostilities, halting of refugee outflow and early return of the displaced persons from Bangladesh. They also called for the implementation of recommendations from the Advisory Committee on Rakhine State. Due to mounting pressure, the Government of Myanmar agreed to sign a MoU with Bangladesh based on the 1992 agreement which would enable the two countries to start repatriating the verified Bengalis in Bangladesh. (Parnini, Syeda. (2018). *The Rohingya crisis a test for Bangladesh-Myanmar Relations*, East Asia Forum, p.2. Retrieved from <https://www.eastasiaforum.org/2018/03/24/the-rohingya-crisis-a-test-for-bangladesh-myanmar-relations>) It can be said that Bangladesh's strong diplomacy may create the opportunities of the repatriation of the Bengali refugees in Myanmar.

VI. Third Party Intervention

The UNHCR is mandated to provide international protection and humanitarian assistance for refugees and to seek durable solutions for refugee problem by assisting governments in order to facilitate voluntary repatriation of refugees. In case of repatriation

process, an approach has to be implemented in close cooperation among countries of origin, host countries, UNHCR and its humanitarian and development partners as well as refugees.

Historically, the Government of Myanmar and UNHCR previously had a successful cooperation in the field of voluntary, safe and dignified return of displaced persons. In 1993, Myanmar and UNHCR signed a MoU to provide a framework of assistance and cooperation in the context of the voluntary repatriation programme from Bangladesh and some 230,000 displaced persons were repatriated. (*Press Release of the Government of the Republic of the Union of Myanmar*. (2018). Ministry of the Office of the State Counsellor) After mass exodus of Bengalis in 2017, Myanmar and Bangladesh agreed on accepting assistance by the UNHCR regarding the repatriation process.

In April 2018 Bangladesh and UNHCR signed another MoU that establishes a bilateral cooperation framework for the voluntary, safe and dignified repatriation of Bengali refugees to Myanmar. A verification team was set up to consolidate a unified database for purposes of protection, identity management, documentation, provision of assistance, population statistics and ultimately to find solutions for refugees. (Human Rights Council on its Forty-Second Session, p.64) UNHCR assisted the Government of Bangladesh in surveying these refugees on whether they wish to return to Myanmar and to confirm the voluntariness of any individual decision to do so. Together with Bangladeshi officials, UNHCR visited refugee families in their shelters to establish whether they wish to return to Myanmar.

The Government of Myanmar signed a memorandum of understanding with the UN Development Program (UNDP) and UNHCR on 6 June 2018. The MoU sets out the general operational modalities governing UNDP and UNHCR's involvement in the repatriation process of displaced persons from Rakhine State who wish to return voluntarily, safely and in dignity to their own households and original places of residence or to a safe and secure place nearest to it of their choice. (*Memorandum of Understanding between the Ministry of Labour, Immigration and Population of the Government of the Republic of the Union of Myanmar and UNDP and UNHCR*. (2018). P.1) In accordance with the MoU, UNHCR provides its assistance for the returnees at the Hla Phoe Khaung transit center in Maungdaw Township. In line with the provisions of the MoU, the government of Myanmar has allowed UNHCR to conduct independent field assessments in over 80 villages as of 13 July 2019 and to implement 34 Quick Impact Projects (QIPs) as of 5 September 2019 in order to improve conditions for all communities in Rakhine State and promote social cohesion between them, so that the voluntary return and reintegration of refugees is possible. (*The Global New Light of Myanmar*, p.2) Despite obstacles, including killings and threats by ARSA, from April 2018 to November 2019, some 300 people from Cox's Bazar have returned under their own arrangement and on their own volition. It can be assumed that the cooperation between Myanmar and UNHCR has less effect of repatriating displaced persons from Bangladesh.

Neither Myanmar nor Bangladesh has signed the 1951 Refugee Convention and its Protocol yet. However, the most important provision of the 1951 Refugee Convention is Article 33 which provides that no Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. (*The 1951 Refugee Convention and Its 1967 Protocol to the Status of Refugees*. (2011). UNHCR, UN Refugee Agency, p.6. Retrieved from Retrieved from <https://www.>) This definition of *nonrefoulement* articulates an extremely important guarantee for refugees. UNHCR agreed with the Governments of Bangladesh and Myanmar that any repatriation of refugees must be voluntary, safe and dignified. For Myanmar and Bangladesh, respect for these principles will also have the practical effect of helping to ensure that return is sustainable.

VII. Discussion

The challenges and constraints surrounding refugee repatriation process are multi-dimensional. Firstly, some ethnic Rakhine oppose returns and have held demonstrations to stop them, calling for the scrutinizing of returnees and their resettlement in certain secure areas in order to maintain Rakhine state stability. Although the Government of Myanmar arrange for the refugee resettlement in new places, Bengalis repeatedly claim to repatriate them in their original places which are next to Cox's Bazar in Bangladesh. It is a security concern for both local authorities and Rakhine State government because they can easily flee Bangladesh after they commit a crime in Myanmar.

Secondly, the Bengali repatriation process is not only bilateral diplomatic issue between Bangladesh and Myanmar but also have an international concern. Due to Bangladeshi Government's request to the United Nations, many national and international community have involved the Bengali issue as a humanitarian ground. Myanmar has received immense diplomatic condemnation, scrutiny and sanction on its handling Bengali issue. It became more difficult for the Government of Myanmar to resolve protracted Bengali refugees between the two countries.

Thirdly, even though most Bengalis would like to return to the places in where they lived, voluntary returns will be possible if situations in Rakhine state are quite safe for them. In current situation in Rakhine State, armed conflicts between the Tatmadaw and the Arakan Army (AA) have more intensified in northern Rakhine State since the AA launched attacks on four border police outposts in northern Buthidaung Township, killing 13 police officers on 4 January 2019. It has been an additional challenge to making a safe, voluntary, dignified and sustainable return of the Bengali refugees impossible at this time.

Finally, according to the reports of the Human Right Council, the problems were caused by the 1982 Citizenship Law which excludes Bengalis from a national race. The Bengalis express its desire to return Myanmar if they are provided citizenship and recognized as a national race of Myanmar. In addition, the UNHCR reports publicly described that none of them had indicated a willingness to return. Instead the refugees held protests against the repatriation and demanded accountability, full citizenship rights, return of land and properties.

VIII. Conclusion

For Myanmar, in the repatriation process, some challenges i.e. international concern, citizenship issue, voices of local community, Rakhine state instability are highly significant. For Bangladesh, it is different from Myanmar. With the strong diplomatic negotiations ground, Bangladesh draws attention from international community to repatriate the Bengali refugees in Myanmar. The Government of Myanmar insisted that issues between neighbours should be resolved bilaterally in an amicable and friendly manner. Thus, the current issue of displaced persons in Cox's Bazar must be resolved bilaterally, particularly as Myanmar and Bangladesh signed a bilateral agreement to address this issue since 2017. The Government of Myanmar stressed that mutual understanding and constructive cooperation based on the principles of objectivity, mutual respect and bilateral agreements will bring about positive outcome in the repatriation process.

The refugee repatriation process is ongoing because of Bangladesh and Myanmar are working in a joint working group since January 2018 to find out the possible solutions about the Bengali issue and the repatriation. It can be assumed that it may come of the repatriation in near future but it may not huge population but tiny as compared with the total refugee. It is

recommended that listening to the voices of all communities, the Government of Myanmar needs to look at the issue from the multidimensional perspective and to take a holistic approach for long term stability, security and sustainable development of the Rakhine State. For successful repatriation, Myanmar will continue its committed efforts with genuine political will and strict adherence to the signed agreements.

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Map of Myanmar and Bangladesh



Source: *Bangladesh-Myanmar: The Danger of Forced Rohingya Repatriation*. (2018).