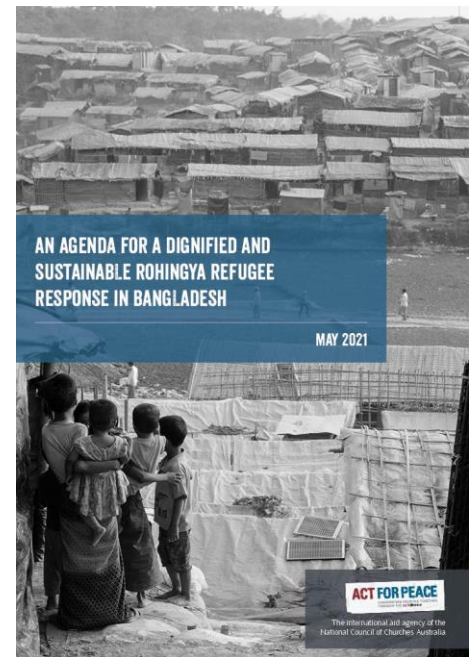# POLICY BRIEF

An Agenda for a Dignified and Sustainable Rohingya Refugee Response in Bangladesh

May 2021

Full report available at:
https://www.actforpeace.org.au/www_AFP/media/act-for-peace/AfP-report-An-Agenda-for-a-Dignified-and-Sustainable-Rohingya-Refugee-Response-in-Bangladesh.pdf

Key Findings

1. The application of the whole-of-society approach is critical for a comprehensive refugee response by ensuring sustainable approaches that link relief and development, fostering the meaningful participation of affected communities and harnessing complementary capacities among a multiplicity and diversity of stakeholders and agendas with collaboration and complementarity as shared fundamental values among all stakeholders.

2. The fragile protection and security situation in the Rohingya refugee camps in Cox's Bazar underscores the need for a robust legal and policy framework for refugees in Bangladesh, shifting away from the Government's short-term policy framework premised on temporary assistance and speedy repatriation.

3. The existing hybrid humanitarian coordination structures continue to adjust to the evolving protection and operational realities of Bangladesh. The "whole-of-society approach" is a necessary and fundamental starting point for effective inter-agency and inter-sectoral coordination in the Rohingya refugee response, in order to ensure greater alignment between Government and humanitarian coordination mechanisms and strengthen accountability and leadership.

4. Localisation of the Rohingya refugee response may be achieved by developing a nuanced understanding of the contextual sensitivities and local ways of working, appreciating the diversity and complexity of humanitarian capacity and engaging refugees and host communities themselves in humanitarian decision-making and coordination structures.

5. Meaningful participation of Rohingya refugees, including women and youth, in key decisions about their daily lives and futures, will likely lead to better protection outcomes, more fit-for-purpose programs and policies, and ensure greater compliance and shared ownership of programs and policies.

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Whole-of-society-approach in the Rohingya refugee response in Bangladesh

Refugee protection is operationalised by and with those affected, and usually by a very diverse group of stakeholders with the capacity to meet the relevant needs. This diverse set of needs requires a range of interventions and substantial expertise, and it is unrealistic for any single actor to deliver protection alone even if they are a government or a large international institution like UNHCR. In practice, a large number of stakeholders (service providers, humanitarian and development actors, policy-makers, media, affected communities, among others) must collaborate through referrals networks: identifying needs, vulnerabilities and risks and making referrals to each other on the basis of those actual needs.

The unanimously adopted New York Declaration ("NYD"), and the subsequently adopted Global Compacts all recognise the necessity of adopting a "multi-stakeholder and partnership approach" or a "whole-of-society approach". The concept of a whole-of-society-approach in refugee protection has garnered universal consensus through these negotiations. Application of the Global Compacts, particularly the whole-of-society approach, in Bangladesh faces a number of challenges and local dynamics that arise from a limited domestic and regional legal and policy framework, a weak and deteriorating refugee protection environment, complex and inadequate humanitarian coordination structures, restricted opportunities for inclusion of refugees or host communities in decision-making and coordination structures, and contested localisation agendas. Bangladesh's engagement with the Global Compacts and the whole-of-society approach is further complicated by the deteriorating situation and dim prospects of peace and justice for Rohingya in Myanmar as well as the absence of a comprehensive regional or global Rohingya refugee response plan.

This paper examines the extent to which a 'whole of society approach' is applied in the Rohingya refugee response in Bangladesh and looks at how the current approach impacts refugee protection outcomes, interfaces with existing coordination mechanisms, intersects with ongoing localisation efforts, and ensures meaningful refugee participation and leadership.

Refugee protection and solutions

In principle, the humanitarian response to the Rohingya crisis in Bangladesh is guided by a protection framework outlined in the Joint Response Plan (JRP). While it is widely acknowledged as a 'protection crisis', the fact that the policy framework focuses on short-term temporary assistance premised on speedy repatriation, without access to formal education or income generation opportunities, makes it challenging to secure the rights and well-being of refugees.

First Phase (1978)	Second Phase (1991-92)	Third Phase (2016-17)
More than 200,000 Rohingya refugees arrive in Bangladesh fleeing targeted military violence in Myanmar. Most were repatriated in a short time among reports of coercive measures, including reports of intimidation and withdrawal of food in camps where more than 10,000 refugees died due to malnutrition and starvation.	More than 250,000 Rohingya refugees fled Myanmar and were temporarily accommodated in 20 camps. They were recognised as refugees *prima facie* and registered by UNHCR. From 1993-1997, some 230,000 Rohingya refugees were returned to Myanmar amidst allegations of forced returns. • 1992: Government stopped recognizing any further Rohingya refugees. • An estimated 300,000-500,000 unregistered refugees continued to arrive and lived in the areas surrounding the registered refugee camps. • 35,519 registered refugees remain in two (2) registered camps as of Dec. 2020.	From 2012 conditions in Rakhine State began to deteriorate significantly again, with inter-communal violence and more than 100,000 Rohingya confined to IDP camps (they remain confined there today). In 2016 there was an upsurge in violence when the Arakan Rohingya Salvation Army (ARSA) reportedly attacked border posts triggering a military crackdown, and some 87,000 fled to Bangladesh. In 2017 following the launch of intensive military operations in Rakhine State, widespread violence and mass forced displacement led to nearly 700,000 fleeing to Bangladesh.

While Bangladesh is not party to the 1951 Refugee Convention and 1967 Protocol, it is party to a majority of the international human rights instruments, including importantly: the ICCPR, ICESCR, CAT, CRC, CERD, and CEDAW. The Bangladeshi judiciary has also recognised the binding obligation of non-refoulement under the Convention Against Torture and under customary international law in the case of Refugee and Migratory Movements Research Unit (RMMRU) v Government of Bangladesh Writ Petition No 10504 of 2016. Some Constitutional and general legal provisions are applicable to all persons on Bangladeshi territory, not only citizens. In 2013, Bangladesh also adopted the National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals. This policy was not updated following the large influx in 2016-17, and the relevance and utility of existing laws and policies should not be overestimated. One must consider the question of implementation and recognise the fact of common practices that may be inconsistent with the law.

Figure 1: Evolving legal, policy, and operational framework for Rohingya refugees in Bangladesh

Current protection environment in the camps

Rohingya refugees remain highly dependent on humanitarian aid and are at risk of adopting negative coping mechanisms that heighten protection risks such as taking large debts due to restrictions on livelihoods, dangerous onwards movements by sea, trafficking and child labour among others.

Protection situation in Rohingya camps in Cox's Bazar		
Insecurity:	**Gender-based Violence:**	**Limited access to justice:**
• Tensions between refugees and host communities: Growing anti-Rohingya sentiment and xenophobia. • Increase in criminal activities: kidnappings, extortions, extra-judicial killings, drug and human trafficking • Violent clashes between rival Rohingya gangs that operate with impunity and vie for control of the camps	• High prevalence and low reporting of GBV incidents. GBV risks restrict women and girls' access to public services and facilities like WASH facilities, water collection points and affects free movement around the camps. • COVID-19 pandemic exposed women to greater GBV risks but restricted access to services. • Female Rohingya volunteers have faced stigmatisation and harassment.	Rohingya refugees governed by complex web of formal and informal justice systems delivered through a variety of administrative and discretionary rules and regulations.
Refugee Repatriation focused policy and its impacts:	**Humanitarian Space and operational constraints:**	**Secondary protection impacts of COVID-19:**
• Immediate prospects for safe, dignified and voluntary repatriation are dim • Increasing aid dependence and weakened community resilience • Increasing insecurity creates fear and desperation • Continued isolation has increased anti-Rohingya sentiment and increased social tensions with host community	• Suspension of NGO activities • Increased surveillance of humanitarian actors. • Bureaucratic barriers to humanitarian projects • Lack of transparency and clear policies	• Since April 2020, the humanitarian footprint, including protection presence, has been reduced. • Services related to protection, site-management, shelter repairs, livelihoods and education were deemed as 'non-essential' during this period. • Protection risks grew, community networks broke down, economic vulnerabilities increased and depleted trust between refugees and service providers.

August 2019: Critical turn towards securitisation

Since August 2019, there has been a significant shift in policy and public opinion towards Rohingya refugees in Bangladesh. Following a series of events such as the second unsuccessful repatriation attempt, killing of a Bangladeshi youth leader allegedly by a group of Rohingya, and lastly, a large rally organised by Rohingya to mark the second year of their exodus from Myanmar, Bangladeshi authorities took a series of restrictive measures that severely affected Rohingya refugees' access to basic rights and constrained humanitarian access. Together, these restrictions highlight an increasing trend towards securitisation of Rohingya refugees demonstrated by a sharp policy focus on national security and expedited returns to Myanmar amidst rising insecurity in the camps and tensions with host communities over scarce resources.
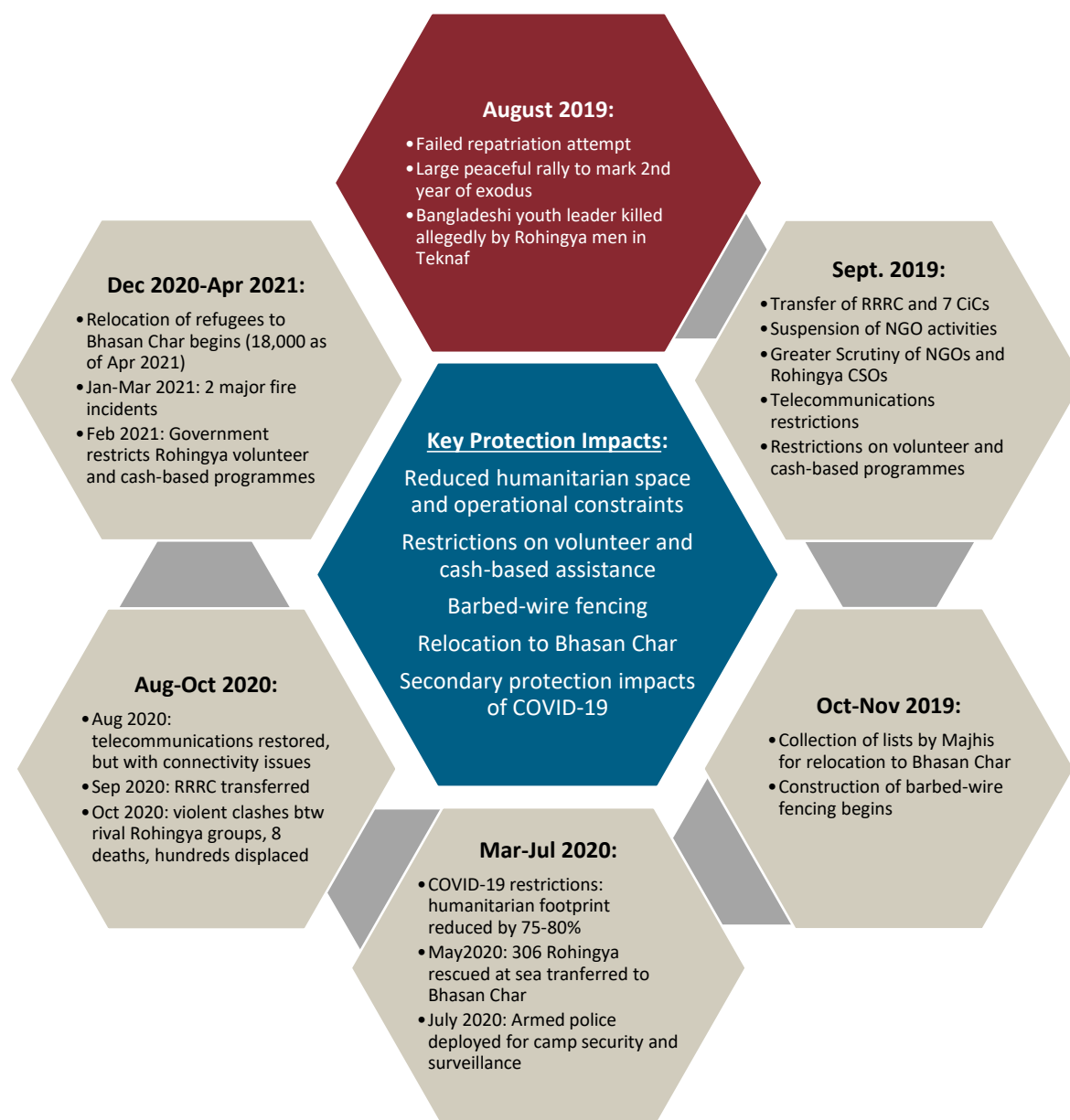

August 2019:
- Failed repatriation attempt
- Large peaceful rally to mark 2nd year of exodus
- Bangladeshi youth leader killed allegedly by Rohingya men in Teknaf

Sept. 2019:
- Transfer of RRRC and 7 CiCs
- Suspension of NGO activities
- Greater Scrutiny of NGOs and Rohingya CSOs
- Telecommunications restrictions
- Restrictions on volunteer and cash-based programmes

Dec 2020-Apr 2021:
- Relocation of refugees to Bhasan Char begins (18,000 as of Apr 2021)
- Jan-Mar 2021: 2 major fire incidents
- Feb 2021: Government restricts Rohingya volunteer and cash-based programmes

Key Protection Impacts:
Reduced humanitarian space and operational constraints
Restrictions on volunteer and cash-based assistance
Barbed-wire fencing
Relocation to Bhasan Char
Secondary protection impacts of COVID-19

Oct-Nov 2019:
- Collection of lists by Majhis for relocation to Bhasan Char
- Construction of barbed-wire fencing begins

Aug-Oct 2020:
- Aug 2020: telecommunications restored, but with connectivity issues
- Sep 2020: RRRC transferred
- Oct 2020: violent clashes btw rival Rohingya groups, 8 deaths, hundreds displaced

Mar-Jul 2020:
- COVID-19 restrictions: humanitarian footprint reduced by 75-80%
- May2020: 306 Rohingya rescued at sea tranferred to Bhasan Char
- July 2020: Armed police deployed for camp security and surveillance

Figure 3: Evolving protection environment (2019-2021)

Need for Joint Protection Advocacy

To a large extent, the Government's short-term Rohingya strategy focused on repatriation shapes collective public-facing NGO engagement in the humanitarian response. Despite these obstacles,

humanitarian agencies have undertaken joint advocacy initiatives in collaboration with their counterparts in Myanmar and the region. Some of the protection advocacy gaps by Cox's Bazar based agencies and networks have been addressed by the efforts of international human rights groups and regional and global humanitarian platforms.

The humanitarian community must strive to negotiate for a space where they can hold the Government accountable in line with international human rights standards and humanitarian principles, while at the same time, maintaining a cordial and respectful relationship with them as humanitarian partners. While difficult and risky, this can be achieved through collective engagement balancing quiet diplomacy with public advocacy efforts.

Key Recommendations on Refugee Protection
The Government of Bangladesh should:
1. **Update Policy Framework:** …undertake an urgent review of the 2013 National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals. 2. **Improve Camp Security:** …work to improve camp security and build community resilience on the basis of consultations with affected communities and humanitarian stakeholders. 3. **Improve Humanitarian Access:** …ensure an efficient, effective and predictable administrative arrangements (1-year FD-7 approvals); regular dialogue with all relevant stakeholders (importantly affected communities) to build trust, understanding, and effective cooperation; and ensure unrestricted humanitarian access. 4. **Support Accountability in Myanmar:** …continue pursuing justice and accountability in Myanmar.
Donors and the humanitarian community, alongside affected communities, should: *(including all international, national, and local stakeholders)*
5. **Cooperate on Advocacy:** …prioritise consensus-building, taking a differentiated but harmonised approach to advocacy aimed at strengthening refugee protection. 6. **Track and Address Access Challenges:** …consider establishing a Humanitarian Access Working Group under ISCG leadership as a safe platform to discuss and analyse access constraints and propose strategic solutions. 7. **Collaborate Regionally and Internationally:** …connect regionally and internationally to inform and strengthen efforts at securing responsibility-sharing and better protection outcomes (including possible solutions) for stateless Rohingya refugees. 8. **Commission an Independent Evaluation of the Response:** …commission an independent and consultative evaluation of the Rohingya refugee response (through the Strategic Executive Group and Inter-Sector Coordination Group) that will assess the extent to which the response is able to meet protection and assistance needs, highlight lessons learnt, identify good practices and propose strategic and operational recommendations that promote stronger complementarity among stakeholders.

Humanitarian Coordination

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Coordination in the Rohingya refugee response is complex and reflects the inter-agency dynamics and the policy environment in Bangladesh. Such coordination plays out at three levels:- national, Cox's Bazar and camp level, with the Government of Bangladesh, humanitarian partners comprised of United Nations agencies, NGOs, donors, host communities and Rohingya refugees themselves, as key stakeholders.

	National Level	**Cox's Bazar Level**	**Camp Level**
Gov't	- National Committee (under MoHA) - National Task Force - Ministry of Disaster Management and Relief (MoDMR) - NGO Affairs Bureau (NGOAB)	- Office of the Refugee Relief and Repatriation Commissioner (RRRC) - District/Sub-district Admin. - Police - Army	- Camp in Charge (CiC) (ACiCs) - Armed Police Battalion - Bangladeshi Army
UN	Strategic Executive Group (SEG) - Localisation Task Force (LTF) - Protection Advocacy Working Group (PAWG)	- Inter Sector Coordination Group (ISCG) - Heads of Sub-Office Group (HoSoG) - Sectors	- Site Management and Site Development Sectors (SMSD) - ISCG/Sectors
Donors	- Members of SEG (including LTF and PAWG) - Bilateral engagement with govt authorities, UN and NGOs	- Members of HoSoG, participate in Sector Coordination Meetings - Bilateral engagement with RRRC, district authorities, UN, and NGOs	---
NGOs	Formal and informal INGO/Bangladesh NGO networks - Disaster Preparedness (NAHAB; NIRAPAD; BDPC; ADAB; FNB) - Rohingya response (The INGO Forum and INGO ESC; CSO Alliance)	NGO Networks: - Bangladesh Rohingya Response NGO Platform (NGO Platform) - Cox's Bazar CSO-NGO Forum (CCNF) - Sector leads/members	- Camp level sector focal points - Service delivery
Refugees	---	---	- Majhis camp and block level committees in some camps - Para Development Committees (refugees and host communities) - other informal community-based networks - Religious leaders
Figure 4: Levels/Actors in Rohingya Coordination Infrastructure			

Effectiveness of the Coordination Model

The effectiveness of humanitarian coordination is dependent on a number of factors such as the legal and protection policy environment Bangladesh, the dynamics between the government, humanitarian community and refugees and the relationship/cooperation between humanitarian partners themselves. The government coordination structures sometimes, operate in parallel, to the UN led coordination structures, engaging with humanitarian actors and taking ad-hoc decisions related to the response, outside of the scope of the JRP and the humanitarian coordination fora. Overall, the lines of accountability remain unclear, and no single entity can be held entirely responsible for any potential failure.

The access and inclusion of NGOs in the coordination system remains uneven depending on their size, programme focus areas, funding, partnerships etc. Representation of NGOs, especially Bangladeshi NGOs, remain limited in sectors, as co-leads and Strategic Advisory Group (SAG) members. Language barriers, complex documents and use of jargon constitute key barriers for local NGO partners to actively participate in these roles. A number of NGO coordination bodies are currently operational in Bangladesh, both at the Dhaka and Cox's Bazar level, that includes many, if not all NGOs working in the Rohingya refugee response, with the broader common objective of strengthening NGO cooperation and easing delivery of programmes. Yet, these diverse mechanisms do not adequately interact with and complement each other to build synergies and common positions on key issues of concern. Collective NGO engagement and action are constrained by the challenging operational environment, competing objectives and complex dynamics between international and Bangladeshi NGOs.

The lack of meaningful participation of refugees in key coordination and decision-making fora will continue to erode trust and pose challenges for effective programme implementation increasing tensions and instability in the camps.

Key recommendations

Humanitarian Coordination
9. **Review existing coordination structures:** The Strategic Executive Group and Inter-Sector Coordination Group should facilitate a comprehensive review exercise to consider all existing networks and coordination structures, address perceptions of inclusion and exclusion of specific actors, identify existing gaps and overlaps, and conflict or lack of clarity among stakeholders, including in particular diverse voices within the Rohingya refugee community.
10. **Data sharing arrangements:** The humanitarian community should establish clear and consistent standards for information exchange both for Government counterparts and humanitarian staff.
11. **Consolidate a Referrals Guide:** All relevant stakeholders should consider consolidating a shared "referrals guide" to enhance common understanding of complementary roles and capacities in the Rohingya refugee response and build trust between diverse humanitarian stakeholders.

Localisation of the Rohingya Refugee Response

Localisation: a process *ensuring that humanitarian preparedness and response capacity sits with those nearest to the crisis affected-populations as they are best placed to respond quickly and appropriately – and stay longest.*[1]

The concept of 'local' is not homogenous and remains contested, or more commonly undefined.

Complementarity: *an outcome where all capacities at all levels – local, national, regional, international – are harnessed and combined in such a way to support the best humanitarian outcomes for affected communities.*[2]

Actor or location-centered localisation: Who is local? Where is local?

- International vs. local

- National vs. local

- INGO/NNGO/LNGO

- Are affected communities local?

- Where to draw the line between actors or geographies...?

- Who is included? Who is excluded?

Issue-centered localisation:

- **Aid localisation:** donors continue to channel funds through the UN and INGOs, due to institutional protocols and perspectives on risks. power dynamics are sustained through donor and sub-contracting relationships.

- **Local capacity:** technical capacity vs. legitimacy. While UN agencies and INGOs are seen to have technical expertise, financial resources and capacity to handle large bureaucratic requirements; local and national actors are seen to have understanding of context and culture, and knowledge of host community needs and leadership structures of national and local authorities and the ability to navigate them

Figure 5: Perspectives on Localisation

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[1] K. Van Brabant & S. Patel, Seven Dimensions of Localisation-Emerging Indicators and Practical Recommendations, Global Mentoring Initiative (GMI), p.3, available at https://reliefweb.int/sites/reliefweb.int/files/resources/Localisation-In-Practice-Full-Report-v4.pdf

[2] Veronique Barbelet, Rethinking capacity and complementarity for a more local humanitarian action, HPG, October 2019, p.5, available at http://www.w.cib-uclg.org/sites/default/files/odi_-_rethinking_capacity_and_complementarity_for_a_more_local_humanitarian_action_0.pdf

Promoting complementarity of humanitarian action

A localisation discourse focused around 'national/local v. international actors' is unlikely to achieve much progress in an overcrowded and competitive aid landscape where many humanitarian actors are trying to access funding from a few sources. Rather, a more pragmatic approach would be to embrace the diversity of Bangladeshi civil society acknowledging their comparative advantages and advocate for an equal and partnership-oriented approach balancing quality and inclusion.

It is important to recognise the centrality of partnerships in delivering the Rohingya refugee response. Efforts at strengthening a whole-of-society approach is impeded by the lack of trust between humanitarian actors which prevents effective communication and developing a shared vision of localisation in the Rohingya refugee response. Most importantly, the voices of Rohingya refugees remain on the margins in terms of influencing key decisions affecting their daily lives in the camps as well as future return to Myanmar.

Key recommendations

Localisation
12. **Rethink/Revise Donor Practices:** Donors should ensure that smaller national organisations and refugee-led organisations are able to access funding, in line with the Grand Bargain commitments, recognise the risks of divisions in the sector due to the complex and unequal power dynamics, and use their power and influence to promote complementarity in humanitarian action. 13. **Develop a shared localisation strategy:** The Strategic Executive Group and Inter-Sector Coordination Group should lead the development of a shared localisation strategy aimed at achieving solidarity among diverse stakeholders and improving protection outcomes for affected communities with enhanced and accountable local participation and leadership 14. **Ensure a shared commitment to the whole-of-society approach:** The NGO community (including all international, national, and local agencies), should prioritise complementary and coordinated NGO action to achieve the best humanitarian outcomes for affected communities.

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Cross Cutting Issue: Engagement of affected communities

In 2017-18, Rohingya civil society organisations (CSOs) were beginning to grow within the Cox's Bazar camps to advocate for their rights, including women and youth groups tackling diverse issues ranging from community representation, education, livelihoods and international justice and accountability. This advocacy space was however, clamped down by Bangladeshi authorities following the events of August 2019, along with greater scrutiny of agencies supporting Rohingya CSOs.

Rohingya CSOs are not able to register, receive direct funds or distribute aid. Humanitarian agencies conduct many consultations with Rohingya but refugees are not systematically made aware of how their feedback has informed or reformed humanitarian programming. They are also not able to participate in policy and decision-making fora with humanitarian stakeholders.

At the same time, thousands of Rohingya refugees who serve as volunteers and frontline responders in the camps supporting critical service delivery and provision of lifesaving information, are not recognised as legitimate humanitarian actors and their valuable insights and perspectives are missing from daily programming decisions to larger operational prioritisation. Since 2019, volunteer and cash-based programming in the camps have been restricted.

The lack of meaningful participation of refugees in key coordination and decision-making fora will continue to erode trust and pose challenges for programme implementation increasing tensions and instability in the camps.

Key Recommendations

Engagement of affected communities
The Government of Bangladesh and the humanitarian community should:
15. **Ensure Rohingya representation:** Rohingya representation in humanitarian decision-making should be centralised by supporting community-centred approaches to humanitarian programming and community self-representation and leadership. 16. **Promote social cohesion:** Direct engagement between host communities and Rohingya refugees, should be facilitated to build trust, identify issues of common concern and resolve disputes.

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