

Rohingya Refugee Crisis in Bangladesh: The Case of UNHCR's Response

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Submitted: 25 May 2020; Revised: 21 June 2020; Accepted: 22 July 2020

Abstrak

Bagaimana Komisioner Tinggi PBB untuk Pengungsi (UNHCR) menanggapi kedatangan para pengungsi di negara yang menolak standar hukum internasional tentang perlindungan pengungsi?. Melalui metode kualitatif dengan pendekatan studi kasus, artikel ini berupaya menjawab pertanyaan tersebut dengan fokus pada respons UNHCR terhadap masuknya pengungsi Rohingya ke Bangladesh, negara yang tidak menandatangani Konvensi Pengungsi di tahun 1951 dan 1967. Artikel ini mengidentifikasi adanya kompleksitas rezim yang melibatkan rezim pengungsi internasional serta berpendapat bahwa Bangladesh telah mencoba menantang keterlibatan UNHCR melalui pemberian wewenang kepada International Organization for Migration (IOM) untuk memimpin respons kemanusiaan internasional pada hari-hari awal krisis pengungsi Rohingya tahun 2017-2018. Selanjutnya, artikel ini mengadopsi konsep "challenged institution" sebagai kerangka kerja untuk mengeksplorasi bagaimana UNHCR menanggapi tantangan di atas melalui serangkaian manuver strategis untuk menegakkan mandatnya dalam memberikan "perlindungan internasional" kepada para pengungsi Rohingya di Bangladesh. Temuan utama menunjukkan bahwa meskipun UNHCR muncul sebagai pemangku kepentingan utama dalam merespon krisis pengungsi Rohingya, namun demikian kondisi yang ada di Bangladesh masih menantang badan tersebut untuk terus menegakkan mandatnya secara penuh. Temuan lain juga menunjukkan adanya fragmentasi wewenang dalam koordinasi respons internasional, meningkatnya kompetisi kelembagaan, dan kurangnya koordinasi antara UNHCR dengan lembaga kemanusiaan utama lainnya.

Kata Kunci: Rohingya, pengungsi, Bangladesh, UNHCR, IOM.

Abstract

How does the Office of the United Nations High Commissioner for Refugees (UNHCR) respond to a sudden influx of a large number of refugees in a state rejecting the international legal standards on refugee protection? By applying a qualitative case study method, this article seeks to shed light on that question by focusing on the UNHCR's response in the context of the Rohingya refugee influx to Bangladesh, a non-signatory state to the 1951 Refugee Convention and its 1967. This article recognizes the existence regime complexity involving the international refugee regime and argues that Bangladesh has tried to challenge UNHCR's involvement through authorizing the International Organization for Migration (IOM) to lead the international humanitarian response in the early days of the 2017-18 Rohingya refugee crisis. Furthermore, this article adopts challenged institutions as a framework to explore how the UNHCR responded to the challenge through a series of strategic maneuvers to uphold its mandate of providing "international protection" to the Rohingya refugees in Bangladesh. The main findings suggested that although UNHCR has been able to emerge as a leading stakeholder of the humanitarian response to the Rohingya refugee crisis, the existing operational context in Bangladesh still challenges the agency to uphold its mandate fully. Other findings include the fragmentation of authority in the international response coordination, increasing institutional competition, and lack of coordination between UNHCR and other major humanitarian agencies.

Keywords: Rohingya, refugees, Bangladesh, UNHCR, IOM.

INTRODUCTION

The Office of the United Nations High Commissioner for Refugees (UNHCR), the internationally mandated institution for refugee protection, has a historical engagement with the Myanmar-origin Rohingya refugees

in Bangladesh dating back to 1978 (Crisp, 2018). UNHCR's most recent involvement with the Rohingyas started shortly-after 25 August 2017. On that day, a Rohingya insurgent group attacked several armies and

police checkpoints in Myanmar's Rakhine state, the original residence of the Rohingyas. In retaliation, the Myanmar armed forces carried out a series of violent military offensives in Rohingya villages of Rakhine state. Following the military crackdown, more than 711,300 Rohingyas took refuge in neighboring Bangladesh's Cox's Bazar district (UNHCRa, 2020). The speed and scale of the refugee influx resulted in a critical humanitarian emergency in Bangladesh's south-western region. According to Mercy Corps (2019), the 2017 influx of Rohingyas created the fourth most significant refugee crisis in the contemporary world. UNHCR, along with other international organizations, came forward to assist the Bangladeshi government in providing humanitarian assistance to the refugees settled in the makeshift camps in Cox's Bazar.

UNHCR's response to the 2017 refugee crisis in Bangladesh has been very challenging for many reasons. First, Bangladesh is not a signatory to the 1951 Refugee Convention and its 1967 Protocol. Second, the Constitution of Bangladesh does not offer any provision regarding refugees inside the country. Third, Bangladesh had a pre-existing policy from 2013, giving the International Organization of Migration (IOM) the responsibility to provide relief assistance to the Rohingyas. Moreover, the Bangladeshi authorities had tried to restrict UNHCR's involvement in humanitarian relief operations during the initial days of the 2017 influx (Sida, Jahan, Rashid, Nelis, & Laksh, 2018). Taking the UNHCR's challenging operational context in Bangladesh into consideration, this article explores the response strategy pursued by the agency to overcome those challenges and adapt to the situations.

Why did the Bangladeshi government prefer IOM to UNHCR in leading the international humanitarian response following the 2017 Rohingya influx? Regime complexity might be a useful theoretical framework to provide an essential explanation to this question. It explains how the proliferation of similar international institutions impacts states' behavior on a particular policy. Regime complexity argues that the availability of multiple global governance regimes has enabled self-interested states to strategically decide between

multiple competing international institutions in a situation (Alter & Meunier, 2009). How did the UNHCR respond to uphold its mandate of protecting Rohingya refugees following the 2017 influx in Bangladesh? The concept of challenged institutions can help us to explain this question. It helps us to investigate how international institutions are affected by and strategically adapt to the operational challenges caused by regime complexity (Betts, 2013).

LITERATURE REVIEW

REGIME COMPLEXITY AND THE INTERNATIONAL REFUGEE REGIME

The main actors in ensuring refugee protection are UNHCR and the host states. UNHCR, the primary entity representing the international refugee regime, has been there to monitor and support host states implementing the 1951 Refugee Convention. Several institutions were established to complement the refugee regime in regional contexts – the 1969 Organization of African Unity (OAU) Convention in Africa, the 1984 Cartagena Declaration in Latin America, and the 2004 European Council Asylum Qualification Directive in Europe (Betts, 2010).

New institutional proliferation has been taking place with two previously unregulated areas: internally displaced persons (IDPs) and international migration since the 1990s. States have created several formal and informal new institutions to regulate the increasing South-North migration since the 1980s and the continuous politicization of migration and asylum since the 1990s. This “new institutional proliferation” has far-reaching implications for the politics of refugee protection. Although it is always argued that “refugees are not migrants,” a person's refugee status is subject to his/her migration to another state. Therefore, the human migration regime has a strong connection to asylum and refugee protection (Betts, 2009).

Justice and Home Affairs (JHA) policy by the European Union (EU), the Intergovernmental Consultations on Migration, Asylum and Refugees (the IGC), the Global Commission on International Migration (GCIM) and the Global Forum on Migration and Development

(GFMD) are some of the examples of newly developed migration governance initiatives. Apart from these institutions, IOM, which became a related organization of the UN in September 2016, has been playing an increasingly active role in international migration and asylum governance. Although these developing institutional arrangements exist parallel to the international refugee regime, they overlap significantly (Betts, 2009)

A specialized IDP-protection regime was established in the 1990s to provide humanitarian assistance and relief to people displaced by natural disasters or violent conflict. However, the IDP regime was also created as preemptive “migration control agenda,” which was defined as an “internal flight alternative” to ensure that displaced people due to persecution can get access to material relief and protection without crossing an international border (Betts, 2009). The UN-based cluster approach was introduced in 2005 “to provide much-needed predictability and accountability for the collaborative response to IDPs,” where UNHCR was

assigned to lead the protection cluster among eleven different clusters (Morris, 2006). UNHCR also leads the camp coordination and camp management (CCCM) and shelter clusters in conflict situations involving IDPs. Thereby, UNHCR, the primary actor of the international refugee regime, became a direct stakeholder in the IDP-protection regime. Therefore, similar to the migration regime, the emerging IDP-protection regime also significantly overlaps with the refugee regime. The proliferation of new institutions has enabled states to use the emerging regimes on migration control or IDPs to get rid of their legal obligations toward refugees (Betts, 2009). Currently, states have frequently been preferring IOM to UNHCR in providing international assistance and services to refugees and asylum (Betts, 2010). As a result, the relationship between IOM and UNHCR has been characterized as “charged with competition and suspicion” (Elie, 2010).

In recent years, we have seen the emergence of several international institutions on travel and labor migration, and non-mobility regimes on human rights,

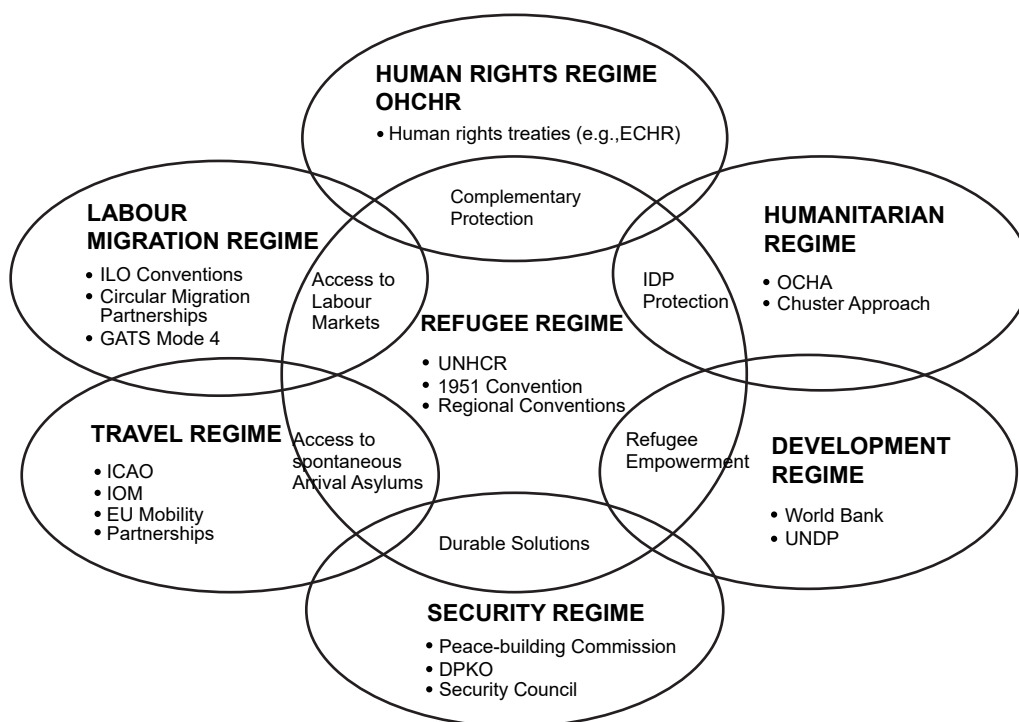


Figure 1. A Venn Diagram Illustrating Contemporary International Refugee Regime Complex (Betts & Milner, 2019).

humanitarianism, development, and security. The international human rights regime has the potential to be complementary to the refugee regime by offering legal instruments guaranteeing “complementary protection” to refugees (Betts, 2010). Similarly, institutions within the international security regime (e.g. United Nations Peace-Building Commission), international development regime (e.g. the World Bank and the United Nations Development Program), and labor migration regime also can be complementary to the refugee regime by helping to create conditions favorable for durable solutions to any refugee crisis. However, the international migration regime and the emerging IDP protection regime can be contradictory to the refugee regime as both have a “migration control agenda” (Betts, 2010).

The newly developed institutions often create parallel and overlapping regimes to pre-existing international refugee regimes and, thereby, create a regime complexity. Therefore, it is no longer possible to think about an isolated international refugee regime; we need to consider the emergence of an international “refugee regime complex” (Betts, 2010).

UNHCR: A CHALLENGED INSTITUTION

The emerging complexity involving the international refugee regime has both complimentary and contradictory implications for UNHCR, the primary institution of the international refugee regime.

The new institutional proliferation has created an opportunity for UNHCR to make complementary partnerships with a wide range of actors and emerge as a reinforced institution (Betts, 2013). However, regime complexity also has the potential to undermine UNHCR’s monopoly over refugee issues as states have the opportunity to choose from alternative forms of international cooperation to bypass UNHCR. As states are considered as rational actors in the international system, they can engage in regime shifting based on any of the following: (1) their preferences; (2) the range of institutional choices available to meet these preferences; or (3) the relative efficiency of each provider in meeting their preferences. Therefore, Alexander Betts (2013) has concluded that UNHCR has become a challenged institution in the context of the contemporary international refugee regime complex.

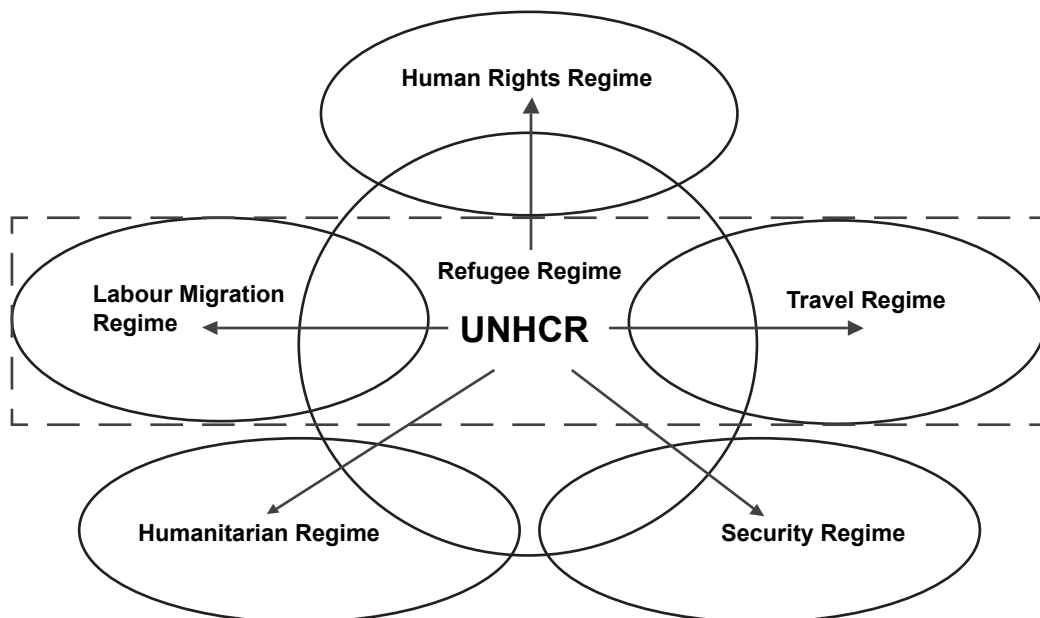


Figure 2. A Venn Diagram Illustrating UNHCR’s Possible Response Options to the Refugee Regime Complex (Betts & Milner, 2019)

HISTORICAL BACKGROUND

The Rohingyas are a predominantly Sunni Muslim ethnic group of the northern part of the Rakhine state, previously known as Arakan. The Rakhine state is separated from Bangladesh by the 2-kilometer wide Naf River. Myanmar government denies the existence of Rohingyas as a distinct ethnic group. The dominant narrative inside the country describes the Rohingyas as illegal Bengali immigrants (Ferrie, 2013).

The Myanmar armed forces started its first physical violence against the Rohingyas inside the Rakhine state in the late 1970s. From February to July 1978, the Myanmar military carried out Operation Dragon King in Arakan to expel 'foreigners' from the region. As a result, more than 200,000 Rohingyas crossed the border and took refuge in Bangladesh, created in the 'first major wave' of refugees (Ullah, 2011). Following this, Bangladesh set up makeshift camps for the refugees and accepted material assistance from UNHCR. A bilateral agreement between Bangladesh and Myanmar resulted in an early repatriation program in July 1978. Around 180,000 Rohingyas repatriated to Myanmar by the end of 1979. Although UNHCR officially endorsed bilateral repatriation, several reports suggest that poor conditions, reduced relief assistance, and abuses by Bangladeshi officials forced the refugees to return to Myanmar (Akins, 2018). Moreover, a classified report by UNHCR acknowledged that up to 10,000 Rohingyas had died of malnutrition and epidemics in refugee camps in Bangladesh (Crisp, 2018). As a result, UNHCR's support in the 1978-79 refugee crisis in Bangladesh became completely controversial.

In 1982, a new citizenship law was introduced in Myanmar, which did not recognize the Rohingya as one of the 135 "national races" and most of the Rohingyas became stateless overnight (Constantine, 2012). Between 1991 and 1992, the Myanmar armed forces launched Operation Clean and Beautiful Nation in Rakhine state involving killings, sexual violence, and the destruction of villages and mosques. It resulted in 'the second major wave' of an estimated 250,000 of the Rohingyas to Bangladesh (Piper, 1993). Bangladesh asked UNHCR to assist in maintaining the humanitarian situation. It

started to provide relief and protection assistance in March 1992 in the 20 registered refugee camp in Cox's Bazar (Kiragu, Rosi, & Morris, 2011). Similar to the first major wave, Bangladesh was again able to reach an agreement with Myanmar to repatriate the Rohingyas on 28 April 1992. Between September 1992 and November 1993, more than 50,000 Rohingyas were repatriated to Myanmar without any support from UNHCR. In December 1992, UNHCR withdrew its activities from all the refugee camps to protest Bangladesh's attempt to send Rohingyas back to Myanmar forcibly. Following a sustained negotiation, UNHCR and the Bangladesh government signed an agreement on the registration and verification of volunteers for repatriation in May 1993.

On 5 November 1993, UNHCR signed another agreement with the Myanmar government to facilitate the repatriation process (Abrar, 1995). It gave the UNHCR rare access to Rakhine state to monitor the repatriation and reintegration of returnees (Piper, 1993). In mid-1994, UNHCR announced that the conditions inside the Rakhine state had significantly improved and started to actively encourage the Rohingyas in Bangladesh to go back to Myanmar. With UNHCR's active encouragement, around 200,000 Rohingyas repatriated to Myanmar by mid-1995 (Human Rights Watch, 1996). Later, UNHCR started to make mass repatriation of Rohingyas into Myanmar. As a result, thousands of Rohingyas were "forced" to return each week (Lewa, 2009). Later studies suggest that the agency failed to ensure the "safe and voluntary" nature of the repatriation process and, thus, had compromised its mandate to provide international protection to the Rohingyas in the 1990s (Abrar, 1995). The majority of the repatriated refugees were reluctant to go back and had insufficient information about the security situation inside the Rakhine state. As UNHCR faced considerable pressure from the Bangladeshi authorities to make a quick repatriation process, the agency was "forced to choose" between sticking to its principles and abandoning from the repatriation or accepting that its involvement must be "conditioned on a pragmatic approach" (Petrasek, 2000).

Moreover, the UNHCR's repatriation in the 1990s failed to bring any durable solution to the crisis inside the

Rakhine state. The Myanmar government did not address the issue of ethnic recognition and citizenship of the Rohingyas. The Rohingya returnees from Bangladesh continued to face a systematic violation of human rights, including compulsory labor, forced relocations, restrictions on freedom of movement, and religion (Lewa, 2009). Furthermore, the presence of UNHCR inside the Rakhine state created a negative impact on protecting new Rohingya arrivals in Bangladesh. A smaller influx of Rohingya refugees took place in 1997. An undocumented number of Rohingyas entered Bangladesh for fleeing violence in the Rakhine State (ACAPS, 2017). The protection concern of newly arrived Rohingyas in Bangladesh was marginalized to maintain the momentum of repatriation from the previous influx, and this policy has made the subsequent smaller influxes of Rohingya from Myanmar undocumented (Petrasek, 2000). Gorlick (2019) has concluded that the earlier attempts at repatriation of Rohingya refugees in the 1970s and 1990s should be “regarded as regrettable low-points in UNHCR’s operational history in the Asia region.” From 2012 to 2016, a series of anti-Rohingya communal violence took place in the Rakhine state, resulting in a large number of undocumented Rohingyas arriving in Bangladesh. These Rohingyas were perceived as illegal migrants instead of refugees, and IOM was asked by the Bangladesh government to provide limited humanitarian aid to them (ACAPS, 2017).

The above discussion demonstrates that UNHCR’s involvement in the Rohingya crisis since the 1970s has been controversial and failed to bring any durable solution. Through this background, the next section explores UNHCR’s response to the most recent and largest forced expulsion of Rohingyas from Myanmar to Bangladesh in recorded history starting from 25 August 2017.

THEORETICAL FRAMEWORK

This article adopts regime complexity and challenged institutions as theoretical frameworks closely related to each other. Regime complexity is an emerging concept in international relations (IR), explaining the impacts of continuously developing linkages across different

international regimes. Challenged institutions as a theory explain the implications of regime complexity for pre-existing international institutions.

REGIME COMPLEXITY

An international regime can be defined as “sets of principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue area of international relations” (Krasner, 1982). Regime complexity as a framework has been developed to explain the impacts of the increasing proliferation of international institutions. Raustiala and Victor (2004) point out that overlaps between different regimes could result in a regime complex, “an array of partially overlapping and non-hierarchical institutions governing a particular issue-area.” The basis of regime complexity lies in the overlapping of distinct regimes, each based on their specific international institutions and their particular jurisdiction defined by international law (Orchard, 2017).

Alter and Raustiala (2018) mention three elements of regime complexity: first, an array of elemental institutions with an authority claim for a particular issue area or territory, second, an absence of hierarchy among elemental regimes, and third, systems effect shaping actor strategies and decision making within elemental regimes. There are roughly three types of regime complexities (Alter & Meunier, 2009). First, newly developed institutions can be nested – they can be part of broader multilateral institutions. Second, they can be parallel – mandate in similar areas can or cannot dispute with one another. Third, they can be overlapping – several institutions can have jurisdiction over the same issue.

Regime complexity provides states to engage in a “cross-institutional strategy” to secure their self-interest. Alter and Meunier (2009) have identified three types of cross-institutional strategies for states as a result of regime complexity. First, regime shifting is an option for states when an alternative parallel regime is available. Second, forum-shopping is an option for states to choose a particular international regime to promote a specific policy preference. Third, strategic inconsistency takes place when opposing rules and norms are introduced in a

parallel regime to undermine a rule in another regime.

CHALLENGED INSTITUTIONS

Challenged institutions are a useful concept to explain how international organizations are affected by and strategically adapt to regime complexity. According to Betts (2013), “there was an identifiable and largely uncontested division of labor across international institutions” when the United Nations (UN) system was created after the end of the Second World War. As a result, most international institutions had a “virtual monopoly” over a specific global issue. However, regime complexity caused by the “new institutional proliferation” since the 1990s has put the international institutions in a competitive institutional environment. In such a situation, states can choose from a range of institutional options for a given problem to advance their interests. Two interrelated concepts – challenged institutions and reinforced institutions can explain how established international regimes and international organizations having jurisdiction over that regime are impacted by regime complexity (Betts, 2013).

Challenged institutions argue that regime complexity can remove existing institutions’ operational monopoly, whereas reinforced institutions sometimes show that regime complexity also has the potential to strengthen pre-existing institutions’ authority over its relevant issue area.

RESEARCH METHOD

A single case study method was utilized as a qualitative tool to conduct this research. It relies on both primary and secondary data. The primary data were collected from official documents and statements issued by UNHCR, key informant interviews (KIIs), and in-depth interviews (IDIs). Purposive sampling was used to identify and select the KII and IDI participants consisting of three UNHCR officials and a high-level officer working for the Bangladesh government. The IDI participants included eight Rohingya refugees settled at camp 11 in Cox’s Bazar’s Kutupalong-Balukhali expansion site and an official from a humanitarian Non-Government Organization (NGO). This article has ensured

fundamental research ethics like informed consent, anonymity, and confidentiality of the interviews. Every participant was well informed about the nature and scope of this research before their interviews. The secondary data were obtained from several newspapers, published materials, different relevant journals, and evidence-based surveys conducted by various research organizations and think tanks.

Based on the mentioned research question, this article consists of the following elements. The section after the introduction presents the theoretical frameworks of the research. The following section provides an overview of relevant literature on the impact of regime complexity on UNHCR. Afterward, UNHCR’s involvement with the Rohingya refugee crisis since the 1970s is presented. The fifth section constitutes the main empirical section. In this section, how the Bangladeshi government and UNHCR interacted with each other in developing a complex refugee response coordination system to deal with the 2017 Rohingya refugee influx is presented and discussed. Based on the findings and analysis, the last section offers some policy recommendations.

RESULT AND ANALYSIS

The “third major wave” of Rohingyas in Bangladesh starting from 25 August 2017 has broken all previous records in terms of nature and intensity as at least 711,300 Rohingyas settled in the refugee camps of Cox’s Bazar. The newly arrived people joined more than 300,000 undocumented refugees already in Bangladesh from previous waves. As a result, the international humanitarian organizations declared a level 3 humanitarian emergency in Bangladesh (Alamgir, 2017).

POLICY AND RESPONSE FROM THE GOVERNMENT OF BANGLADESH

Regime complexity is the relevant theoretical framework explaining the policy and response of the Bangladeshi government on the Rohingya refugee crisis. In September 2013, the Ministry of Foreign Affairs issued Bangladesh’s first “National Strategy on Myanmar Refugees and Undocumented Myanmar Nationals.” This strategy paper acknowledged the presence of around 300,000-500,000

“Undocumented Myanmar Nationals” in Bangladesh alongside the existing group of around 35,000 recognized Myanmar-origin refugees who have been staying in two registered camps since the 1991-92 influx. The national strategy, specifically mentioned by IOM, not UNHCR, would support the government in providing humanitarian relief to those Rohingyas. This policy also indicated that the Rohingyas were perceived as illegal migrants rather than refugees by the Bangladeshi authorities. Bangladesh’s decision to ask IOM for assistance instead of UNHCR can be explained through the theoretical framework of regime complexity. The availability of both IOM and UNHCR to deal with the humanitarian relief assistance to the Rohingyas created a refugee-migration regime complex, as they have mutually overlapping mandates. The Bangladeshi authorities preferred IOM’s assistance to get rid of protection standards for refugees advocated by UNHCR. Therefore, the Bangladeshi government pursued regime shifting as a “cross-institutional strategy,” as shown by Alter and Meunier (2009).

On 25 August 2017, thousands of Rohingyas began to cross the Myanmar-Bangladesh border, fleeing persecution from the Rakhine state. As the news of indiscriminate violence and the massive influx of Rohingyas spread and pressure from Bangladeshi civil society and international community increased, the political leadership in Dhaka decided to open the border to let the people fleeing persecution to take refuge. However, the Bangladeshi authorities recognized the newly arrived Rohingyas as “Forcibly Displaced Myanmar Nationals,” not “refugees.” Depriving the Rohingyas of “refugee” status is an attempt to eliminate the internationally defined legal obligations to those meeting the criteria set out in the refugee definition. Moreover, the Bangladeshi officials fear that acknowledging Rohingyas as ‘refugees’ would only attract more Rohingyas to come to Bangladesh from the violence-prone Rakhine state (Sullivan, 2020).

Therefore, continuing the “cross-institutional strategy,” the Bangladeshi government asked IOM, not UNHCR, to become the lead operational partner in providing relief assistance to the newly arrived Rohingya refugees. This

This issue created a highly tense relationship between IOM and UNHCR. The chief of UNHCR Filippo Grandi openly said that he was expecting a “progressive adjustment... toward a more traditional structure in which we (UNHCR) can fully exercise our protection and coordination responsibility” (Parker, 2017).

RESPONSE STRATEGY OF UNHCR

The operational context in Bangladesh for UNHCR was restrictive during the early days of this massive humanitarian emergency. Initially, UNHCR was not permitted to assist the newly arrived refugees. As a result, UNHCR, as an institution, had to come up with a series of strategic decisions to make itself relevant to this humanitarian emergency.

The first strategic decision of UNHCR was to secure a leading role in humanitarian response operations. On 14 September 2017, UNHCR was able to secure permission from the Prime Minister’s Office to provide minimal protection assistance to the new arrivals. Following this, the agency started to deploy officials at Cox’s Bazar, who were “well-experienced” to deal with a level 3 humanitarian emergency like this (Sida et al., 2018). In addition to creating an emergency response team, UNHCR asked for an initial fund of 83.7 million USD to cover its humanitarian response for the first six months of the crisis (UNHCR, 2017). After sustained diplomatic lobbying and advocacy, UNHCR was eventually allowed by the Bangladeshi government to lead the international relief operation with IOM from January 2018. A tripartite Strategic Executive Group, jointly chaired by the UN Resident Coordinator in Bangladesh with the IOM Chief of Mission and UNHCR Representative, was formed to lead the international response from Dhaka in January 2018. Since 2013, IOM has led an Inter-Sectoral Coordination Group (ISCG) to provide relief assistance to the Rohingyas inside Bangladesh. Following UNHCR’s entry in the formal humanitarian response, the ISCG was reformed in January 2018. A UNHCR seconded staff became the Senior Coordinator, and an IOM seconded staff became the Deputy Coordinator of the ISCG (Sida et al., 2018). The Senior Coordinator chairs the Heads of Sub-Office

Group, bringing together the heads of all UN Agencies, representatives of the national and international NGOs, and two representatives of the donor community-based in Cox's Bazar. Through its presence at the Strategic Executive Group in Dhaka and Office of Senior Coordinator in Cox's Bazar, UNHCR has been able to integrate its expertise in refugee response at the leadership level (Sida et al., 2018).

The second strategic decision by UNHCR was to focus on the protection of the refugee men, women, and children as its central aim of the response. The primary tool for placing protection at the center of the humanitarian response is the Joint Response Plan (JRP). The number one strategic objectives of JRPs of 2018, 2019, and 2020 have strongly emphasized the protection of refugees in Bangladesh. UNHCR is leading the Protection Working Group coordinating protection services and activities across all refugee camps in Cox's Bazar. Moreover, the site management sector, led by IOM, has to collaborate with the Protection Working Group closely. As a result, a "whole of camp" protection system has been put in place through sincere advocacy by UNHCR. From the very beginning, UNHCR has pursued a "protection mainstreaming strategy," recognized by all the stakeholders (Sida et al., 2018).

The third strategic decision UNHCR made was to focus on registration and data collection. As many as 825,115 Rohingyas have been registered through a joint Bangladesh government-UNHCR exercise of 30 April 2020 (UNHCRb, 2020). This registration process has enabled UNHCR to gather detailed data on every individual and newborn child, the number of members within every family, and their places of origin inside the Rakhine state during this registration process. The collected data will help UNHCR increase the quality of assistance and ensure preparation for a durable solution in the future (Sida et al., 2018).

The fourth strategic decision of UNHCR was to focus on a durable solution-oriented operation from the very beginning. A UNHCR official based in Dhaka interviewed for this research has said that after the signing of a repatriation agreement between Bangladesh and Myanmar in November 2017, it became clear that the

the only desired durable solution is the repatriation of refugees to the Rakhine state. Shortly after, UNHCR began to get access inside Myanmar to create a conducive situation for any possible repatriation. UNHCR, along with United Nations Development Programme (UNDP), was able to sign an agreement with the Myanmar government for one year on creating conducive conditions for voluntary and sustainable repatriation of the refugees from Bangladesh on 6 June 2018, which has been extended till June 2021 (UNHCRc, 2020). This agreement has provided UNHCR, along with UNDP, crucial access to the extremely volatile Rakhine state to work to create necessary conditions for the safe, voluntary, and dignified return of Rohingya refugees in Rakhine state. The agreement has also made the UNHCR a responsible stakeholder for any possible repatriation of Rohingya refugees in Myanmar. As a result, UNHCR has been able to engage itself with both sides of the border actively. At the same time, UNHCR has remained to be a continuous advocate for ensuring the principle of non-refoulement to halt any possible forced repatriation of refugees to Myanmar. To ensure this, UNHCR and the Bangladeshi government have signed an agreement on a voluntary return framework (UNHCR, 2018).

In addition to its refugee response in Bangladesh, UNHCR is also working for the protection of the Rohingyas in the Rakhine state currently staying at different IDP camps. According to a UNHCR office based in Yangon interviewed for this research, around 530,000 to 600,000 stateless Rohingyas are still in Rakhine State - 200,000 to 240,000 are in the northern part, and 330,000 to 360,000 are in the central region. Approximately 128,000 of them are staying in several IDP camps since the conflict in 2012, with additional displaced by the conflict between the Arakan Army, a Rakhine-based rebel group, and Myanmar armed forces in 2019 (OCHA, 2019). Under the Maungdaw Inter-Agency Group (MIAG), UNHCR has been working on protection, shelter, non-food items (NFIs), and camp coordination and camp management (CCCM) (Humanitarian Country Team in Myanmar, 2018). UNHCR is leading the protection sector under this UN-coordinated humanitarian response to the IDP

emergency in Rakhine State. Its activities include protection monitoring, advocacy as well as identification and assistance to persons with specific needs.

A Bangladeshi government official interviewed for this research mentioned that although UNHCR faced resistance from the Bangladeshi authorities in the early days, it has been able to emerge as a responsible partner because of its strategic decisions and professional expertise in humanitarian response. Both regime complexity and challenged institutions frameworks help to explain the current response strategy pursued by UNHCR. Following the 2013 national strategy, the Bangladeshi government was reluctant to allow UNHCR to initiate humanitarian response after the 2017 influx. Although after a few weeks, UNHCR obtained permission to deliver protection assistance to the new arrivals, the agency's leading role was strongly resisted (Parker, 2017). We can see that the Bangladesh government continued regime shifting as a form of cross-institutional strategy to resist UNHCR's leadership in response to one of the most critical refugee crises in recent history. As a result, UNHCR became a challenged institution in this regard. However, we have seen that the role of UNHCR in this humanitarian response has significantly increased over time. This development suggests that the above-explained strategic maneuvers by UNHCR helped it emerge as one of the leading stakeholders of this humanitarian response. Moreover, the UNHCR-UNDP-Myanmar tripartite agreement suggests that UNHCR has been able to make a complementary partnership with UNDP to get access inside the Rakhine State. Therefore, we can see the emergence of a refugee-development regime complex inside the Rakhine state.

OPERATIONAL CHALLENGES FOR UNHCR

Despite taking a series of strategic maneuvers, the existing operational context in Bangladesh still has specific restrictions for UNHCR to uphold its mandate. As previously mentioned, the Strategic Executive Group is jointly led by the UN Resident Coordinator, Chief of Mission of the IOM and UNHCR Representative. This complex leadership arrangement has made the

decision-making process lengthy and more complicated. Although the three Strategic Executive Group members always try to be as pragmatic as possible, critical decisions often get delayed due to disagreements between them (Sida et al., 2018). The root of this disagreement can be found in the organizational policy preferences. The Resident Coordinator's primary mandate is to work for United Nations-led development projects in Bangladesh, whereas IOM primarily has its operations in Bangladesh on migration-related policy issues. UNHCR is the only agency that has been internationally mandated to protect Rohingya refugees, causing it to face a dilemma of having much of the account without necessary decision-making authority (Sida et al., 2018).

Moreover, UNHCR usually follows the Refugee Coordination Model, where a Refugee Coordinator leads the operation having sector groups co-chaired by UNHCR and other UN agencies or non-UN humanitarian NGOs. In such a context, UNHCR, the lead agency, takes end-responsibility for all the sectors making the lines of accountability clear. A UNHCR official based in Cox's Bazar interviewed for this research has mentioned that the existing ISCG-based coordination structure to the Rohingya humanitarian response is modeled along the lines of a cluster approach, a model used in IDP emergencies. According to the officer, this coordination does not have the same level of structured reporting lines, accountability, and authoritative mandate as the Refugee Coordination Model offers.

At the camp level, there has been another unorthodox fragmentation of authority. Roughly half of the refugees have been settled in UNHCR managed settlements, and the other half are settled in IOM managed camps. It has created "competing centers of authority" and, thus, often create "service fragmentation" in the humanitarian response (Sida et al., 2018). As UNHCR and IOM have differences in their mandates, funding, expertise, and standard of assistance, the refugees are receiving different services, assistance, and protection. Some refugees interviewed for this research have mentioned that those settled in IOM managed camps often come inside UNHCR managed camps to receive "better" emergency

assistance and support.

The level of cooperation between UNHCR and IOM has been abysmal since the beginning of this humanitarian response. The “inter-agency competition” and “power battle” between the two UN agencies were frequently mentioned in interviews. Sometimes smaller issues like which agency’s representative will chair a particular meeting contribute to an “atmosphere of mutual distrust” (Wake & Bryant, 2018). Furthermore, this institutional competition between the two UN agencies affects the work of other humanitarian NGOs. Almost all the NGOs operating in Cox’s Bazar rely on either UNHCR or IOM, or both, for funding and legal support. An NGO official based in Cox’s Bazar interviewed for this research has mentioned that most NGOs operating in the humanitarian response are caught in the feud between the two agencies.

The refugees interviewed for this research acknowledged that the protection support and emergency assistance they have received from UNHCR has been “generous.” However, the refugees expect further intervention from UNHCR to get better food rations, including fish and other protein items, education for their children, and livelihood opportunities. Moreover, the refugees have expressed dissatisfaction over UNHCR’s engagement with the Myanmar government. According to the interviewees, UNHCR does not share the details of its operations inside Myanmar with the Rohingyas on a regular basis. They expect the agency to hear their political demands first and then engage with the Myanmar government to work for the future repatriation process. However, a UNHCR officer based in Dhaka interviewed for this research has stated that it is beyond the agency’s mandate to negotiate with the Myanmar government on specific political demands raised by the Rohingyas, most importantly the demand for citizenship.

POLICY IMPLICATION

The existing leadership and coordination structure for the humanitarian response of Rohingya refugees in Bangladesh has been very complicated and messy. UNHCR, having the international mandate to protect refugees, should continue persuasion and advocacy to

become the only lead agency for this response coordination. The ISCG should be reformed according to the Refugee Coordination Model to ensure a single line of management, accountability, and mainstreaming of protection within all sectors.

As repatriation is the only expected durable solution for all the parties concerned, UNHCR should continue its strategic engagement inside the Rakhine state to create a conducive situation for the returnees. The agency should ensure that this repatriation should bring a durable solution to the Rohingya refugees. Moreover, some political issues like citizenship, ethnic recognition, and freedom of religion should be addressed to make repatriation sustainable. Although these issues depend on the leadership decision in Myanmar, UNHCR should use multilateral platforms to engage regional and international powers to persuade Myanmar leadership. Moreover, UNHCR should also continue its engagement with both Bangladesh and Myanmar to respect their international law obligations and create a durable solution for the suffering of the Rohingyas.

Meanwhile, a Rohingya perspective is essential for resolving this crisis. Therefore, UNHCR should increase its level of communication with the refugees in the camps. The refugees should be informed about UNHCR’s ongoing interaction with the Myanmar government. UNHCR should regularly conduct surveys to get insights from the Rohingya representatives.

Whenever any future repatriation begins, it is clear that the refugee situation in Bangladesh will turn into a protracted one as it will take a long time to send all the refugees back to Rakhine state. Therefore, UNHCR should engage with the Bangladeshi government and other humanitarian partners to transform the short-term response strategy into a medium-term one. The Joint Response Plan should be upgraded to address relatively longer-term concerns. UNHCR should increase its advocacy to provide the refugees with some livelihood and skill development opportunities and better education for the refugee children. More financial and material support from other institutions (e.g. World Bank, United Nations Development Program) and other donor countries and entities should be raised.

One particular issue that the UNHCR's leading decision-makers have to keep in mind is that the track record tells a depressing story about its involvement in the Rohingya refugee crisis. Despite having a historical engagement since 1978, UNHCR could not come up with a durable solution to the Rohingya refugees. Therefore, the agency should develop a comprehensive roadmap to facilitate a sustainable solution for the sufferings of the Rohingya people.

CONCLUSION

After recognizing the existence of regime complexity involving the international refugee regime, this article explains the challenges faced by UNHCR to uphold its mandate of providing "international protection" to the Rohingya refugees in Bangladesh. Further, through adopting challenged institutions as another theoretical framework, this research has identified twofold challenges for UNHCR in this case: first, the sensitivity of this operational context; and second, the increasing competition between UNHCR and IOM as they have become overlapping institutions. In such a context, UNHCR has used a range of strategies, including continuous lobbying, advocacy, and persuasion, to make itself one of the leading stakeholders of this humanitarian response. This article recommends that UNHCR continue its advocacy and persuasion toward the Bangladeshi government to further its institutional relevance. Moreover, UNHCR should improve its coordination with all relevant stakeholders to develop a sustainable response plan to ensure better protection and facilitate a durable solution for the Rohingya refugees.

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