



Bangladesh-Myanmar: The Danger of Forced Rohingya Repatriation

Crisis Group Asia Briefing N°153

Brussels, 12 November 2018

What's new? Bangladesh's government is preparing to return several thousand Rohingya refugees to Myanmar. Under pressure from China, the two countries have agreed to start implementing a repatriation agreement on 15 November 2018.

Why does it matter? The returns process is not voluntary and jeopardises refugees' safety as conditions in Myanmar's Rakhine state are not conducive to their return. The move renews the risk of violent unrest in Bangladesh where the refugees are housed as well in Myanmar's Rakhine state.

What should be done? The UN, U.S., European Union (EU), Australia, Canada and other governments should press Bangladesh and Myanmar to postpone repatriation until conditions on the ground in Myanmar allow Rohingya refugees to return safely and voluntarily.

I. Overview

Bangladesh is poised to begin returning several thousand Rohingya refugees to Myanmar. This repatriation is unlikely to be voluntary and should not proceed. It would not only violate Bangladesh's international legal obligations and jeopardise the safety of the refugees, but risks triggering violence and greater instability on both sides of the border. Bangladesh and Myanmar should immediately halt the plan. The UN, including the secretary-general's special envoy and the UN refugee agency, should continue to firmly oppose it, both in public and in private, and establish a process whereby Rohingya refugees are consulted about their future. The U.S., European Union (EU), Australia, Canada and others also should press Bangladesh and Myanmar to halt the returns and instead work to create conditions conducive to voluntary repatriation; those countries' participation at the 11-15 November ASEAN summits in Singapore is an opportunity to do so.

II. New Pressures for Repatriation

Almost 750,000 Rohingya fled to Bangladesh following Myanmar's brutal military operation in Rakhine state in response to attacks on security posts by the Arakan Rohingya Salvation Army (ARSA) militant group in August 2017.¹ The refugees have been living in vast camps near the Bangladesh-Myanmar border ever since. A UN fact-finding mission concluded that the military's actions constitute crimes against humanity, war crimes and possible genocide.²

Myanmar and Bangladesh agreed to a procedural framework for repatriation in November 2017, which was supposed to start on 23 January. But no Rohingya refugee has returned through official channels. In fact, more Rohingya have left Myanmar since then: some 16,000 have departed Rakhine state for Bangladesh so far in 2018.³ Refugees are unwilling to return without guarantees that their security and rights will be protected, accountability ensured and compensation provided for the destruction of their villages, homes and property.

On 30 October, however, Bangladesh and Myanmar agreed on a repatriation deal at a joint working group meeting in Dhaka. Under the agreement, 485 Rohingya families (a total of 2,260 people) are to be returned to Myanmar starting on 15 November; Myanmar has said that it will process 150 returnees per day.⁴ These people were not consulted in advance and how they were selected is unclear; they are terrified at the prospect of being returned to Myanmar.⁵ The Bangladesh authorities have said that they will not force people to go back, but no return under present circumstances can be voluntary. Crisis Group interviews indicate that some of the refugees on the list for return have gone into hiding out of fear of being repatriated; at least one has attempted suicide.⁶

While the two countries have held many previous discussions and made announcements on repatriation plans over the past year that have not been implemented, this time Bangladesh appears determined to push through a limited returns process. Its political calculations have shifted for two key reasons.

First, it has come under considerable diplomatic pressure from China to start returns. China has important economic and geostrategic interests in Myanmar, including a multi-billion dollar China-Myanmar Economic Corridor, the details of which are currently being finalised; it is also a major investor in Bangladesh, giving it significant leverage. China has been supporting Myanmar in the UN Human Rights Coun-

¹ See Crisis Group Asia Report N°292, *Myanmar's Rohingya Crisis Enters a Dangerous New Phase*, 7 December 2017.

² "Myanmar: UN Fact-Finding Mission releases its full account of massive violations by military in Rakhine, Kachin and Shan States", press release, Office of the United Nations High Commissioner for Human Rights (OHCHR), 18 September 2018.

³ Crisis Group interviews, UN officials involved in the relief effort, Bangladesh, November 2018.

⁴ "First batch of over 2,260 returnees to be accepted at rate of 150 per day", *Global New Light of Myanmar*, 5 November 2018, p. 2.

⁵ "Humanitarian Organizations call for Guarantees of Safety and Rights for Refugees before Return to Myanmar Commences", press release, INGO Forum Myanmar, 8 December 2017.

⁶ Crisis Group interviews, Rohingya refugees, Cox's Bazar, Bangladesh, November 2018. See also "Rohingya refugee attempts suicide as repatriation fears rise", *The Telegraph* (London), 8 November 2018.

cil and General Assembly and protecting it from stronger Security Council action. It has advocated support for Myanmar and Bangladesh to deal with the situation bilaterally instead of being addressed in multilateral forums, but this argument rings hollow if the bilateral process is not working.

Beijing has thus facilitated a series of meetings between Myanmar and Bangladesh and has made clear that it wants to see movement. Chinese Foreign Minister Wang Yi hosted a side meeting among Myanmar, Bangladesh and UN Secretary-General António Guterres and his Special Envoy during the General Assembly in September, where the Bangladesh foreign minister committed to start repatriations “soon”.⁷ Shortly before the 30 October meeting between Myanmar and Bangladesh, Chinese Public Security Minister Zhao Kezhi also met with Bangladeshi leaders.

Secondly, Bangladesh is worried about what it sees as an emerging global consensus that most refugees are unlikely to return home for the foreseeable future and a shift in Western donor focus to their local integration. Many senior Bangladeshi officials privately acknowledge that the majority of refugees may never go home.⁸ But they are not ready to state this publicly or to allow donors to take for granted Bangladesh’s continued hosting of the Rohingya – especially given the low levels of funding for the humanitarian operation and the burden this places on Bangladesh. It also believes that international actors have not pressed Myanmar enough to address the security, rights and accountability issues to enable any large-scale return.⁹ By undertaking some forced returns, Bangladesh officials appear to be banking on the fact that they will alarm donors and prompt them to focus more on the situation and realise the status quo is unsustainable.

These factors have combined to tip Bangladesh’s policy in favour of a small-scale return. Political dynamics ahead of general elections in Bangladesh on 23 December may also play a part. Myanmar also sees a limited repatriation as serving its interests. Naypyitaw hopes that a small number of returns would demonstrate to a sceptical world that it is ready to welcome Rohingya back, shifting the focus away from the reasons why they originally left – and thereby weakening, it believes, the basis for claims of ethnic cleansing and genocide.

III. The Risks of Forced Returns

While Bangladesh and Myanmar may consider that the return of some refugees serves their respective interests, it would harm the Rohingya themselves, who would be returning to a situation from which people continue to flee. Bangladesh is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, and while it has given the Rohingya safe haven, it does not formally recognise them as refugees. Nevertheless, Bangladesh has an obligation under customary international law to ensure that any return of refugees to Myanmar is voluntary and safe.

⁷ “China facilitates informal meeting at UN to expedite refugee repatriation process”, *The Irrawaddy*, 1 October 2018.

⁸ Crisis Group interviews, diplomats and analysts, Dhaka and Yangon, October-November 2018.

⁹ *Ibid.*

Bangladesh and Myanmar did not consult in advance with the UN or its refugee agency on the repatriation. The UN has stressed the move is premature and that it does not yet consider conditions on the ground in Rakhine state conducive to returns.¹⁰ The UN special rapporteur on the situation of Human Rights in Myanmar issued a statement on 6 November calling on Bangladesh to shelve the “rushed plans” for repatriation.¹¹

In addition to the human rights concerns, a forced repatriation carries serious risks for security and stability on both sides of the border. The refugee community in Bangladesh is strongly opposed to the move and will do whatever it can to resist it. This will increase tensions in the camps and could lead to confrontations between refugees and Bangladeshi security forces and greatly complicate humanitarian operations. A botched repatriation attempt could potentially set back peace and development efforts by years.

The ARSA militant group continues to have a prominent presence in the camps and could launch cross-border raids on Myanmar’s security forces, as it did in January 2018, in an effort to stop repatriation. Other militant factions have also been organising in the camps, though their capacity for violent action is unclear.¹² Any attack or other security incident in Rakhine state would heighten tensions there and could worsen conditions for the several hundred thousand Rohingya who remain. Myanmar has also said that some of the people proposed by Bangladesh for repatriation were ARSA members.¹³ It is not known if they are among those selected for return but this raises the worrying possibility that some of those sent back could be arrested.

A rushed repatriation is also likely to increase tensions in Rakhine state. Already, ethnic Rakhine opposed to returns have held demonstrations to stop them. Rakhine nationalists are also calling for strict security vetting of returnees and resettling them to certain secure areas instead of their home villages. In particular, nationalists are staunchly opposed to any returns to southern Maungdaw, which they want to maintain as a “Muslim-free zone”.¹⁴ Crisis Group has seen a partial list of the returnees, a number of whom came from villages in this area, and under the terms of the repatriation agreement should be allowed to return there. A secretive repatriation process without the consultations and preparations needed in Rakhine state could easily inflame hostilities and provoke violence against returnees or the remaining Rohingya population.

If refugees fear that they will be forced back to Myanmar, they may become more desperate to leave the camps and to attempt dangerous sea journeys across the Bay of Bengal to Thailand, Malaysia, Indonesia or other countries. This could have wider regional implications, as it did during the maritime migration crisis of 2015.

¹⁰ “Daily press briefing by the Office of the Spokesperson for the Secretary-General”, United Nations, 30 October 2018.

¹¹ “Myanmar: UN expert pleads for Rohingya returns to stop, fears repeat abuses may await”, OHCHR, 6 November 2018.

¹² Crisis Group interviews, Rohingya refugees, Cox’s Bazar, Bangladesh, January–November 2018.

¹³ “Dozens of ‘terrorists’ among Rohingya slated for repatriation, Myanmar official says”, Radio Free Asia, 8 November 2018.

¹⁴ “With Rohingya gone, Myanmar’s ethnic Rakhine seek Muslim-free ‘buffer zone’”, The Daily Star, 16 March 2018.

IV. Recommendations

The following actions should urgently be taken:

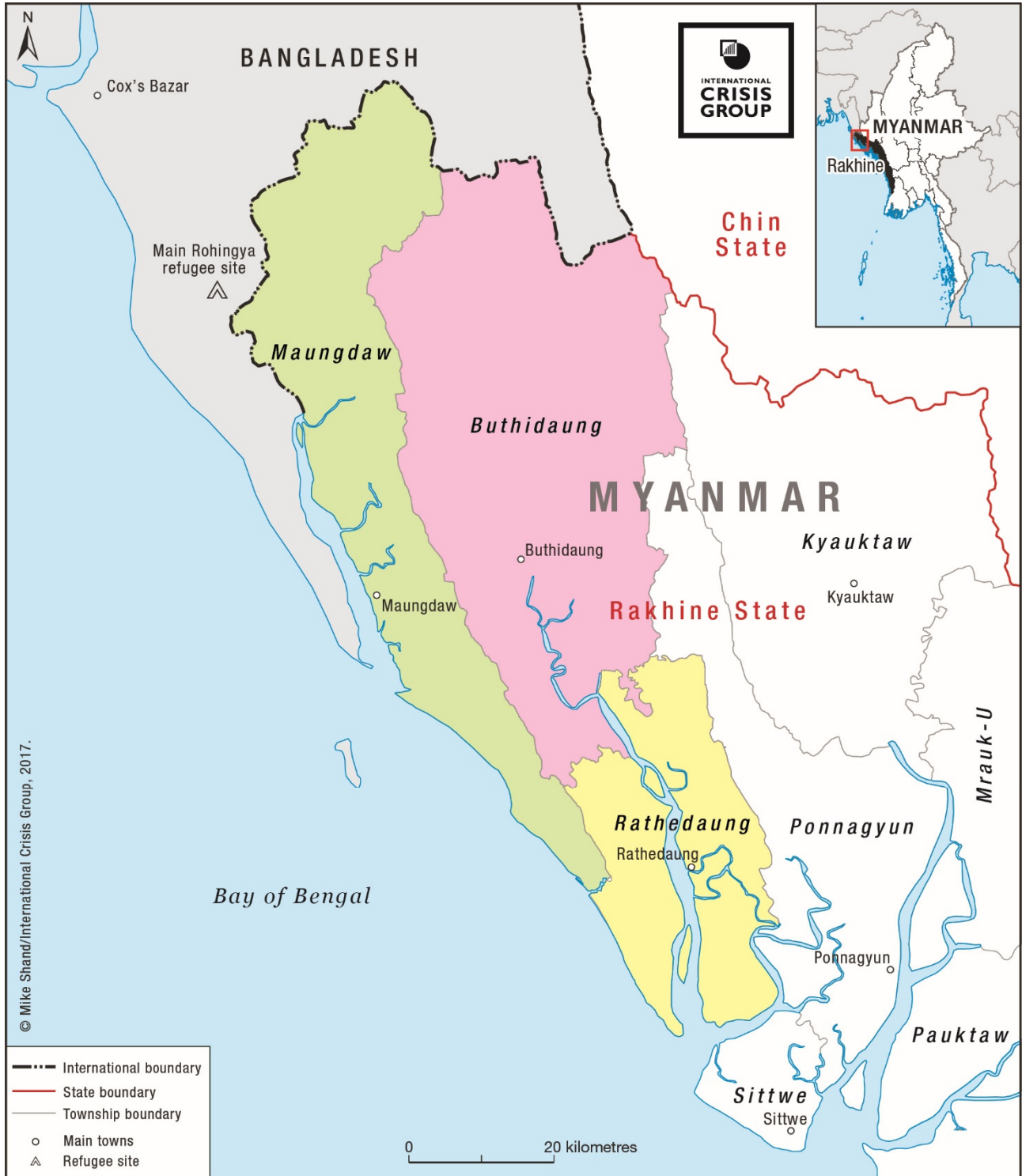
- ❑ Bangladesh and Myanmar should immediately halt plans to return refugees to Rakhine state until they can ensure a process of voluntary, safe and dignified return. The onus is squarely on Myanmar to create those conditions.
- ❑ In the meantime, Myanmar should grant unfettered access for the UN and its international NGO partners, as well as the media, to northern Rakhine for the delivery of essential humanitarian support and in order to allow independent assessment of the situation on the ground.
- ❑ The Bangladesh government and its international partners should deepen their political engagement with the Rohingya refugees and consult them about their future. So far, there is almost no consultation or even processes in place to do so.
- ❑ China should stop pressing for an early repatriation and lend its weight to efforts by other governments and organisations to create conditions in Rakhine state that are conducive to voluntary and sustainable return.
- ❑ The UN and its refugee agency should continue to firmly oppose the repatriation in public and in private and use its influence in both countries to halt the process. In particular, the UN Secretary-General's Special Envoy for Myanmar, Christine Schraner Burgener, should take a clear public stand and press both Dhaka and Naypyitaw to shelve their current plans. The UN, already facing serious questions about its approach in the years leading up to the crisis, cannot fail the Rohingya again.¹⁵ If a precedent of forced repatriation is set, larger-scale forced returns in the future become much more likely.

As dialogue partners with the Association of Southeast Asian Nations (ASEAN), the U.S., EU, Australia, Canada and others should use the upcoming ASEAN summit meetings from 11 to 15 November in Singapore to press Myanmar to halt its current plans and instead work to create conditions for voluntary repatriation. ASEAN countries have a direct stake, since forced returns will likely lead to a surge in Rohingya seeking to flee by boat to Thailand, Malaysia and Indonesia.

Brussels, 12 November 2018

¹⁵ The Fact-Finding Mission recommended that “As a matter of urgency, a comprehensive, independent inquiry should be conducted into the involvement of the United Nations in Myanmar since 2011, with a view to establishing whether everything possible to prevent or mitigate the unfolding crises was done, identifying lessons learned and good practices, making recommendations as appropriate, including on accountability, and enabling more effective work in future.” This call has been echoed by the Special Rapporteur, Yanghee Lee. See “Report of the International Fact-Finding Mission on Myanmar”, A/HRC/39/64, 18 September 2018, para. 111.

Appendix A: Map of Rakhine State



Appendix B: About Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

Crisis Group's reports are distributed widely by email and made available simultaneously on its website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Global Affairs Canada, Danish Ministry of Foreign Affairs, European Union Instrument contributing to Stability and Peace, Finnish Ministry for Foreign Affairs, French Development Agency, French Ministry of Europe and Foreign Affairs, Icelandic Ministry for Foreign Affairs, Irish Aid, Japanese International Cooperation Agency, Liechtenstein Ministry of Foreign Affairs, Luxembourg Ministry of Foreign Affairs, New Zealand Ministry of Foreign Affairs and Trade, Norwegian Ministry of Foreign Affairs, Qatari Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs and the Emirati Ministry of Foreign Affairs.

Crisis Group also holds relationships with the following foundations: Carnegie Corporation of New York, Elders Foundation, Henry Luce Foundation, John D. and Catherine T. MacArthur Foundation, Korea Foundation, Oak Foundation, Open Society Foundations, Ploughshares Fund, Robert Bosch Stiftung, Rockefeller Brothers Fund, UniKorea Foundation and Wellspring Philanthropic Fund.

November 2018



International Crisis Group

Headquarters

Avenue Louise 149, 1050 Brussels, Belgium

Tel: +32 2 502 90 38. Fax: +32 2 502 50 38

brussels@crisisgroup.org

New York Office

newyork@crisisgroup.org

Washington Office

washington@crisisgroup.org

London Office

london@crisisgroup.org

Regional Offices and Field Representation

Crisis Group also operates out of over 25 locations in Africa, Asia, Europe, the Middle East and Latin America.

See www.crisisgroup.org for details

PREVENTING WAR. SHAPING PEACE.