

Rohingyas and refugee status in Bangladesh

Pia Prytz Phiri

The Rohingya refugees from northern Rakhine State in Myanmar are living in a precarious situation in their country of asylum, Bangladesh, but have seen significant improvements in recent times.

In 1991 some 250,000 Muslim Rohingyas were recognised as refugees on a prima facie basis by the Government of Bangladesh. The vast majority were repatriated by the Government of Bangladesh to Myanmar in the following years, leaving only two of the 20 refugee camps in existence. For the last 16 years, a residual number of approximately 27,000 Rohingyas have been living in two refugee camps in the southernmost tip of the country, near Cox's Bazar.

Bangladesh is neither a signatory to the 1951 Convention relating to the Status of Refugees nor to its 1967 Protocol and has not enacted any national legislation on asylum and refugee matters. Nevertheless the government, on its own initiative, recognised the Rohingya arrivals in 1991 as refugees and has, in partnership with UNHCR, been providing them with assistance to this day.

It is significant that Bangladesh has acceded to several of the existing

international rights Covenants and Conventions¹ and has provisions within its Constitution that uphold the rights and duties within the UN Charter and further safeguard the legal protection of non-citizens within its territory². As a result, it recognises a body of international law which provides the framework for protecting refugees.

The difficulty lies in ensuring compliance and sustainability in the standards of protection when there is no law regulating refugee status itself. The situation of the Rohingya refugees demonstrates the challenges in providing protection in an ad hoc, arbitrary and discretionary system. Although 16 years have passed, Rohingya refugees are still denied freedom of movement, the right to work and the right to education – and thus are denied the chance of self-reliance and self-determination. Refugees are forced to engage in clandestine activity, working illegally and for low wages. They have been denied the opportunity to develop, to learn

and to better themselves, restricted until recently to informal education classes taught by refugee volunteers with limited courses and grades.

UNHCR in Bangladesh has had some success lobbying for the improvement of standards across all sectors by strongly advocating to bridge the discrepancy between international protection principles and practice on the ground. The agency reached landmark agreements with the previous government in 2006, before recent political events and the declaration of a state of emergency. The present interim government is also showing very positive signs of engagement with refugee issues.

What can be observed thus far are milestones in negotiations between the government and UNHCR which are changing the shape of the delivery of protection. First, in 2006, the government agreed to allow UNHCR to construct new shelters for refugees in both camps, recognising the abysmal conditions of the current structures which fall below international standards. The maintenance of the shelters built in 1992 had been restricted by the government to the bare minimum for fear of promoting any form of permanent presence of the refugees.



Burmese refugee children play in front of new houses built with UNHCR funding in Nayapara refugee camp, Bangladesh, February 2008.

Since that agreement was reached, UNHCR has been successful in starting to raise funds – and construction in the two refugee camps has begun. It is hoped that both camps will have new accommodation facilities by end of 2009.

A second major recent achievement was that, for the first time in the history of UNHCR's operation in Bangladesh, resettlement to a third country was used to provide protection and a durable solution for some. Twenty-three refugees were resettled to Canada in 2006 and a further 79 in 2007.

The agreement to re-settle was piloted by UNHCR in part to lobby the government to allow more skills training and enhanced education facilities. As a consequence, the government in 2006 agreed to allow skills training and an increase in the number of courses as well as the grades taught in schools. Although this progress still does not reach

the level of international standards, it certainly points in the right direction. Since the first successful resettlement to Canada, resettlement for those refugees in urgent need of protection has been negotiated with other interested countries; both New Zealand and the UK have confirmed an intake for 2008.

A further development of great significance has been agreement with the Government of Bangladesh in 2006 to allow other UN agencies and NGOs to work in the refugee camps, bringing expertise in the different sectors.

Nevertheless, there is still some way to go before the refugees are able to enjoy the rights they are due under international law. UNHCR Bangladesh has made its position very clear that the status quo is simply untenable. The provision of external assistance for a period of 16 years without progress to, and attainment of, self-reliance is

contrary to the principles of refugee protection, human rights and human dignity. The need to engage in dialogue with the Government of Bangladesh and other stakeholders to discuss durable solutions for the Rohingyas continues. It is too early to predict the outcome of discussions but what is extremely positive at this stage is that both UNHCR and the government agree on the importance of taking a more holistic longer-term perspective to resolving the plight of the Rohingya refugees.

Pia Prytz Phiri (BGDDA@unhcr.org) is UNHCR's Representative in Bangladesh (www.unhcr.org/country/bgd.html).

The views expressed are those of the author and do not necessarily represent the views of UNHCR or the UN.

1. www.un.int/bangladesh/misison_arc/treaty_adherence.htm

2. Articles 25, 31 & 32 of the 1972 Constitution