



POLICY BRIEF 4 / 2020, INCLUSIVE CITIZENSHIP & HUMAN RIGHTS

# No education - lost generation: The right to education of stateless Rohingyas in Bangladesh

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#### Summary

The Bangladesh government with humanitarian organizations made commendable efforts to manage the stateless Rohingya refugees, which now forms the world's largest refugee operation since its large influx in 2016-17. Nevertheless, the Rohingya operation is limited to basic humanitarian support, with several fundamental human rights suffering from prolonged neglect, with right to education being one of them. This policy brief analyzes the key barriers to the access of mainstream education, the impact of exclusion, and certain policy recommendations for refugee education in Bangladesh. The analysis was carried out between May and October 2020 found that stateless Rohingya refugees are prevented from access to public education due to the Bangladeshi government's lack of a refugee education policy

and its prohibition on Rohingya citizenship and documentations. It has been also difficult for humanitarian organizations working in Bangladesh to achieve a tangible impact through their efforts, due to the absence of a refugee education policy, but also due to frequent changes in administrative decisions on refugees. Furthermore, refugee children without access to education are more vulnerable to human trafficking, irregular movement, and other illegal activities which not only affect Bangladesh but also are more vulnerable to and Southeast Asian regions as well. Therefore, collaboration among national, regional, and international stakeholders needs to be strengthened in mainstreaming Bangladesh's national education system for the stateless Rohingya refugees.

#### Recommendations

This policy brief presents four policy recommendations for action based on the analysis-

- 1. Develop national policy strategy on inclusive education targeting stateless Rohingya refugees.
- 2. Enhance collaboration between government and humanitarian organizations on inclusive education.
- 3. Strengthen support on obtaining documentation for stateless refugees.
- 4. Negotiate a durable solution with Myanmar including recognition of refugee education upon repatriation.

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"Politics of access to education and Rohingyas in Bangladesh: a quest of human rights"

### Introduction

Education is not only a human right but an indispensable means in realizing other human rights. Despite being widely recognized by most states, the right to education is neither unconditional nor non-discriminatory. There are states that purposely exclude certain groups of people from their right to education. In Myanmar, the Rohingyas have been prohibited access to public services including public education with the cessation of their citizenship by the Myanmar government in 1982. Similarly, in Bangladesh where they have had refugee status since 1978, the Rohingyas never been granted access to public education. Currently the number of Rohingyas in Bangladesh has reached over 860,000 since the influx of 2016-17. Though all Rohingyas have similar grounds of persecution by the Myanmar government, only 35,000 Rohingyas are registered as refugees and the rest recorded as migrants from Myanmar. The Bangladesh government stopped registering Rohingyas as refugee since 1994. Rohingyas who arrived after that period lack any legal status in Bangladesh. In today's refugee camps, there are around 600,000 school aged children who do not recieve formal schooling while 45% of the children attend informal learning centers, but 97 % of adolescents do not attend these centers. This policy brief analyzes those stateless Rohingyas who are registered as refugees in Bangladesh since 1992 and their exclusion from public education. We discuss how this exclusion was systematically adopted, and propose some policy recommendations.

The analysis pursued three methodological steps literature review interviews with refugees, data analysis and reporting. The desk review of national policy papers, UN agency reports and NGO reports, academic articles, media reports etc. provided an overview of the context and background information of the research problem. The interviews with stateless Rohingya refugees in Cox's Bazar Bangladesh helped in identifying key barriers to formal education and the impact of exclusion. Interviews were conducted online and recorded with proper transcriptions. Through the interviews with stateless Rohingyas this analysis not only noted certain policy gaps, but also gathered recommendations proposed by the refugees to address the research questions. This paper is divided into three sections. The first section discusses access to primary education as a human right, together with international commitment to protect this right, and discrimination in this area against the Rohingyas. The second section discusses the key barriers in the Rohingyas accessing education, and the impact of exclusion. The final section ends the report with policy recommendations.

#### Research questions

- Is the right to education ensured to for the stateless Rohingya refugees?
- What are the key barriers to the inclusion of stateless refugees in the national education system?
- What are the impacts of exclusion of stateless refugees on public education?
- What are possible pathways to adopting an inclusive education approach?

# Education as a right and discrimination against Rohingya

The right to education as enshrined in article 28 and 29 of the Convention on the Rights of the Child (CRC) 1989 has not only recognized the right of a child to education but also urges state parties to make primary education obligatory and freely accessible. Moreover, the International Covenant on Economic, Social and Cultural Rights (ICESCR) devotes two articles to the right to education, with articles 13 and 14, affirming state responsibility to ensure educational institutions and programs to be accessible to everyone, without discrimination, within the jurisdiction of the state. Myanmar and Bangladesh are both party to these international human rights standards and bear responsibility to adopt a non-discriminatory education policy. However the right to education for stateless Rohingyas is systematically denied by both countries.

In Myanmar, restrictions on education for the Rohingyas has been enacted in parallel with the stripping of their Burmese citizenship in 1982. Enactment of this citizenship law has not only initiated the trajectory towards statelessness that has culminated in forced displacement, but has also halted public education for the Rohingyas in Myanmar. The average Rohingya in Myanmar has minimal access to formal schooling; most Rohingyas fail to advance to the high school level. Moreover, since the 1990s the Rohingyas have been restricted from attending most of the public universities in Myanmar. The centrally controlled education system in Myanmar has thus structurally excluded ethnic minorities such as the Rohingyas while taking away their citizenship.

In Bangladesh, restrictions on education continue for persecuted Rohingyas. Bangladesh admitted the stateless Rohingyas into their country for several decades, while deliberately making policies that prevented them from accessing public services including the national education system. Bangladesh is not party either to the 1951 Refugee Convention, 1954 Convention Relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness. Bangladesh has no specific law dealing directly with refugee affairs, apart from providing physical protection to all people including non-nationals, according to articles 31 and 32 of their constitution. Thus, lack of a domestic legal mechanism for refugees not only complicates Rohingyas' status in Bangladesh but also denies them their right to education. In Bangladesh, since right to education is reserved for its citizens and legal residents, non-citizens (including the stateless and refugees) within the state's jurisdiction are not included in the national policy framework. Though the Bangladeshi Constitution's article 17 asserts the assurance of a basic education for all and, with non-discriminatory education policy ensuring a uniform curriculum in all schools across the country, stateless refugees are not included under in the national non-discriminatory education policy. Scholars have argued that such an attitude is self-contradictory, when State allows stateless refugees to stay in its territory, following the principle of non-refoulement but restricts them from state services.

# Bangladesh policy on refugee education

The human right of refugee to education is strategically denied in Bangladesh. The government of Bangladesh has publicly asserted that Rohingyas should not recieve a better life than what they are used to, or receive access to rights they were never allowed, or else they will never want to return to Myanmar. The restriction on education is particularly thought to mitigate a "pull factor" that could attract Rohingya remaining in Myanmar to flee to Bangladesh in search of education. The Bangladeshi government tends to rationalize their denial of education in terms of never want to return repatriation. But repatriation has always been doubtful, due to the little progress never want to return both in Bangladesh and Myanmar. Thus, the absence of a concrete plan for refugee education not only hinders the refugees' preparations for repatriation, but also jeopardizes the possibility of them contributing to their host country during their temporary but prolonged stay.

The government of Bangladesh has restricted formal schooling for refugee children and youth. In response to this, a few privately-run refugee centers and NGO-run learning centers operate in the camps. These informal education centers are not officially recognized. by the government and thus are not able to utilize the Bangladeshi national curriculum. Due to the recent ban on the use of the national curriculum in refugee camps, the learning centers now follow a locally customized curriculum, which is also not officially approved by the government.

### Timeline of refugee education in Bangladesh

**1997:** Informal refugee education was first approved in the camps. The United Nations High Commissioner for Refugees (UNHCR) inaugurated refugee operated informal education programs limited to primary level using Burmese word books only.

**2007:** For the first time, the government of Bangladesh approved building schools in the refugee camps and allowing the use of Bangladesh national curriculum for the informal education in the camps.

**2015:** Informal camp schools were upgraded to grade eight.

**2019:** The government of Bangladesh banned Bengali language textbooks in the refugee camps, and expelled all refugee students from schools outside the camps as part of schools Rohingya from national education.

**2020:** The Bangladeshi government introduced the Myanmar curriculum to 10000 high school aged children in the camps. These students were targeted because they've always used the Bangladeshi curriculum and are thus not included on the recent list of prospective repatriation groups. All other high school students have had to continue their informal studies in reading and writing with no set curricula.

## **Barriers for refugee education**

In Bangladesh, right to education for the stateless Rohingya refugees is not only conditional but also systematically ignored. This analysis has found the following barriers to this right:

#### No refugee education policy

When refugees are admitted into the territory, they should be allowed to access primary education with their refugee identity based on human right principles. In Bangladesh refugees are not included in the national education policy, thus have no specific guideline for refugee education. This has ultimately resulted in frequent changes in ad hoc administrative decisions on informal literacy programme for refugees in the camps.

#### Rohingyas are prevented from citizenship

As mentioned above, the right to education in Bangladesh is reserved for its citizens and stateless Rohingya refugees are restricted from receiving Bangladeshi citizenship. In recent years, the government has adopted several policy changes to prevent Rohingyas from recieving citizenship in Bangladesh.

According to section 4 of the Bangladeshi Citizenship Act of 1951 by the principle of jus soli a child born in the country becomes a citizen of the country regardless of the status of its parents, which is the approach of common law countries. However, in Bangladesh this provision is linked to the identity of the parents of the child. In practice, however Bangladesh only grants citizenship to a child who was born in the territory with at least one Bangladeshi parent. This provision clearly hinders Rohingya children born with two Rohingya parents, out of from receiving citizenship in Bangladesh.

In the jus sanguinis, or the law of the blood relationship, citizenship is determined parentage. The 2009 amendment on jus sanguinis citizenship decides that children can receive Bangladeshi citizenship through either parent. However, a high court ruling in 2014 has banned marriage between Bangladeshi nationals and Rohingya with the view to stop the possibility of seeking "back door' citizenship. This provision has not only created another layer of blockade but has also left children in limbo who are already born to at least one Bangladeshi parent.

Naturalized citizenship in Bangladesh is not automatic but depends on absolute state discretion, and there is generally no provision for Rohingya.

Finally, the Dual Citizenship Act of 1951 has also been amended recently. This act generally prohibits dual citizenship, and citizens by birth who have accepted foreign citizenship automatically lost their Bangladesh citizenship. Bangladeshi nationals who have obtained citizenship in Western countries can apply for a dual nationality certificate only. However the Citizenship Bill of 2016 restricts Myanmar nationals and all SAARC nationals to access dual citizenship in Bangladesh. This provision purposefully excludes the Rohingya from any possibility of obtaining Bangladeshi citizenship as they are mostly considered as 'people from Myanmar'.

"Education is not something we should have to beg for; it is something we are entitled to "Stated by a 38 years old stateless Rohingya refugee.

#### Rohingyas are denied official documentation

Enrolling in a Bangladesh school requires identity documents, such as birth certificate and other documents showing legal residency, however, refugees are not issued an official birth certificate in Bangladesh. The government of Bangladesh halted the state birth certificate program in the Cox's Bazar district to block refugees obtaining any official documents that can be used to access public services. Birth registration is a fundamental right, recognized by article 24, paragraph 2 of the International Covenant on Civil and Political Rights (ICCPR), and article 7 of the Convention on the Rights of the Child (CRC). The fulfilment of the right to be registered at birth is intricately linked to the realization of many other rights, and in the context of Bangladesh this is the prime requirement to be eligible to access education. Thus, refugees have been arbitrarily made ineligible for public education in Bangladesh.

Acquiring required documentation to gain access to the public school system is almost impossible for the refugees, until a separate policy decision relating to refugee education is enacted.

#### Key barriers on refugee education

- Education is reserved for Bangladeshi citizens; Rohingya are unable to obtain citizenship.
- Refugees cannot obtain an official birth certificate, hence they lack proper documentation for school enrollment.
- A refugee identity card is not valid for school enrolment
- There are no policy guidelines on refugee education therefore education partners lack in standard curricula and age-appropriate teaching materials for refugee education.
- Recent restrictions on the use of the Bangladeshi national curricula in refugee camps has jeopardized refugee education, hindering many young students from completing their informal primary school education.
- There was no prior consultation or clear information given to the education stakeholders as to why the Myanmar curriculum was suddenly introduced, nor have any guidelines been given for future plans and development of the informal education system in the refugee camps.
- Refugees are biometrically recorded but are nonetheless blamed for illegally entering the country, which denies them proper documentation.

#### Burmese curricula without prospect of repatriation

The most recent decision in 2020 to introduce a Burmese curriculum into Bangladeshi refugee camps was initially welcomed. However, it has created confusion among stakeholders for several reasons. First, though the government of Bangladesh argued that this decision is presented as part of their repatriation process, targeting refugees arrived in 1992 for the pilot phase. This contradicts with the repatriation agreement that only includes the refugees arrived during and after 2016. Secondly, if this initiative is part of the repatriation process, then Myanmar should agree to recognize such educational qualifications upon return, which is yet to be guaranteed. Thirdly, there is a question whether the Bangladeshi government will officially recognize this education before repatriation takes place. Having no public information available on these queries has made it evident that the dilemmas of granting the Rohingyas a right to education for the is far from resolved. Thus, the educational needs of the refugee children are held hostage due to policy failures by both Myanmar and Bangladesh.

## Moving towards a lost generation

The stateless peoples' inaccessibility to the right to education has been ignored now for decades. In this analysis stateless Rohingya refugees have spoken about the impact of not having access to a formal education has had on their community. In 2007, after immense efforts, approval of the use of the Bangladeshi national curriculum in the informal camp school was a victory of a robust battle in 2007. But now the suspension of Bengali curricula has pushed back the mainstreaming process. The generations born and brought up in Bangladeshi camps have 'self-integrated' into Bangladeshi society and naturally feel more attached to Bangladesh then their ancestors. This group has to start their academic process from the beginning using the Burmese curricula, when curriculum, knowing that a diploma gained from this curriculum has not been officially recognized by the Burmese government.

"If Rohingyas become educated, they will learn about their rights, and the injustices that have happened to them, and they may go back to their country to demand their rights. If our people are illiterate how can you expect them to make right decisions?" stated by 35 year old stateless Rohingya refugee.

The Bangladeshi government argues that using the Burmese curriculum will help the Rohingyas in their repatriation process. However, the refugees hold a general opinion that since Rohingyas were deprived of a Burmese education in Myanmar, using the Burmese curriculum in Bangladesh will be of little value until both governments agree to officially recognize the refugee's right to education.

Adequate efforts to create a conducive environment that recognizes academic qualification in both countries will be a key factors in boosting the repatriation process and nurture a voluntariness among the refugees to repatriate. Meanwhile no education program utilized in the refugee camps will be of benefit unless it is systematic, formal, and officially certified.

"If Myanmar gives us citizenship, I would be the first person to sign up, but I am afraid it may never happen" said a 35 years old stateless Rohingya man.

Since the camp education is informal, and limited to grade eight, it may not be used to a quality for further study or employment, causing the refugees to lose motivation to participate in the camp education program. Refugee children are reluctant to study in camp schools which are temporary and do not qualify students for further study or employment.

"In a stateless life education is even more important for upholding our existence. We have already lost citizenship now if we do not receive education, the Rohingya community will be abolished from planet earth, I believe that education is the only way we can say to the world that the Rohingya exists", Stated by a 38 years old stateless Rohingya refugee.

Refugee adolescents and youth who have completed camp school have become indolent with the risk of falling prey to human trafficking, drug addiction, drug trafficking and forced labor, irregular movement, or other harmful activities. Maintaining the protection for refugees has become a tremendous challenge. Seeking brokers and smugglers seems to be the most viable option to the refugee youth to secure a future despite being cognizant of the risk. Girls are often taken out of the informal schools and at times forced into child marriage or become victims of sexual and gender-based violence.

"Due to illiteracy, we become a burden to Bangladesh. Yet we cannot survive on our own. This is a big challenge for the country. Bangladesh should seriously consider this both logically but sympathetically. We have the right to receive education", stated by a 30 year old stateless Rohingya refugee.

Refugees strongly believe that illiteracy and poverty are the main reasons for their of life skills knowledge. Due to illiteracy, awareness campaigns on such issues as health, hygiene, family planning and gender-based violence have been difficult to do in the camps. Since refugees have no educational qualifica-

tions, required skills or legal employment in Bangladesh, they are often physically and commercially abused by their local employers. This also jeopardizes the peaceful coexistence between refugees and the local community.

## **Efforts of humanitarian organizations**

Together with their local NGO partners, UN agencies have been working on refugee education in Bangladesh refugee camps for decades but the situation remains volatile. These organizations have made little progress in advocating for refugees in mainstream educational system. Refugees are neither included in the national plan of action on education nor have any guidelines been established to develop education tools in the camps. Even the curricula for informal education for the refugees have been changed three times since 1997, when refuges were first allowed to start informal education within the camps.

While several agencies are approved to work in refugee education, they are neither given any policy guidelines nor allowed to use the Bangladeshi curricula. Under such circumstances, different agencies are using different curriculum for their program. However, none of these curricula are approved by Bangladesh. With such a barrier, humanitarian agencies remain as part of the implementation machinery, vulnerable to unplanned decision of government, their education as charity only.

According to UNHCR Global Education Strategy 2030, no separate, targeted plan of action for national education systems should be adopted that the refugees and host community students are equitably prepared to succeed in wherever they live. Therefore, any investment in education should also equally benefit the host community. Instead of advocating for a non-discriminatory inclusive education policy, education partners are now negotiating with the government of Bangladesh for a curriculum that is neither Burmese nor Bengali, which means that the stateless Rohingya children may have limited or no hope of becoming integrated to mainstream education in Bangladesh anytime soon.



Rohingya refugee children in an informal learning centers in refugee camps in Cox's Bazar Bangladesh - Photo: Author

### Recommendations

In a country like Bangladesh where fundamental rights are protected mostly for citizens, stateless Rohingya refugees face systemic challenges in accessing their rights. By admitting stateless Rohingyas as refugees, the state owes clear obligations to this population. However, since stateless refugees were never considered as part of this state political body most of their human rights have been compromised. Considering the above-mentioned findings, this analysis proposes four policy recommendations for further action:

# 1. Develop a national policy strategy on inclusive education that targets stateless Rohingya refugees.

Bangladeshi national education policy should incorporate policy directed toward including stateless Rohingya children to mainstream education. The registered refugees who have already studied using the Bengali curriculum should be given access to the public school system through their refugee identity document. How and when refugee children can be incorporated in public education needs to be elaborated in Bangladesh's national education policy. Some policies for consideration may include: allowing refugee children who have completed grade 5 to sit for public exams to qualify for enrollment in local schools; converting camp schools into public primary schools as there is a scarcity of spacein local schools; humanitarian organizations can be invited to develop the capacity of local schools to accommodate refugee children into mainstream education.

# 2. Enhance collaboration between government and humanitarian organizations in inclusive education.

This analysis highlighted that the lack of collaboration between government and humanitarian agencies. Refugees as well as education partners are unclear about Bangladesh's refugee education program. Humanitarian organizations should set clear a advocacy strategy to negotiate an inclusive education policy with the government. No informal alternative education should continue indefinitely with little tangible impact. Such collaboration would help by contributing to an overall education program in the region, benefiting local children as well.

# 3. Strengthen support on obtaining documentation to the stateless refugees.

The Bangladeshi national birth certificate system should reopenimmediately in the Cox's Bazar district, serving both refugees and the local community. Refugee children would then be able to prove their identity with an official birth certificate. Such documentation is essential for recording stateless refugee children in the government database system, as well as to control further fraudulence.

Most of the prejudices behind the denial of the right to an education are strategically addressed in the national system of Bangladesh when refugees were biometrically. Refugees who have been staying in Bangladesh for a long time, not only deserve to access to public education from a human rights perspective but their inclusion in formal education system would benefit the socio-economic and security interests of the host state.

The Bangladeshi government is cracking down on human and drug trafficking and other illicit activities, and the Cox's bazar district has been considered a hotspot. According to several media reports, young refugees are often involved in such activities as a source of cheap labor. One of the major steps in handling this dilemma would be to provide systematic education and skill training to the refugees.

# 4. Negotiate a sustainable solution with Myanmar including recognition of refugee education upon repatriation.

The link between education and a sustainable solution is less debatable. Access to public education for stateless Rohingya both in Bangladesh and in Myanmar should be seen as a given. The most effective way of addressing any issue on the protection of the stateless refugee population is by negotiating a long term sustainable solution. Myanmar should take necessary steps to create a conducive, dignified, and voluntary repatriation strategy together with providing official recognition for any educational qualifications the refugees obtained in Bangladesh.

Repatriation is not a process to rush through, but should be done by reaching agreements to incorporate the necessary conditions. These conditions include the access to education and the assurance of state recognition of this education. The international community, regional organizations and donors should continue supporting Myanmar in its aims to achieve a tangible durable sustainable solution for the stateless Rohingyas.

#### About the author

Mst Umme Habiba Fahmina Karim is a PhD candidate at the Institute of Human Rights and Peace Studies, Mahidol University Thailand. Her research focusses on right to education, discrimination, and related human rights analysis for stateless and refugees. She has Bachelor of Arts and Masters' of Art degree in International Relations from Jahangirnagar university, Bangladesh. She is the alumnus of the University of Connecticut, USA where she had completed professional course on Community Services and Comparative Human Rights and another professional course on Forced Migration from the Brookings Institution, Finland. She has worked with the United Nations High Commissioner of Refugees (UNHCR) for over a decade; as communitybased protection specialist in various operations in south and southeast Asia; and as community-based protection consultant for various organizations including UNICEF Bangladesh, UNIC Bangladesh and Asia Centre Thailand.

#### About the project

#### **Inclusive Citizenship and Human Rights**

(www.inclusive-citizenship.no) is a project that aims to improve conditions for persons identifying with communities that are in a vulnerable position due to their religious and/or ethnic identity. It addresses measures of preventing or responding to mass atrocities. South East Asia, Middle East / Northern Africa and the Balkans are core regions of the project. Among the main strategies of the project is supporting aspiring scholars from those regions (not least those belonging to such minority communities) in cooperation with local partners. The project provides international network and arenas for developing, presenting and publishing their research, including online, audiovisual communication. The project has since 2018 had a cooperation with Institute for Human Rights and Peace Studies Mahidol University,

Bangkok. This policy brief is among the outputs of this cooperation.

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