



# Independent Evaluation of the Aktion Deutschland Hilft e.V. (ADH) Joint Appeal to “Rohingya Myanmar Bangladesh” EVALUATION REPORT

April 2019

## Acknowledgements and Disclaimer

This independent evaluation was commissioned by Aktion Deutschland Hilft e. V. (ADH) and carried out by Ed Schenkenberg van Mierop, Karin Wendt, and Sahjabin Kabir for HERE-Geneva.

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The content and findings of the report represent the Evaluation Team's point of view, and are not necessarily shared by ADH, its member agencies, and their partners.

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## Executive Summary

Committed to ensuring high quality work and in line with its policy and culture of building on lessons learnt, Aktion Deutschland Hilft e. V. (ADH) appointed the Humanitarian Exchange and Research Centre (HERE) in December 2018 to carry out an independent evaluation of its joint appeal “Rohingya Myanmar Bangladesh”. This report reflects the main findings of this evaluation, which aims to identify which approach ADH Member Organisations (MO) have adopted to contribute to the protection of the Rohingya refugees in Bangladesh. More specifically, the evaluation has looked at the extent to which MOs have considered the Sphere Handbook Protection Principles, which are sector-wide standards, in the design and implementation of their work.

As of 25 August 2017, the world witnessed one of the largest and fastest refugee movements in recent decades. In the following weeks, an average of 20,000 Rohingya arrived in Bangladesh per day, victims to gross and serious human rights abuses in their native region of northern Rakhine, Myanmar. They arrived in a rural, hilly, and forested area without any infrastructure which was entirely unsuited to receive such large numbers. While the government of Bangladesh is to be commended for keeping its borders open, it insisted that the refugee situation is a temporary one, which together with the ill-suited environment resulted in formidable challenges for providing effective humanitarian assistance and protection. In this light, it is no small achievement that epidemics have so far been avoided, and the situation in the refugee camps has largely been stabilised.

Carried out in the period of mid-January until early March 2019, this evaluation has looked at the work that ADH member organisations and their partners have done for the Rohingya refugees and their host communities. It found that ADH MOs have given consideration to integrating protection aspects in their work, as evidenced by a number of examples of good protection practice. In particular, the MOs are making an effort to ensure that their engagement does not create further harm. Situations where hundreds of thousands of people are desperate to find ways and means to survive are easy breeding grounds for abuse and exploitation. Recognising this sad fact, all of ADH MOs have policies in place to prevent survival practices such as trading sex for assistance, better known as the prevention of sexual abuse and exploitation. That said, serious challenges remain in place in the overcrowded camps.

Contributing to the protection of the Rohingya refugees does not only include the aspect of preventing further harm, however. That would be too low a benchmark. The protection of refugees first and foremost involves ensuring the respect of refugee rights. In a context where the government has kept a restrictive policy towards recognising these rights and is even avoiding the use of the term refugee, this is particularly challenging, but also all the more necessary. The evaluation found that ADH MOs and their partners can do a better job in this regard.

First, the evaluation found that while MOs do consider protection aspects in line with their specific activities, many of them need to widen their focus. For example, other than contributing to the massive deforestation, the collection of firewood exposes women and men, boys and girls to significant risks, such as sexual assault. While the government agreed to the distribution of LPG gas cylinders in 2018, the evaluation saw that these were not in place in many of the areas the Evaluation Team visited. Yet, this protection concern did not appear as prominent in the minds of MO interviewees. Similarly, the government has prohibited the presence of aid organisations in the camps during night, when in fact their presence could help reduce incidents of trafficking or rape. Again, the evaluation found that MOs paid too little attention to this serious issue, seemingly as it is not directly within the area of activities defined by their programmes. One way of adopting a wider approach is to combine the delivery of services with engaging with the refugees on protection concerns. Medical clinics or therapeutic feeding centres may provide safe spaces for consulting with refugee women, men, and adolescents on what protection risks they face and how organisations could do a better job in addressing these challenges.

Second, the evaluation identified the need for MOs to be bolder in their protection work. One immediate protection threat that the evaluation saw is the intimidation of Rohingya women who have been engaged as outreach- or community workers by the organisations in the camps, including MOs. Religious and other leaders are pushing back on giving Rohingya women such a prominent role to the level of (physical) threats and assault. While aware of this serious issue, MOs had not yet adopted an appropriate set of protection measures, supposedly also as the government has prohibited that they employ Rohingya as staff.

Third, in line with the previous finding, the evaluation sees the need for the MOs to ensure that they are prepared to speak out and refrain from self-censorship. Besides protection in the camps, there should be a concern for overall refugee rights and principles under international law. Even though Bangladesh is not a signatory to the 1951 Convention relating to the Status of Refugees, it is under certain obligations, including to respect the principle of voluntary repatriation.

With the exception of a welcome joint NGO statement on premature repatriation, the Evaluation Team saw too few efforts among the MOs to engage in advocacy – individually or collectively – to promote the rights of refugees. Similarly, a stronger positioning may be required in light of the risk that up to 100,000 refugees will be relocated to a silt island in the Bay of Bengal. This may amount to internment, a clear violation of the rights to freedom of movement and to a livelihood. Humanitarian organisations may adopt different positions when the government asks them to remain involved with these refugees. Some may believe that it is only by being on the island that they will be able bear witness to the situation and remain in touch with Rohingya. Others may refuse to associate themselves with such a relocation, as it could be interpreted as condoning a *de facto* detention. Both positions require that NGOs engage in advocacy, either through diplomatic channels or in public.

To ensure better protection of the Rohingya refugees, the evaluation sees the need for MOs to further train their staff on the specific characteristics of refugee protection. As noted, the MOs have integrated protection aspects in their work, but there is a need for more depth and a better understanding of the wider refugee context. A range of protection concerns pertaining specifically to refugees require more priority, such as the uncertainties linked to the issues of registration, repatriation, and relocation, to name a few. It is clear that ADH's MOs make up a very small number of the actors involved in the Rohingya refugee response, and operationally they can only do so much to address these concerns, but this does not relieve them from adopting a holistic approach, instead of siloed one in which they concentrate on their specific activities.

Protection as an overarching concern in humanitarian action has implications that go beyond the specific activities that are part of organisations' programmes. Principally, it involves questions as to the culture, strategy, and approach of organisations in terms of taking risk. Protection work requires courage as it involves activities and positions that may put an organisation at odds with a government's policy and expectations. This may be a new experience for organisations working in Bangladesh, but it is an inherent aspect of pursuing a protection agenda. In the months to come, when the government of Bangladesh will further acknowledge that the Rohingya cannot return to their homes in Rakhine State, Myanmar, there will be a continuous need for MOs to negotiate and advocate for protection space for the Rohingya refugees in Bangladesh and to work towards improved safety of the refugees in the camps.

## Acronyms

<b>AA</b>	–	Arakan Army
<b>AAP</b>	–	Accountability to Affected Populations
<b>ADH</b>	–	Aktion Deutschland Hilft e. V.
<b>ARSA</b>	–	Arakan Rohingya Salvation Army
<b>ASB</b>	–	Arbeiter Samariter Bund
<b>BGB</b>	–	Border Guards Bangladesh
<b>CHS</b>	–	Core Humanitarian Standard
<b>CiC</b>	–	Camps-in-Charge
<b>CRS</b>	–	Catholic Relief Services
<b>DRC</b>	–	Danish Refugee Council
<b>FGD</b>	–	Focus Group Discussion
<b>HERE</b>	–	Humanitarian Exchange and Research Centre
<b>HQ</b>	–	Headquarters
<b>IDP</b>	–	Internally Displaced Person
<b>IOM</b>	–	International Organisation for Migration
<b>KI(I)</b>	–	Key Informant (Interviews)
<b>MO</b>	–	Member Organisation
<b>NFI</b>	–	Non-Food Item
<b>NGO</b>	–	Non-governmental Organisation
<b>NRC</b>	–	Norwegian Refugee Council
<b>(P)SEA</b>	–	(Prevention of) Sexual Abuse and Exploitation
<b>RAB</b>	–	Rapid Action Battalion
<b>RRRC</b>	–	Refugee Relief and Repatriation Commissioner
<b>SGBV</b>	–	Sexual and Gender-Based Violence
<b>ToR</b>	–	Terms of Reference
<b>UNHCR</b>	–	United Nations High Commissioner for Refugees
<b>WASH</b>	–	Water and Sanitation for Health

# 1 Introduction

When violence involving different ethnic groups in Rakhine State, Myanmar, escalated on 25 August 2017, a massive and rapid exodus saw people crossing the border with Bangladesh into areas near the town of Cox's Bazar. This is not the first time that people predominantly from the Muslim minority, commonly referred to as Rohingya, have fled *en masse*,<sup>1</sup> but the speed and size of the latest exodus have been particularly overwhelming. Over a period of three months, approximately a 655,000 Rohingyas arrived, and as of January 2019, 911,000 refugees were living in camps, makeshift settlements, or with host communities in Bangladesh.<sup>2</sup>

In September 2017 Aktion Deutschland Hilft e. V. (ADH) – an alliance of 13 German organisations that provide humanitarian aid in large catastrophes and emergency situations – launched a joint appeal to support the Rohingya population, which has so far raised around EUR 3 million. During the first phase of the emergency, ADH member organisations (MOs) provided life-saving humanitarian assistance in the form of the distribution of food and non-food items (NFIs), shelter, and WASH, among others. ADH-funded activities in Bangladesh have since evolved to also include for example health care centres, child and women friendly spaces, and cash for work activities.

Committed to ensuring high quality work and in line with its policy and culture of building on lessons learnt, ADH appointed the Humanitarian Exchange and Research Centre (HERE) in December 2018 to carry out an independent evaluation of its joint appeal “Rohingya Myanmar Bangladesh”. The evaluation aims to identify which approach ADH MOs have adopted to support the Rohingya in Bangladesh, and more specifically, to what extent the Sphere Protection Principles<sup>3</sup> have been considered in the design and implementation of activities. The aspect of learning being of particular importance in this evaluation, the goal is also to draw recommendations that can be used to support the planning of future projects. Five ADH MOs participated in the evaluation, namely arche noVa, ASB, CARE Germany, Malteser International, and World Vision Germany.

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<sup>1</sup> Bangladesh has generally kept an open-door policy, and the Cox's Bazar area has received influxes of Rohingya refugees in 1978 and 1991-'92. Large numbers of Rohingyas, many of whom were never registered, have also been living in the Cox's Bazar district and other districts of Bangladesh for decades.

<sup>2</sup> ISCG, 'Situation Report Rohingya Refugee Crisis Cox's Bazar, January 2019', 2019, <https://reliefweb.int/report/bangladesh/iscg-situation-report-rohingya-refugee-crisis-cox-s-bazar-january-2019>.

<sup>3</sup> See 'The Sphere Handbook', which describes four protection principles that apply to all humanitarian action and all humanitarian actors.

This report reflects the main findings of the independent evaluation, which was carried out by a three-person HERE Evaluation Team in January and February 2019. The analysis was done from two perspectives, looking both at the MOs' protection-related activities at the level of their programming and implementation, and at the overall (macro-level) protection environment.

After a section, which provides further details on the purpose and methodological approach of the evaluation, this report gives an overview of the current protection environment in Cox's Bazar. The report then outlines the main findings, looking in turn at the MO's understanding of their protection responsibilities, the delivery of protection, and the specific character of refugee protection. The report concludes with a number of lessons learnt and recommendations, both for ADH and its MOs.

It is noteworthy that this evaluation does not aim to express a judgment as to whether specific targets and objectives of the individual MOs were reached. Rather, it has been carried out more in the spirit of a 'review' that aims to forward joint analysis, reflection, and learning. What has been achieved in terms of protection, and what could have been done differently and/or should be given more attention in the future?

## 2 Purpose and Approach

### 2.1 Background

The fast arrival of hundreds of thousands of refugees in a rural area lacking infrastructure created a humanitarian crisis of formidable proportions. While many spontaneous aid efforts were launched, those who responded to this emergency – the government of Bangladesh; international and national aid agencies; and civil society actors – were confronted with a set of immediate challenges including the extreme congestion of the camps, the risk of large-scale outbreaks of epidemics, and even a possible second disaster in the form of floods or cyclone during the annual monsoon season.

A number of individual or joint agency reviews and evaluations carried out in 2018 provided ample evidence of a refugee response that was less than optimal both in terms of protection and in relation to quality of the services being provided to the refugees.<sup>4</sup>

The reviews indicate a response that was orientated towards quantity, not quality. To mention one example, many Rohingya women, girls, men and boys have been the victims or, at least, the witnesses of gross sexual and gender-based violence (SGBV) in Myanmar, arriving highly traumatised in Bangladesh. Yet, the activities to address mental health and psychosocial support in the camps varied highly in quality and types of activity.

Overall, while a second catastrophe and mass epidemics which could have caused high mortality have been averted, many essential activities to ensure the relative well-being of the Rohingya were woefully insufficient in the first 6 to 12 months of the response.<sup>5</sup>

Prior to their arrival in Bangladesh, the Rohingya faced systemic discrimination in Myanmar, largely denied of citizenship and subject to atrocities which have been deemed to constitute serious crimes under international law.<sup>6</sup> While the government of Bangladesh has demonstrated great generosity in receiving refugees, the insistence that the situation is a temporary one has significantly limited the response. Arriving in Cox's Bazar, the Rohingya sought refuge from continued persecution, and the distress a large majority of them have suffered is compounded by additional uncertainties and protection risks facing them in displacement.<sup>7</sup> Indeed, "[t]he Rohingya humanitarian crisis is a protection crisis at its core".<sup>8</sup>

It is against this background that this review was undertaken. It should be noted that the situation in the camps in February 2019 is much more stable compared to the same time last year. The 2018 monsoon preparedness activities have resulted in many improvements in the camps, such as better materials for housing and construction and the relocation of refugees to areas that are less flood prone.

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<sup>4</sup> Ed Schenkenberg van Mierop and Manisha Thomas, 'Real-Time Response Review of the DEC Emergency Appeal for People Fleeing Myanmar' (Disasters Emergency Committee (DEC), 2018); UNICEF, 'Evaluation of UNICEF's Response to the Rohingya Refugee Crisis in Bangladesh' (UNICEF, 2018); UNHCR, 'Independent Evaluation of UNHCR's Emergency Response to the Rohingya Refugees in Bangladesh - August 2017-September 2018' (UNHCR, 2018).

<sup>5</sup> Ibid.

<sup>6</sup> 'Report of the Independent International Fact-Finding Mission on Myanmar' (Human Rights Council. A/HRC/39/64, 2018), 16.

<sup>7</sup> '2019 Joint Response Plan for Rohingya Humanitarian Crisis - January - December', 2019, 29.

<sup>8</sup> Ibid.

## 2.2 Aims and Objectives

As per the Terms of Reference (ToR) for this evaluation (see Annex 1), its aim is to better understand how the Sphere Protection Principles are addressed by MOs, and to identify gaps and areas of unmet protection needs, both as regards specific project activities, and from a cross-cutting perspective. By highlighting good practices and lessons learnt, the aim is also to formulate recommendations that will improve similar responses in the future.

To respond to its objectives, the ToR formulate three questions pertaining to the existence and application of a protection framework. HERE has detailed the three key questions and related them to standard evaluation criteria in a matrix. The matrix also notes the applicable reference materials and data collection methods.

The analytical framework for addressing the research questions is particularly, but not only, found in the Sphere Protection Principles.<sup>9</sup> The four Sphere Protection Principles, which are a general benchmark for everyone involved in humanitarian action, are a practical translation of the legal principles and rights spelled out in the Sphere Humanitarian Charter, which, in turn, is grounded in human rights law, international humanitarian law, and refugee law. To be guided by the Protection Principles involves “understanding the context and taking steps to prevent, limit or end violations and risks to people’s safety”.<sup>10</sup> The ToR place a particular emphasis on Sphere Protection Principles 1 (*avoid exposing people to further harm as a result of your actions*) and 3 (*protect people from physical and psychological harm arising from violence and coercion*).<sup>11</sup> Sphere Protection Principle 1 sets the bottom line. Humanitarian organisations and their staff should not make the situation worse for the affected population in terms of their practices. Sphere Protection Principle 3 focuses on assisting people to recover from the physical and psychological effects of violence or coercion.

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<sup>9</sup> This evaluation uses the wording of the 2011 edition of the four protection principles, while keeping in mind the evolution in thinking in relation to the new formulations that can be found in the 2018 edition. Other standards and frameworks that have been taken into consideration are: the 2014 Core Humanitarian Standard (which is part of the 2018 edition of the Sphere Handbook); the 2018 (3<sup>rd</sup> edition) of the Professional Standards for Protection Work published by the ICRC; and the 1994 Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief. Evaluation criteria have been derived from the 1992 OECD/DAC criteria for International Development Evaluations. The 2018 ALNAP Guide on the Evaluation of Protection in Humanitarian Action has also informed the approach and methodology (Ian Christoplos, Niel Dillon, and Francesca Bonino, ‘Evaluation of Protection in Humanitarian Action’ (ALNAP, 2018).)

<sup>10</sup> ‘The Sphere Handbook’ (Sphere Association, 2018), 37.

<sup>11</sup> This is the language of the Sphere Protection Principles as laid down in the 2011 edition of the Handbook, which was the relevant edition when the ADH appeal was launched in 2017.

The ToR also refer in particular to having in place complaint mechanisms, but in the context of this review, a broader look at accountability to affected populations (AAP) is called for. For example, many organisations have recruited volunteers from the refugee communities who function as outreach workers or messengers. The evaluation examines this engagement and the role of these volunteers in protection-related work, if and when they were deployed by ADH MOs.

As part of this evaluation, and in line with the ToR, the Evaluation Team was also tasked to consider issues of “protection of staff”. And indeed, it appears relevant to ensure that international and in particular national staff of ADH MOs and their local partners in the country are supported and taken care off when they are faced with incidents of harm towards refugees, witness other protection violations and/or when employees experience difficulties themselves by supporting Rohingya refugees. This form of protection is however different from the protection offered to refugees as part of organisations’ humanitarian responsibilities. Instead, the protection afforded to staff can be seen to relate more to the ‘duty of care’.

Today, a large number of diverse actors are involved in protection work.<sup>12</sup> While this has the potential to improve the protection of those at risk of violations or other abuses, such as the Rohingya, it could be an issue that many activities today are labelled as protection as it may water down or dilute its meaning. Indeed, “[p]rotection defies neat labelling”,<sup>13</sup> being understood variously in terms of its strategic character (protection should underpin a humanitarian response as such), its operational character (protection is linked to a specific activity, or family of activities), or its advocacy character (protection is about reminding primary duty-bearers of their obligations and promoting complementarity). And indeed, there may clearly be instances where ‘protection’ is not mentioned as such, but where it plays an implicit role.<sup>14</sup>

Protection has further been understood from a broad perspective. Given that protection elements may be embedded or integrated in other activities, it is not the label of the activities that is important but their outcome: do activities sufficiently address risks or threats to which the Rohingya may be exposed?

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<sup>12</sup> ICRC, ‘Professional Standards for Protection Work Carried Out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence’ (ICRC, 2018).

<sup>13</sup> Julian Murray and Joseph Landry, ‘Placing Protection at the Centre of Humanitarian Action - Study on Protection Funding in Complex Humanitarian Emergencies’ (Global Protection Cluster, 2019), 4.

<sup>14</sup> For a discussion on this, see Christoplos, Dillon, and Bonino, ‘Evaluation of Protection in Humanitarian Action’ Chap. 3.

## 2.3 Methods

This evaluation has been carried out by a team made up of two international researchers (Ed Schenkenberg and Karin Wendt), and a national researcher (Sahjabin Kabir). In line with the learning objective of this evaluation, HERE has taken a participatory approach throughout which the ADH Bonn office and the MOs have played an active consultative role. Kick-off meetings were held both in Bonn and in Cox's Bazar, and towards the end of the field data collection phase a workshop with field-based staff of ADH MOs to further discuss key protection challenges and share impressions.

Primary data was collected between 11 and 22 February 2019 through direct observation in the refugee camps in Cox's Bazar,<sup>15</sup> as well as through semi-structured interviews with key informants (KIs), both at headquarters (HQ) level in Germany, and at field level in Bangladesh.

Key informants included staff and volunteers from the ADH MOs and their local partners; representatives from protection-mandated UN agencies (the UNHCR senior protection officer); other non-governmental organisations (NGOs) which have a protection focus (DRC, Oxfam, CRS, NRC), as well as two Sub-Majhis<sup>16</sup> at the Kutupalong Balukhali Expansion Site (see the map in Annex 3). The Evaluation Team leader also assisted in a meeting of the Protection Working Group<sup>17</sup> in Cox's Bazar. Given the sensitivity of protection in the Rohingya context, the decision was taken not to interview Bangladeshi authorities, but the Evaluation Team did assist in meetings involving so-called Camps-in-Charge (CiCs), i.e. government appointed officials responsible for camp management in Cox's Bazar. It should be noted that in view of the purpose of the evaluation, the interviews did not follow a systematic questionnaire approach, but were shaped as dynamic conversations in which the interviewees were asked to dig deeper into certain issues related to their specific roles and responsibilities.

To gather the views of affected populations eight focus group discussions (FGD) with affected people were also carried out in four different camps in Cox's Bazar.<sup>18</sup>

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<sup>15</sup> The Evaluation Team visited activities and spoke to staff and volunteers in camps 12 and 13 (at Kutupalong Balukhali Expansion Site), and 16 (Bagghona / Potibonia) with CARE staff, camp 15 (Jamtoli) with CDD staff (the implementing partner of ASB), and camp 18 (also at Kutupalong Balukhali Expansion Site) with World Vision staff. Focus Group Discussions were also carried out in Camp 4 Extension.

<sup>16</sup> The Majhis are unelected refugee leaders. UNHCR's aim is to gradually abolish this inherently undemocratic system in favour of refugee committees, but the Majhi system was still in place in all camps visited by the Evaluation Team. For further discussion on this, see sections 3 and 4.2 below.

<sup>17</sup> As this is a refugee situation, there are no clusters.

<sup>18</sup> Two focus group discussions were held each in Camps 13, 4 Extension, and Camp 18 (Kutupalong Balukhali Expansion Site), and Camp 15 (Jamtoli).

It should be noted that in view of avoiding ineffective and counter-productive direct engagement with affected people, discussions were organised through already active communication channels that ADH members and implementing partners had put in place in order to communicate and consult with affected people, and on a door-to-door basis. This choice was made for two main reasons. First, in recent weeks and days, observations were made of increased tensions and protection risks involved in talking about the role of women and in involving them in outreach activities. Second, since the beginning of the response, numerous FGDs with the refugees have been held by many agencies. The phenomenon of over-assessing the situation of affected people without further follow-up/benefit or feedback from the side of agencies is a well-known (ethical) issue in crisis-settings.

The body of primary data has been triangulated with the findings from a systematic text analysis based on documentation identified through a desk review and provided directly by ADH and its MOs.

## 2.4 Challenges and Strengths

This evaluation is primarily intended to focus on the projects implemented by the MOs under the ADH appeal. While this makes sense in terms of ADH's purpose and objectives, if the evaluation would only have looked at ADH-funded projects it might have provided a limited picture. Protection policies are frequently not specific to certain projects but are organisation-wide. While the Evaluation Team has therefore focused primarily on the activities implemented under the ADH appeal, the wider activities of the MOs in question have also been borne in mind where necessary to complement findings and gather a full picture of the extent to which they consider the Sphere Protection Principles in their work.

Related to the first point, protection is a large topic, with significant ambitions – it goes beyond the delivery of practical humanitarian activities. It both has a strategic character as it is expected to underpin all other activities and operational relevance when it looks at priorities, such as prevention from trafficking or SGBV or providing children with safety and security. Refugee protection even adds another dimension given the international legal framework in which it takes place. In order to understand the broader protection context, and to complement the findings from the relatively limited number of organisations participating in the evaluation, the Evaluation Team contacted several agencies that have a protection mandate or specific refugee protection activities, but that do not receive ADH funding.

### 3 The Protection Environment in Cox's Bazar

To appropriately contextualise the protection work of the MOs, it is important to first describe the overall environment in which they operate and to highlight some of its specific characteristics. As noted in the introduction, the August 2017 saw the largest and fastest influx of Rohingya refugees in Bangladesh, but it was not the first. Most of the earlier waves of Rohingya refugees ended with an episode of return. Since the returns in the period 1993-95, a group of some 20,000 to 30,000 formally recognised refugees stayed behind in Cox's Bazar. In the following years and decades, it has been estimated that in addition to these refugees an additional 200,000 to 300,000 Rohingya were present in the country, many of them as illegal migrant workers.

The approach of the government of Bangladesh towards the Rohingya has always been restrictive.<sup>19</sup> The formally recognised refugees received services by a limited number of organisations working in the camps, but the overall majority of Rohingya did not enjoy any rights in Bangladesh.

While Bangladesh has been extremely generous in keeping its borders open to the Rohingya for the most part during this latest crisis, its approach to the refugees in terms of providing services has remained as restrictive as in the past. For example – overwhelmed by the numbers and pace of the refugees arriving – the government kept all sorts of bureaucratic procedures in place. Notably, there were lengthy approval periods for requests of NGOs, including MOs, to set up activities following the start of the influx on 25 August 2017. Furthermore, essential activities related to education, livelihoods, and refugee rights were initially not authorised at all. The quality of materials distributed to the refugees for shelter or sanitation facilities was kept extremely low. The government decided that the crisis would be a temporary one, suggesting that the Rohingya should return to Myanmar as soon as possible. The government has repeatedly acknowledged the right of the Rohingya to return voluntarily, but it has also started preparations for their return several times, including the conclusion of a Memorandum of Understanding with Myanmar as early as November 2017.<sup>20</sup>

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<sup>19</sup> Esther Kiragu, Angela Li Rosi, and Tim Morris, 'States of Denial. A Review of UNHCR's Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh' (UNHCR, 2011).

<sup>20</sup> See the 'Arrangement on Return of Displaced Persons from Rakhine State' signed by the Union Minister for the Office of the State Counsellor of Myanmar and the Foreign Minister of Bangladesh on 23 November 2017, available at [http://www.theindependentbd.com/assets/images/banner/linked\\_file/20171125094240.pdf](http://www.theindependentbd.com/assets/images/banner/linked_file/20171125094240.pdf). See

The government of Bangladesh has also been working on the relocation of up to 100,000 Rohingya refugees. During 2018, it presented plans to the UN agencies to move this number of people to Bhasan Char, a flood-prone silt island which emerged in the Bay of Bengal some 15 years ago.<sup>21</sup>

A further complicating factor is that Bangladesh is not a signatory to the 1951 Convention relating to the Status of Refugees, the international treaty that guarantees the rights of refugees. The Bangladeshi government has also refused to refer to the Rohingya as refugees, using instead the term of “forcibly displaced Myanmar nationals”. That is not to say that Bangladesh does not have any obligations to the refugees under international law. As representatives of the MOs in Cox’s Bazar recognised, while a government can close its borders, it is under the obligation to prevent forced returns of people to a country where their live is in danger.<sup>22</sup>

The restrictions imposed by the government are also seen in the context of the coordination of the response to the Rohingya. Internationally, the United Nations High Commissioner for Refugees (UNHCR) is mandated to protect and assist refugees. The UN refugee agency has been present in Bangladesh for many years, but it was only allowed to address the needs of recognised refugees. In the initial months of the latest response, the government strongly preferred to work with the International Organisation for Migration (IOM) as it had done in previous years. IOM, in turn, was not keen to step aside for UNHCR to take over the coordination of the response, something that would however have been entirely appropriate given the refugee context and UNHCR’s protection mandate.

As a consequence, the Rohingya response has seen a makeshift coordination structure with shared responsibilities and unclear accountabilities. The structure involves clusters that are called sectors, and it includes dual or triple reporting lines to the two lead-agencies, IOM and UNHCR, and to the UN Resident Coordinator.

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also Oliver Holmes, ‘Myanmar Signs Pact with Bangladesh over Rohingya Repatriation’, *The Guardian*, 23 November 2017, <https://www.theguardian.com/world/2017/nov/23/myanmar-signs-pact-with-bangladesh-over-rohingya-repatriation>.

<sup>21</sup> See for example, Hannah Ellis-Petersen, ‘Footage Shows “Prison-Like Units” Built for Rohingya on Bangladesh Island’, *The Guardian*, 28 November 2018, <https://www.theguardian.com/world/2018/nov/29/footage-shows-prison-like-units-built-for-rohingya-on-bangladesh-island>.

<sup>22</sup> See UNHCR, ‘Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol’, 2007.

The multi-actor leadership has made it easy for the government to take a “divide and conquer” approach to the UN agencies, resulting in weak advocacy on critical protection needs. It is arguably not in IOM’s tradition to be critical of governments and in Bangladesh it has largely followed the government’s wishes.<sup>23</sup> At the same time, UNHCR’s position was initially too weak to make itself heard. Other UN agencies with large development programmes in Bangladesh were not much more outspoken, concerned as they were about the implications for their programmes were they to advocate strongly for the rights of the Rohingya refugees. The same is true for several of the international NGOs – including some of the MOs. Many of them have been present in Bangladesh for decades, but they have mostly worked on long-term developmental issues. In terms of their humanitarian role, they have focused on the response to natural disasters such as floods or typhoons or have worked on disaster risk reduction. These programmes and activities are usually implemented in full cooperation with various parts and levels of the government.<sup>24</sup>

During the Rohingya influx of 1991-92, a system was introduced whereby the Bangladesh Army elected male Rohingya leaders (so-called Majhis) to act as focal points. The system was abolished in 2007 due to reports of abuse of power, exploitation, and corruption,<sup>25</sup> only to be reintroduced in the current emergency. The Majhis act as unelected spokespersons for the Rohingya communities, meaning that the Rohingya have no opportunity to choose their own interlocutors with camp authorities. The remits of the Majhis also vary from camp to camp, and the lack of codified roles and responsibilities see some of them taking it upon themselves to mediate disputes and administer justice.<sup>26</sup>

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<sup>23</sup> For a discussion on the role and approach of IOM in migration politics and its relationship to state sovereignty, see Antoine Pécoud, ‘What Do We Know About the International Organization for Migration?’, *Journal of Ethnic and Migration Studies* 44, no. 10 (2018): 1621–38. In Bangladesh, until September 2017, when IOM was leading the coordination structure for the Rohingya refugees in Cox’s Bazar, it used the term “undocumented Myanmar nationals” (UMNs), in order not to follow the Government’s wishes. The decision for the UN to use the appropriate reference of refugees was taken following inter-agency consultations in September 2017. See UNICEF, ‘Evaluation of UNICEF’s Response to the Rohingya Refugee Crisis in Bangladesh’, 22–23.

<sup>24</sup> For a discussion on the capacities of humanitarian actors in the Rohingya response, see Caitlin Wake and John Bryant, ‘Capacity and Complementarity in the Rohingya Response in Bangladesh’ (Humanitarian Policy Group, 2018).

<sup>25</sup> For a discussion, see ACAPS and NPM Analysis Hub, ‘Rohingya Crisis. Governance and Community Participation’, *Thematic Report*, 2018.

<sup>26</sup> Alistair Boulton et al., ‘UNHCR Protection Support Mission, Cox’s Bazar, Bangladesh’ (UNHCR, 2018), 4. For a discussion on the Majhi system, see also Kiragu, Li Rosi, and Morris, ‘States of Denial. A Review of UNHCR’s Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh’.

There are talks between UNHCR and the government of Bangladesh to abandon the Majhi system in favour of a more representative community leadership approach, but no such change was seen in the camps visited by the Evaluation Team.

This evaluation took place at a time when the situation in the camps is more or less stabilised, and protection concerns that are relevant to such a context have emerged as well. One in particular is the alleged presence of extremist elements in the camps and possibly armed groups, such as the Arakan Army (AA) or the Arakan Rohingya Salvation Army (ARSA). To be clear, this evaluation did not look into these rumours, but in general, political or even armed activity in refugee camps is a well-known phenomenon and should as such not be excluded as a possibility in Bangladesh.<sup>27</sup> An overwhelming majority (97%) of Rohingya adolescents lack access to quality education and learning opportunities,<sup>28</sup> and male refugees are not allowed to be gainfully employed. Such circumstances are easily a breeding ground for extremism and/or armed opposition.

A critical aspect for the protection of the Rohingya is that they are not only refugees in Bangladesh, but they are also stateless. The Rohingya themselves are clear on the fact that they will not return to Myanmar unless they receive citizenship of the country, a message that members of the Evaluation Team also heard in conversations with refugees in the camps.

Traditionally, Myanmar has denied the Rohingya citizenship,<sup>29</sup> and in spite of international pressures and a highly authoritative report from the Advisory Commission on Rakhine State, better known as the Annan Commission, in 2017,<sup>30</sup> Myanmar has not taken any credible action to review the citizenship issue and to bring it in line with international standards. Reportedly, under influence of the Myanmar military, known as the Tatmadaw, the government has not taken action that would ensure respect for all other rights of the Rohingya in the future. The categorical refusal of the Myanmar authorities to recognise the rights of the Rohingya has made a lasting solution, especially that of voluntary return to their country of origin, ever more elusive. In the interim, it is essential that their protection be guaranteed in Bangladesh.

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<sup>27</sup> In 2002, UNHCR's Governing Body, the Executive Committee, has adopted Conclusion No. 94 (LIII), on maintaining the civilian character of asylum. See also Rosa da Costa, 'Maintaining the Civilian and Humanitarian Character of Asylum - Legal and Protection Policy Research Series' (UNHCR, 2004).

<sup>28</sup> '2019 Joint Response Plan for Rohingya Humanitarian Crisis - January - December', 11.

<sup>29</sup> The 1982 Burma Citizenship Act granted citizenship to ethnic Burmans and a range of minorities, but not the Rohingya, who differ from Myanmar's dominant Buddhist groups ethnically, linguistically, and religiously. See for a concise background, Council on Foreign Relations, <https://www.cfr.org/backgrounder/rohingya-crisis>.

<sup>30</sup> The Report of the Commission came out hours before the reported military attacks from ARSA on security personnel and their offices. See Kofi Annan Foundation, 'Advisory Commission on Rakhine State: Lessons Learned' (Kofi Annan Foundation, 2018).

## 4 Findings

The protection environment in Cox’s Bazar presents significant gaps, and as mentioned above, many concerns can be linked back to the government of Bangladesh’s insistence that the refugee situation is a temporary one. The resulting policies limit the kinds of services that can be delivered in the camps, and even violate the rights of refugees. It is clear that ADH’s MOs make up a very small number of the actors involved in this response, and operationally they can only do so much to address these concerns. Nonetheless, regardless of their specific mandate or scope of activities, their work should be guided by the four Sphere Protection Principles, and they have a role to play “to encourage and persuade the authorities to fulfil their responsibilities and, if they fail to do so, assist people in dealing with the consequences”.<sup>31</sup> How do ADH and MOs understand their responsibility in protection? To what extent do they work to strengthen the capacity, safety, dignity, and rights of the refugees and host communities, and avoid exposing them to harm? Do they raise protection related issues in coordination meetings and mechanisms in order to remind duty bearers of their responsibilities and promote complementarity?

This evaluation has shown that MOs do appear to consider the core protection principles as they design and implement their specific activities. Organisations tend to refer to protection relatively frequently, and there is a general awareness of a number of protection concerns, most notably the importance of doing no harm. However, MOs approach their protection work essentially from the point of view of the specific types of activities that they implement, tending to show insufficient awareness that overarching issues, such as registration or possible relocation, are key protection concerns. More specifically, it appears that MOs lack a clear understanding as to what their responsibilities are in relation to the specific character and aspects of refugee protection in Cox’s Bazar. The sections below will discuss these findings in more detail.

### 4.1 The Understanding of Protection Responsibilities

The Evaluation Team noted the positive and significant aspect that, generally speaking, ADH MOs do refer to ‘protection’ when they design and implement their activities for Rohingya refugees and surrounding communities in Bangladesh, albeit to differing degrees of formality.

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<sup>31</sup> Boulton et al., ‘UNHCR Protection Support Mission, Cox’s Bazar, Bangladesh’, 36.

Some of the MOs – typically the larger ones – frequently mention ‘protection’ both in applicable standards and mechanisms, and in project-related documents, and they have staff specifically dedicated to dealing with protection concerns. Others tend not to use the expression ‘protection’ as such in their project documentation. In fact, a representative from one such organisation even said that “we don’t really do protection”. Upon probing however, the Evaluation Team found that even these organisations did in fact also engage in certain protection-related practices and did take protection concerns into consideration – albeit less consciously.

### Protection or ‘duty of care’?

In interviews with representatives of several of the MOs, there was a pronounced tendency to mix the concepts of protection of beneficiaries with that of protection of staff, or ‘duty of care’ as referred to in this evaluation. In fact, the Evaluation Team found that interviewees variedly and without separating between them referred to protection in three ways. The first way in which they referred to protection is closely connected to the Sphere Protection Principles: the protection of beneficiaries in the sense of ensuring that they are not exposed to further harm as a result of the MOs action, and that they are protected from further violence and coercion resulting from the overall protection environment. Secondly, the Evaluation Team met with respondents who noted that protection refers to ensuring that beneficiaries and volunteers are kept safe from the abuse and exploitation on behalf of members of staff of the MOs.

And a third interpretation was given by those who discussed the protection of MO staff in the sense of ensuring that those who are confronted with protection concerns receive support and counselling (i.e. ‘duty of care’). On this latter point, while all MOs have Codes of Conduct for staff (including behaviour vis-à-vis beneficiaries) which have been circulated internally, few of them had specific mechanisms in place to support staff or volunteers who witness protection violations and/or who experience difficulties themselves by supporting Rohingya refugees. At the HQ level, some highlighted that counselling was offered. In regard to national staff in the camps who were involved in psycho-social counselling, it was argued that they were professionals, and as such did not require further support for themselves.

The Evaluation Team noted differences in regard to which policies, standards, and mechanisms that representatives of the MOs referred to at HQ and field level respectively.

While at HQ level, the Sphere Standards in general, and the Protection Principles in particular, are well known and frequently referred to – including as part of training material – they are very rarely mentioned at field level, especially by implementing staff in the camps. At field level, a majority of MO staff rather referred to technical guidance documents and standards – mostly internal, but also sometimes external – principally related to their area of activity. Very few staff members consulted in the camps could relate the contents of the core protection principles or said that they had received any training in this regard.

Humanitarian organisations have the responsibility to support and guide their employees in delivering on their protection responsibilities. For MOs working through local partners, this implies what these MOs have done to strengthen the understanding and capacity of their (local) partners in delivering on protection. One of the MOs supplied the Evaluation Team with evidence of training activities, specifically focusing on protection concerns. HQ staff from most of the MOs referred positively to ADH’s training on the Sphere standards. However, a majority of the staff that the Evaluation Team met with in the camps – both that of MOs and of their partners where applicable – explained that while they had received inductions regarding the codes of conduct of their respective organisations, they had not received specific training on protection. During the debriefing workshop in Cox’s Bazar, participants voiced their wishes for further training and highlighted that this was one of the outcomes of this evaluation that they would like to see.

## Protection and PSEA

When asked about how they understood their protection responsibility, a number of representatives of the MOs were generally quick to refer to the prevention of sexual abuse and exploitation (PSEA). This focus on PSEA can also be seen in the types of policies and standards MOs shared with the Evaluation Team.

Indeed, most of the organisations part of the evaluation shared staff codes of conduct, whistle-blowing, and child protection policies which are largely focused on corruption and PSEA, but rarely make a direct link to the wider definition of protection.

Questions on how effective aid agencies have been in PSEA appeared in the international spotlight in much of 2018.<sup>32</sup> There is no question that offering humanitarian services in exchange for sex is one of the starkest actions of aid workers that fundamentally contravenes the very goal and purpose of humanitarian action. While not underestimating the risks that

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<sup>32</sup> Dorothea Hilhorst, Asmita Naik, and Andrew Cunningham, ‘International Ombuds for Humanitarian and Development Aid Scoping Study’ (Erasmus University Rotterdam, 2018), [https://interagencystandingcommittee.org/system/files/2018\\_international\\_ombuds.pdf](https://interagencystandingcommittee.org/system/files/2018_international_ombuds.pdf).

may exist in the Rohingya refugee camps for incidents pertaining to sexual exploitation and abuse on behalf of NGO staff, the Evaluation Team found that the focus on PSEA appeared to confuse the staff of MOs as to the wider significance of the protection principles. This review finds that PSEA was overemphasised at the expense of other protection concerns that appeared as more prevalent. Indeed, while MOs referred strongly to PSEA when discussing their overall approach to protection, it should be noted that it was in fact not an issue that they raised as of particular concern in the Rohingya response. Instead, they recognised a variety of other concerns as particularly prevalent, including occurrences of sexual and gender-based violence (SGBV), intimate partner violence, and the lack of access to services in general, and to education in particular. In addition to these concerns, and as indicated in section 3 above, there are a range of protection concerns pertaining specifically to refugees which appear to be more of a priority, such as the uncertainties linked to registration, repatriation, and relocation, to name a few.<sup>33</sup> Other than the 2018 spotlight on PSEA, the confusion between PSEA and protection may also derive from the specifics of child protection. It is specifically in this protection sub-sector that PSEA has been given a lot of attention. While not wanting to reduce the significance of PSEA, the Evaluation Team is concerned that PSEA becomes synonymous for protection and, thereby will have a watering down effect. To avert this, the Evaluation Team suggests that ADH MOs keep a conceptual separation between PSEA policies and activities and those that implement their protection responsibilities in accordance with the Sphere Protection Principles.

## 4.2 The Delivery of Protection

When looking at the service delivery of the MOs, the Evaluation Team saw plenty of evidence of how MOs have incorporated protection aspects in their activities in Cox's Bazar. As will be discussed below, all MOs tended to have a clear understanding regarding the protection concerns that related to their specific service delivery. The degree to which the MOs had found practical solutions to reduce such concerns varied, however.

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<sup>33</sup> For further discussion on these issues, see section 4.3 below.

## Do no harm

There is generally a good understanding among MO staff that protection involves “doing no harm”. In this regard, a number of MO informants particularly raised the concern that female Rohingya volunteers working with NGOs have recently been subject to intimidations from Majhis and religious leaders in the camps.<sup>34</sup> Messages through loudspeakers have signalled that women should stay at home, and some volunteers have also received home-visits, threatening them into no longer volunteering with the NGOs. To be clear, these volunteers are outreach workers or messengers in relation to the activities of the respective organisation. The volunteers are in fact paid for their work and, in one case, the Evaluation Team saw an MO partner that had actually decided to refer to these Rohingya women not as volunteers but as staff. This is a bold step in view of the government’s policy not to allow refugees to take jobs, but one that serves well to clarify the responsibilities of the agency towards their outreach workers.

Most MO informants recognised that the threats against the female volunteers are highly sensitive, and they also saw them as a major protection concern. Some also explained that it has been raised in inter-agency forums. However, there were no clear standards among the MOs as to how they were dealing with it. A representative from one MO explained that when they had been confronted with such a case, they had asked the volunteer in question to stay at home for a few days, for her safety, and to allow for the matter to settle. Their volunteer was now back at work and had allegedly not had any further problems. Staff from other MOs could not readily explain how they had reacted when faced with cases of intimidation of their volunteers. The Evaluation Team spoke to a female volunteer for one of the MOs, who explained that the staff psychosocial counsellor had not been able to help her when she was facing intimidation.

Some MOs simply referred to camp management and the government officials who are present in the camps, known as “Camp-in-Charge” (CiC), to spread the message that such threats are not acceptable, without specifying any further action or follow-up. One MO noted that one CiC had told them not to recruit any volunteers. The Evaluation Team would therefore qualify the action that MOs have taken on the threats to women volunteers as insufficient until now. They have the duty of care towards staff, but it is unclear whether they see the female Rohingya outreach workers as employees.

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<sup>34</sup> It should be noted that this concern was not voiced in the focus group discussions carried out by the the Evaluation Team. Individual conversations did however reveal that it is a concern, but not one discussant felt comfortable sharing with the group.

The Evaluation Team sees the need for MOs to clarify their policies in this regard. Volunteers who receive some kind of a salary look a lot like employees, in spite of the government's position. If they are staff, clearly the organisations should do more to protect the outreach workers. However, even if organisations decide that there is a difference between their staff and these 'volunteers', they should do more to protect them. This is where the duty of care towards staff is replaced by the organisations' responsibility to protect.

To add to this, where necessary, MOs should also strengthen their understanding and positions of what gender-mainstreaming and women empowerment means in the Rohingya context. This is a community known for its conservative practices, which implies that promoting the role of women in society may create tensions. It implies that they should engage with Majihs and religious leaders in explaining their organisation's policies and practices towards women and gender. Those MOs who carried out programmes in Rakhine State and worked with Rohingya earlier may benefit from having that experience and have knowledge on how to best address these issues in this context. It should be noted that those MOs who have developmental backgrounds may have a vision and programmes on women empowerment, more than is perhaps relevant to a humanitarian context as the refugee camps.

When asked about how MOs work to avoid exposing beneficiaries to harm, relatively few of the informants could readily provide specific examples. It was particularly noteworthy that respondents implementing health-related activities took a rather basic medical approach to the do no harm principle by indicating that for them it means that services should be of a high quality so as to not induce further harm – examples in this regard particularly focused on inappropriate medication or rehabilitation tools which could lead to further health problems. Beyond these examples, which is not so much connected to protection as it is to basic good practices, respondents rarely made a direct link between observed protection concerns and potentially negative effects of their own service delivery. That said, the project documentation shared by the MOs includes various references to the necessity to include host communities among target groups, so as to ensure that activities do not trigger social tensions. The discussions with the MO staff also revealed a general recognition among them that in a conservative community such as that of the Rohingya, it is particularly important to treat both physical and psychosocial health related issues in the strictest confidentiality. A respondent from one MO also highlighted the concern that any referral for legal advice in regard to SGBV/SEA be done in a way that did not expose the patient/victim to any further risk of violence.

Indeed, in view of the social stigma connected to sexual and gender-based violence it is central that suspected cases of SGBV or sexual exploitation and abuse (SEA) among refugees are dealt with taking the utmost care. While all informants that the Evaluation Team met with recognised the significance of confidentiality in view of protecting the affected persons, it was less clear that all MOs ensured this in practice. The layout of the various health centres that the Evaluation Team visited did not always appear adequate for confidential discussions. Some privacy was given for consultations – albeit that the lack of space meant that consultation areas were only closed off by curtains – and there was specific seating for different categories of patients. However, the seating was all provided in the same open area, and consultation spaces were marked, making it clear who was going where and why. The Evaluation Team would have liked to have seen that consultation spaces were more private, and unmarked so as to ensure confidentiality, particularly in relation to psychosocial counselling. In view of assisting people to recover from the physical and psychological effects of trauma, humanitarian organisations should also have clear policies and procedures to guide staff how to make referrals to specialists, explaining also the confidentiality of the information. While the Evaluation Team noted that some of the MOs had such policies, staff members that the Evaluation Team talked to were in general not clear on how to refer cases for legal follow-up, or how to ensure that such referral did not result in further harm for the victim. The Evaluation Team would like to see that all staff is well oriented on local protection arrangements, including reporting around sexual and gender-based violence, taking into consideration the principle of do no harm.

## Access to Information

None of the participants in the focus groups discussions – across all locations – knew anything about their rights as refugees, and what these rights imply for them. This is of significant concern, since protection hinges on ensuring that the rights of affected persons and the obligations of duty bearers under international law are understood – not least by the beneficiaries themselves. Moreover, commitment 4 of the Core Humanitarian Standard (CHS) obliges agencies not only to share information and ensure that affected people can participate in decisions that affect them, but it also requires those who apply the CHS to inform affected people of their rights.

The Evaluation Team found little evidence that the MOs particularly endeavoured to provide beneficiaries with information beyond their own specific operational scope. MOs engage in house-visits, sessions, and focus group discussions through which they gather information on

refugees' needs, and/or inform them about the types of services they provide, but these activities do not consistently aim to inform refugees more generally as to their rights as refugees, or how they should proceed to claim them. It appeared to the Evaluation Team that this was largely due to the fact that MOs did not understand this to be within their protection responsibilities, focusing instead on their own specific area of intervention.<sup>35</sup> It is well understood that informing affected communities about their rights may not necessarily involve rights-language, but it does require a broader perspective than only providing information about the services that a particular agency provides. Issues such as refugee registration or repatriation are concern to all, Rohingya and MOs. To strengthen the capacity, safety, dignity, and rights of the refugees and host communities, the evaluation sees a need for more efforts on behalf of the MOs to provide information to the refugees beyond topics related to their own particular service delivery, and to inform refugees them of their wider rights, and of where to access the right services.

The Evaluation Team found one excellent example of how one MO is helping refugee women to claim their rights. Thanks to its long-term presence in Bangladesh and its focus on the position of women in society, this organisation cooperates with the Bangladesh National Women's Lawyers Association (BNWLA). The BNWLA works on issues related to violence and discrimination against women in Bangladeshi society. It is innovative thinking to have this association handle claims of Rohingya women. In fact, it is a perfect example of Sphere Protection Principle 4, "Helping people to claim their rights," and something that deserves replication.

In terms of gathering information and feedback from the refugees, the Evaluation Team heard from various sides that this is challenging. All MOs participating in the evaluation have attempted to set up complaints mechanisms, and there was an overall recognition that it is important to hear the voices of the refugees, but all recognised that it was very difficult in this context to ensure that the feedback loop is closed, i.e. both that refugees lodge any complaints that they would have, and that they receive feedback on how their complaints are dealt with. Not only is the Rohingya population largely illiterate, and there are few telephones – particularly among women – but there are also social barriers to coming forward with complaints. While some of the MOs appeared to find hotlines and complaints boxes as enough – whilst acknowledging that few complaints were received through these channels – others explained that they were trying to find alternative means to communicate with and receive feedback from refugees.

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<sup>35</sup> Some NGOs, such as the Norwegian Refugee Council, have specific programmes to support refugees in claiming their rights, see: <https://www.nrc.no/what-we-do/activities-in-the-field/icla/>

One MO is using complaints boxes with smiley faces on them, to get around the problem of illiteracy. Some MOs are also implementing a more proactive approach, with staff going door-to-door visits to ask whether there are complaints or organising FGDs. One MO informant explained that even through these means, it is difficult to obtain feedback, as the Rohingya are not used to receiving services and being able to complain. And indeed, the focus group discussions carried out by the Evaluation Team all showed that few refugees know that they *can* bring a concern to NGOs. Moreover, those that know that they can complain prefer not to as they fear negative consequences if they contact NGOs. Many focus group discussants explained that they would perhaps approach an NGO with complaints regarding basic needs – to receive food and fuel – but that for anything related to safety and security, they would tell their closest family, or perhaps the Majhi. Most women argued that although they did not like the Majhi system, they felt more comfortable approaching them as they are also Rohingya.

A number of the MOs have created safe spaces for women and children, and one organisation has also set up a series of community kitchens which have *de facto* become safe spaces for women to discuss concerns and exchange with staff. The Evaluation Team heard both from respondents from MOs and from a group of Rohingya women in one of the women friendly spaces that such initiatives are greatly appreciated, not least because it allows for refugees to voice concerns regarding safety and security. Beyond these valuable spaces, the Evaluation Team saw little evidence of mechanisms through which beneficiaries safely can raise protection concerns.

The Evaluation Team finds that MOs need to be more pro-active in terms of ensuring that refugees feel safe to raise concerns about safety and security without fear of reprisals. Such a safe environment requires safe space, which not only could be women's friendly spaces, but also health clinics or nutritional centres. In essence, MOs need to be more creative in creating trust with the Rohingya through their engagement with them.

## Access to Assistance

Humanitarian actors should identify obstacles to accessing assistance and take steps to ensure that such assistance is provided based on needs and without discrimination. The focus group discussions carried out by the Evaluation Team indicated that overall accessibility to services is a major protection concern in the camps. Discussants explained that access for the elderly and people with disabilities remains largely insufficient. They also explained that it was unclear to them how the locations for services were chosen – in some areas, there are several

health centres next to each other, and in others, none at all. Discussants also found that women friendly spaces and learning centres are unequally distributed in the camps; those fortunate enough to live close to one said they would attend, but the majority of the women the Evaluation Team met with explained that it was not possible for them to go to these spaces, particularly if they had big families to care for.

In regard to access to health services, both male and female discussants said there were permanently long waiting lines, and that they felt that the services rendered were generally of low quality. Concerning psychosocial counselling, discussants were even completely unaware of the possibility and benefits of receiving such support.

The MOs all demonstrated that they had undertaken efforts to ensure beneficiaries would access the services they provide. One of the MOs specifically works with disability issues, and this organisation was particularly insisting on the importance of access to services for all groups when asked about its understanding of protection. This organisation's work ranges from ensuring the existence of adapted health facilities and toilets in the camps, to providing home-based rehabilitation services and advocacy work with authorities. The Evaluation Team was particularly happy to note that this MO was providing training for other organisations – among them IOM – on how to ensure access for people with disabilities. The Evaluation Team also spoke to volunteers in the camp, working for various MOs, who endeavoured to go door to door to explain the availability of services and – if required – help bring beneficiaries to health centres and service points. These efforts are all significant in view of the second protection principle.

In the health centres of the MOs that the Evaluation Team visited, there were specific waiting lines for different categories of patients (pregnant women, adolescent girls, etc.) and a system for triage to ensure urgent cases were appropriately taken care of. A general physician that the Evaluation Team spoke to explained however that he would meet with more than one hundred patients a day. Similarly, an occupational therapist explained that she would have as many as twenty patients per day, and that it was extremely difficult for her to ensure the follow-up required for these kinds of treatments. Clearly, the generally high demand for services in the camps puts high pressure on the available centres. MO representatives also recognised that it was a problem that the health centres generally close in the early afternoon, when non-Rohingya staff tend to leave the camps. This situation leads to several protection concerns, as not only does it limit the possibility of access to services for refugees, but it also has a significant impact on the security in the camps. One respondent explained that there had been discussions on having their health centre open 24/7, but that it had been decided that this was not possible from the point of view of the safety of staff at night.

While the Evaluation Team understands that the duty of care involves ensuring that staff safety is guaranteed, it would appear that protection concerns should inspire organisations to ensure that both staff *and* beneficiaries are safe in the camps at all times.

And indeed, staff presence in the camps at night could in fact improve the safety there. When asked about this possibility however, the Evaluation Team noted a large degree of self-censorship, with several MO informants simply explaining that the government of Bangladesh did not approve such a presence.<sup>36</sup> Such rejections, however, are not a reason to stop asking for more presence in the camps, including for after dark. They should be a reason to push harder.

## Safety and Governance in the Camps

It was clear from the focus group discussions that safety remains a major protection concern in the camps. Particularly women are afraid to leave their homes to use latrines at night, and there are reports of trafficking, especially in the camps on the outskirts of the settlements. Focus group discussants also emphasised that collecting firewood remains a risky endeavour, due to attacks by host communities. While several of the MO representatives that the Evaluation Team spoke to recognised the lack of safety in the camps as protection related, there was an overall tendency to approach them as an external issue beyond their particular operational approach. Indeed, with the notable exception of projects to install solar lights in the camps, the Evaluation Team found that the MOs engaged relatively little in the question of the safety of the refugees.

The provision of fuel alternatives that reduce the need to collect firewood in dangerous environments is given as a key example in the Sphere handbook for humanitarian assistance in view of the first protection principle.<sup>37</sup> Moreover, cooking with firewood in shelters made with plastic sheeting carries risks of respiratory diseases, and fire hazards. Not to mention the massive deforestation still taking place. Discussions with UNHCR indicated that it was not before several months into 2018 that the government agreed to the distribution of LPG gas

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<sup>36</sup> The issue of self-censorship was included in the extensive research by Liam Mahoney, an expert on protection, who looked especially at the way in which humanitarian agencies in Myanmar had led themselves be manipulated. This is documented in a report titled: “Time to Break Old Habits” (Liam Mahony, Fieldview Solutions, 2018). The Cox’s Bazar NGO Platform invited Liam Mahoney in December 2018 to present his views on the practices of agencies in Myanmar and to discuss the issue of self-censorship on the Bangladesh side. His Note submitted to the NGO Platform includes the comment that in his view fears and inhibitions in relation to Government reprisals are often exaggerated. See Liam Mahony, ‘Report to Bangladesh Rohingya Response NGO Platform’ (Fieldview Solutions, 2019).

<sup>37</sup> ‘The Sphere Handbook’, 39.

cylinders. Even though this was a decision that came extremely late, there is no excuse that not all homes have not received LPG-fuelled gas stoves by now. From several tours through the camps, it was clear to the Evaluation Team that many are still using firewood, and that the state of the distribution of gas stoves and cylinders is uneven to say the least. Nevertheless, none of the MO representatives that the Evaluation Team met with raised this as a particular protection concern, which suggests they see it as an issue beyond their remit.

Similarly, none of the MOs gave any specific evidence of activities aiming to enhance the safety and mobility in the camps after dark. In the autumn of 2018, curfews were introduced, and the government of Bangladesh also launched a joint patrolling initiative across all camps, including police, Border Guards Bangladesh (BGB), the Rapid Action Battalion (RAB), the Bangladesh Army, and the paramilitary auxiliary force Ansar. There are also community-led watch groups that are active in the camp at night. The focus group discussions carried out by HERE highlighted that the watch groups in particular are welcomed by both men and women in the camp. There are however questions as to who is part of these watch groups and how their members have been selected. There is apparently no screening involved, and it appears that anyone who volunteers for the night watch can take part in it, raising questions as to whether these groups should be relied on when it comes to safety at night. As mentioned above, MOs tend to discard the possibility of staff presence in the camps at night, and the status quo appears to be taken for granted. This clearly limits the extent to which the first protection principle is considered in the work of the MOs.

Lastly, the Majhi system that is still in place in most camps carries a significant protection risk. Not only is it an unaccountable and unrepresentative system, but protection actors and refugees have also expressed concerns regarding Majhi involvement in extortion, diversion of aid, exploitation, and human trafficking.<sup>38</sup> All MO representatives with whom the Evaluation Team spoke recognised the negative implications of the Majhi system, but they did not spontaneously raise it as a significant protection concern from the point of view of their operations. In 2018 UNHCR in Bangladesh put forward suggestions for a community focused camp governance model - inclusive of women and youth - which has been endorsed by the Refugee Relief and Repatriation Commissioner (RRRC). The Evaluation Team would like to see MOs actively engaging for elections to be held using this model, in view of avoiding the Majhi system's negative implications on protection.

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<sup>38</sup> Boulton et al., 'UNHCR Protection Support Mission, Cox's Bazar, Bangladesh'. See also Kiragu, Li Rosi, and Morris, 'States of Denial. A Review of UNHCR's Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh'. and UNHCR, 'Bangladesh: Analysis of Gaps in the Protection of Rohingya Refugees', 2007, <https://www.unhcr.org/46fa1af32.pdf>.

### 4.3 The Specific Character of Refugee Protection

It is clear from the research on the ground, and from the document analysis, that the way in which the MOs approach their protection work is largely connected to their specific operational focus, and the types of activities that they carry out. For example, the MO focusing particularly on disability issues emphasised the issue of access to services for people with disabilities. Similarly, the MOs involved in activities particularly geared towards women and children focused on responding to GBV-related protection concerns, insisting on the importance of providing safe spaces to protect women and children, and working with religious leaders to help spread the message that domestic violence and assault should not happen. While MOs thus appear to take protection principles into consideration to a relatively large extent as regards their own service delivery, there is a tendency to by-pass certain protection concerns that go beyond their immediate operational activities. This tendency can largely be explained by the fact that the MOs do not necessarily frame their protection responsibilities in terms of the specific characteristics of a refugee response.

To add to this, none of the MOs undertake protection monitoring, while at least one of them has taken the responsibility of camp management. It should be noted in this regard that the MO involved in camp management explained that this task was particularly chosen as it was an opportunity to assure integrated programming, and to better influence all actors to ensure that their target groups are protected. But the responsibility of camp management fits extremely well with protection monitoring.

Protection monitoring involves observing, witnessing, and analysing the protection environment in the camps and the context in general. This protection monitoring analysis can be shared with those who have the mandate, such as UNHCR, and/or published in reports. The Evaluation Team spoke with a few NGOs, non-ADH members, who do undertake protection monitoring and who noted that there is not enough monitoring capacity among the organisations working in the camps. There is also a fear among NGOs for engaging in protection monitoring as the government may not appreciate such data and analysis to be circulated. In turn, NGOs become risk-averse. The Evaluation Team wishes to note in this context that protection inevitably involves raising sensitive issues. One could go as far to point to the saying 'if you cannot stand the heat stay out of the kitchen.' Protection requires a commitment to demonstrate courage.

## Registration

A particularly significant protection concern identified by the Evaluation Team is that of the ongoing process of the verification of refugee registration. Registration is not only important to ensure that the population in the camps receives adequate amounts of food and other assistance or to keep accurate records of births and deaths in the camps. It is a crucial step to protect refugees and to work towards durable solutions.<sup>39</sup> Since the August 2017 mass exodus there have been several efforts to register the Rohingya, especially by the government and UNHCR. Unfortunately, as the initial efforts were incomplete, UNHCR has since mid-2018 engaged in a verification exercise, a re-registration. This process has faced many challenges, however. The Evaluation Team noted a significant disparity of views between UNHCR and NGOs on the roll-out of the process – many of which can be attributed to a lack of consultations and miscommunications – heavily impacting on the relationship between UNHCR and the NGOs.<sup>40</sup> The Evaluation Team assisted in a protection working group meeting where UNHCR tried to rectify earlier shortcomings in information-sharing by giving an extensive and detailed presentation of the (re-)registration process.

But it is not only the lack of information on the re-registration among NGOs that is a cause for concern. Levels of information among the refugees on the process are said to be very low, something that has been confirmed by the focus group discussions undertaken by the Evaluation Team. This is a reason for concern, as registration is the cornerstone of refugee protection. Issues that are risks for a flawed registration will impact on the safety and security of the Rohingya. First, there must be transparency and clarity as to the purposes for which the personal data of the refugees will be used. This data and information is highly sensitive, not to mention political. Not only the government of Bangladesh will want to know the identity of those on its territory, the government of Myanmar will have a keen interest too, especially as it claims that elements of the armed opposition are among the refugees. Secondly, criminal or extremist elements in the camps may not want to be registered. These people are unlikely to make themselves known to UNHCR and/or to government authorities. Efforts to register everyone are, therefore, likely to create some tensions in certain situations. This potential for unrest must be addressed beforehand. Third, as registration should be voluntary, it is very likely that the Rohingya will only accept to be registered (again) if they receive proof of their ethnic background, i.e. Rohingya.

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<sup>39</sup> A pillar of refugee protection, durable solutions refer to one of three long-term solutions to displacement: voluntary repatriation, integration in the country of asylum, or resettlement to a third country.

<sup>40</sup> For a discussion on this, see UNHCR, 'Independent Evaluation of UNHCR's Emergency Response to the Rohingya Refugees in Bangladesh - August 2017-September 2018'.

This is a complicated issue as well, as national identity cards should not refer to ethnicity in view of preventing discrimination. Nonetheless, it is a significant issue for the Rohingya who have for decades been denied a formal reference to their minority in Myanmar. The solution that UNHCR has found and shared in its presentation that it will not only issue a new identity card, but also a sort of family document that provides further details on family members, the town of origin in Myanmar,<sup>41</sup> and a Rohingya reference.

The Evaluation Team found that overall, the MOs tended not to recognise the significance of refugee registration for the refugees' protection, leading to a lack of engagement in advocacy in regard to this issue as well as clear messaging to the refugees themselves.

### Relocation and/or Repatriation

As mentioned above, there are talks of relocation of a large number of refugees to the silt Island of Bhasan Char. Putting refugees on an island may not only be a significant infringement of the refugees' right of the freedom of movement, but it would also severely limit livelihood opportunities. It is true that the current camps face extreme congestion, leading to possible negative consequences such as the risk of quickly spreading fires or household violence as people may be bored, stressed, and traumatised because of the lack of future perspectives. But presenting an island as a relocation solution to create more space is cause for equal concern. In raising this issue with MO representatives, several of them noted that this was a matter for their senior leadership. Asked if humanitarian agencies should follow the refugees should they be relocated to the island, possibly against their will, the representatives answered that they thought that the principle of humanity requires them to do so. In response, the Evaluation Team explained that on the basis of humanitarian principles, it is up to each humanitarian agency to decide how it understands the situation. Can it best protect the refugees by being there with them on the island or should it stay away and object as it feels that this government's decision is too much an infringement of the refugees' freedom of movement?

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<sup>41</sup> The name of the village or town of origin will be highly important as, reportedly, the Tatmadaw and paramilitary groups have flattened and wiped out a range of Rohingya villages in their retaliation of the ARSA attacks of 25 August 2017.

In October 2018, the governments of Bangladesh and Myanmar also announced that repatriation would start on 15 November 2018.<sup>42</sup> The Evaluation Team heard that the days leading up to this date bore witness to confusion surrounding the repatriation, both among humanitarian actors and the refugees themselves. UNHCR requested that NGOs wait for a uniform message to communicate with the Rohingyas, and that they refer refugee requests to UNHCR staff in the camps in the meantime. The Evaluation Team heard from NGO representatives in the protection working group that refugees who were referred to UNHCR staff did not receive any further clarity as to the repatriation process.

The proposed relocation and possible repatriations to Myanmar have undoubtedly created a climate of fear in the camps. Conditions for relocation or return do not appear fulfilled at this point, and until independent and verifiable information indicates that they are, talks of such solutions stoke anxiety among refugees and contribute to a distrust of aid agencies and government actors. The result is a negative impact on the refugees' safety, rights, and dignity. The MO representatives that the Evaluation Team spoke to deplored the lack of clarity, highlighting that they were receiving multiple questions from refugees which they could not answer. Only one MO stated that they had decided that all their staff should give the consistent reply that in accordance with international refugee law, any return would have to be voluntary.

As regards to the responsibility of MOs to enhance people's dignity, the Evaluation Team noted that some of the MOs have engaged in advocacy on the issue of voluntary repatriation, signing a joint statement expressing deep concern on dangerous and premature returns, in November 2018. This appears as particularly significant for one of the MOs, which argued that they would normally not engage in advocacy, but that the context in this case was such that it demanded such action in this case. Clearly, in the context of protection, such a step is good news.

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<sup>42</sup> Refugees were told that up to 150 refugees per day would be taken by bus to a transit camp on the Bangladesh side of the border, from where they would be handed over to the Myanmar authorities and taken to a registration centre in northern Rakhine State. On 15 November, five buses arrived in Camp 22, and refugees were told to gather in front of the CiC offices. The Refugee Relief and Repatriation Commissioner (RRRC) explained to the refugees that anyone who wanted to could return to Myanmar on the buses. In the presence of a large national and international media attendance, the refugees indicated their opposition to return, and by the end of the afternoon, the buses left empty. Since these events, there have been no further concrete attempts to repatriate refugees. The Government of Bangladesh has, however, formally announced in the UN Security Council that it cannot receive more refugees, see: UN Security Council, 8477<sup>th</sup> meeting, SC/13727, 28 February 2019. <https://www.un.org/press/en/2019/sc13727.doc.htm>

## Coordination and Advocacy

No humanitarian organisation can address protection concerns single-handedly. It will need to work with others, including the duty bearers, i.e. the government or mandated agencies, such as UNHCR. The Evaluation Team found that the MOs covered their responsibility to raise protection concerns with coordination mechanisms to varying degrees. Each camp has a protection focal point, and MO representatives often explained that they would simply refer instances of protection concerns that they had seen to this focal point without necessarily doing any further follow-up. A minority of the MOs were active in the UNHCR-led protection working group, and not all of the informants were aware of the issues that were discussed in this forum. In terms of sharing of practices, MOs highlighted that they would share lessons learned essentially within their organisation – for example with colleagues working in other countries during regional meetings. MOs also highlighted that protection concerns were discussed in sector meetings but acknowledged that there was little exchange as to specific practices.

In a complex environment, in which the rights of affected populations are at risk or are being violated, humanitarian action in general, and protection activities in particular, may involve pushing back on restrictions from the government. Such push-back can take the form of silent diplomacy or public advocacy. With the exception of the above-mentioned joint statement on premature repatriation, the Evaluation Team saw too few efforts among the MOs to engage – individually or collectively – in advocacy to promote the rights of refugees. Protection includes advocacy and it makes sense that for those MOs for whom this is new territory to do this in collaboration with other NGOs. But there is one issue to keep in mind especially for those that are more experienced in advocacy. Joint NGO letters are usually not the strongest in terms of their contents. In Cox's Bazar, the NGO Platform is composed of international and Bangladeshi NGOs. While this could be seen as good practice, local NGOs may not be as strong in their advocacy towards the government as their international colleagues. The Evaluation Team came across one MO which had identified the need for a specific advocacy position, but then decided not to put in place such capacity for the time being. Asked for clarification on this, a senior MO staff explained that “we have not done any specific advocacy ourselves as this is a very sensitive issue and we want to maintain our good relationship with the government”.

Another MO has allocated significant resources to carry out advocacy on the Rohingya situation, but even this organisation explained that such advocacy had to be carried out in a careful manner so as to not endanger longer-term activities in Bangladesh.

It is clear that the government of Bangladesh takes an active stance towards controlling the activities of humanitarian organisations, leading to certain conditions in the camps which make it difficult to ensure adequate refugee protection.

Generally, the Evaluation Team finds that NGOs – including ADH MOs – can demonstrate a stronger willingness and ability to advocate with the Bangladeshi government on issues such as legal status, transparency in the registration process, and access to livelihoods, and education.<sup>43</sup> Indeed, perhaps the fact that organisations have ongoing development projects in Bangladesh should not be the cause for self-censorship, but should in fact be seen as leverage. Given their many years of experience in engaging with the government, they will have the channels and relationships to raise sensitive issues.

## 5 Concluding Remarks

To the extent of their own specific activities, ADH MOs take Sphere Protection Principles into consideration and have incorporated protection aspects in their work in Cox's Bazar. That said, what they refer to as protection can generally be described as good humanitarian practice, and they confuse protection with priorities such as PSEA. In several cases, MOs engage in specific protection activities, and they are involved in advocacy on the importance of voluntary repatriation with other NGOs. The Evaluation Team, however, suggests that the MOs go one step further to contribute to the protection of the Rohingya. They need to realise that protection as an overarching concern has implications for their programming and relevance to them as a humanitarian organisation. A humanitarian approach requires organisations to think holistically and to understand the safety and well-being of affected people in their environment. This, for example, implies that MOs also have an eye for issues such as the replacement of firewood as fuel for cooking, the risks of trafficking, or safety at night.

More specifically, and not limited to the ADH MOs, the Evaluation Team saw insufficient attention given to the specific character and aspects of refugee protection. In this light, the Evaluation Team found that MOs could do more in terms of integrating these aspects in their programming, which might extend, for example, to engaging on the issue of refugee registration, protection monitoring, or emphasising the rights of refugees in their advocacy.

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<sup>43</sup> For a discussion on this, see also Liam Mahony, 'Time to Break Old Habits: Shifting from Complicity to Protection of the Rohingya in Myanmar' (Fieldview Solutions, 2018).

Generally, there is a risk that NGOs apply too much self-censorship in relation to upholding the rights of refugees.

The Rohingya refugee response is a relatively rare, recent example of a classic refugee situation but without all the tools and expertise in place on how to address such a refugee crisis. While there were Rohingya refugees in Bangladesh before August 2017, none of the MOs worked with refugees in Bangladesh before. Humanitarian action in the country mostly involved the prevention of, response to natural disasters.

As a result, many of the MOs' and their partners' staff were not necessarily familiar with all the principles and standard practices of humanitarian action, especially refugee responses. More in general, most of today's global responses to refugees are in mixed situations which also involve Internally Displaced Persons (IDPs) or migrants, in which different ways of working of humanitarian community have been seen. This latter point is also to say that the Evaluation Team saw that the international leadership and coordination of the Rohingya refugee response is still evolving. As the protection environment of the Rohingya refugees requires strengthening, ADH MOs are advised to engage in ongoing inter-agency discussions and to advocate for a type of leadership that best guarantees that the rights of refugees will be secured.

## 5.1 Best practices

### Good Practice Examples

- ADH MOs do refer to ‘protection’ when they design and implement their activities for Rohingya refugees and surrounding communities in Bangladesh, albeit more or less explicitly.
- ADH’s training on protection in the context of the SPHERE Handbook is well known and appreciated at the HQ level of MOs.
- ADH MOs have policies in place that cover codes of conduct, whistle-blowing, and child protection, which take the prevention of sexual abuse and exploitation into serious consideration.
- There is generally a good understanding among MO staff that protection involves “doing no harm”, including the necessity to target also host communities so as to ensure that activities do not trigger social tensions, and to treat both physical and psychosocial health related issues in the strictest confidentiality.
- MOs engage in house-visits, sessions, and focus group discussions through which they gather information on refugees’ needs, and/or inform them about the types of services they provide. These activities can be favourably used to also inform refugees about their rights.
- One MO is helping refugee women to claim their rights in cooperation with the Bangladesh National Women’s Lawyers Association (BNWLA). This is a perfect example of Sphere Protection Principle 4, “Helping people to claim their rights,” and something that deserves replication.
- The MOs all demonstrated that they had undertaken efforts to ensure beneficiaries would access the services they provide. The Evaluation Team was particularly happy to note that the partner of one MO is providing training for other organisations – among them IOM – on how to ensure access for people with disabilities.
- With regard to the issue of repatriation, one MO informed all their staff that they should give the consistent reply that in accordance with international refugee law, any return would have to be voluntary. Such attempts at consistent information are welcome and should be replicated, ideally at a greater scale than within one organisation.
- Many of the MOs engage, through the NGO platform, in joint advocacy that seeks to uphold the rights of the Rohingya, such as the principle of voluntary repatriation. They signed a joint statement expressing deep concern on dangerous and premature returns, in November 2018.

## 5.2 Lessons learnt, and recommendations

	For ADH MOs	For ADH
Lesson Learnt	Recommendation	
There is a tendency among MOs to address only those protection concerns that fall within their immediate operational remit.	<p>MOs should think holistically to better understand the safety and well-being of affected people in their environment. They should for example consider combining the delivery of their services with engaging with the refugees on (wider) protection concerns and let the refugees know what they might be able to do in addressing these concerns.</p> <p>Another suggestion is to undertake protection monitoring, which involves observing, witnessing, and analysing the protection environment in the camps and the context in general. This protection monitoring analysis can be shared with those who have the mandate, such as UNHCR, and/or published in reports.</p>	
MOs do not frame their protection responsibilities in terms of the specific characteristics of a refugee response.	MOs should ensure that all staff – both at HQ and field level – are adequately trained on refugee protection.	ADH’s training on the Sphere Protection Principles could be extended to include refugee protection. Additional trainings on country level should also be considered.
PSEA becomes synonymous for protection and risks having a watering down effect.	MOs should keep a conceptual separation between policies and activities related to PSEA, and those related to protection responsibilities in accordance with the Sphere Protection Principles.	The need to clearly separate between PSEA and the Sphere Protection Principles could be emphasised in ADH’s protection training.

	For ADH MOs	For ADH
Lesson Learnt	Recommendation	
Protection concerns regarding the duty of care towards Rohingya volunteers working in the camps.	<p>MOs should clarify their policies towards their outreach workers and to ensure that the duty of care applies.</p> <p>MOs should strengthen their understanding and positions of what gender-mainstreaming and women empowerment means in the Rohingya context.</p>	
Staff in the camps were not consistently aware of how to refer cases of GBV/SEA for legal follow-up, or how to ensure that such referral did not result in further harm for the victim.	All MO staff and volunteers should be well oriented on local protection arrangements, including reporting around sexual and gender-based violence, taking into consideration the principle of do no harm.	
Refugees are not aware of their rights.	MOs should endeavour to provide information to the refugees beyond topics related to their own particular service delivery. They should engage on the issue of registration, safety at night, firewood, etc.	ADH can promote that MOs pay attention in their programming to the wider context and that they understand the relevance of wider protection issues such as registration for their work.
Self-censorship should be reviewed.	<p>MOs should review their positions and policies on advocacy. Upholding refugee rights requires courage.</p> <p>One issue in particular on which the MOs should be prepared to speak out is the relocation to the island.</p>	ADH should make this report public in order to raise the importance and profile of protection. Many, if not all, of the issues in this report are relevant for the wider humanitarian community.

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# 7 Annexes

## Annex 1: Terms of Reference



### Terms of Reference (ToR)

#### Independent Evaluation of the Aktion Deutschland Hilft (ADH) joint appeal to “Rohingya Myanmar Bangladesh”

#### **1. Introduction**

Aktion Deutschland Hilft (ADH) – Germany’s Relief Coalition is an alliance of 13 renowned German aid organisations founded in 2001. Together they provide humanitarian aid in the case of large catastrophes and emergency situations.

The ADH Bonn office is commissioning an independent evaluation of ADH’s joint appeal “Rohingya Myanmar Bangladesh” to

- a) assess the implementation of the SPHERE core protection principles<sup>44</sup> for staff and beneficiaries in its relief activities in Bangladesh, and
- b) draw recommendations to better support the planning of future programmes and projects.

#### **2. Background**

On 25 August 2017 violence against the Muslim minority of the Rohingya in Rakhine State, Myanmar, escalated. This violence caused approx. 655,500<sup>45</sup> Rohingya –

80 percent of them women and children - to flee across the Teknaf River to the district of Cox’s Bazar in neighbouring Bangladesh in less than three months, challenging international humanitarian response.

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<sup>44</sup> The Sphere Project Humanitarian Charter and Minimum Standards in Humanitarian Response (2011) [<http://www.spherehandbook.org/en/introduction-1/>] assessed 26 October 2018

<sup>45</sup> UNHCR: Global Trends – Forced Displacement in 2017, page 18. [<http://www.unhcr.org/5b27be547.pdf>] assessed 26 October 2018

On 20 September 2017 Aktion Deutschland Hilft (ADH) launched a joint appeal to support the Rohingya population. The appeal raised funds over 2.2 million EUR from which 9 organisations party to ADH requested funds for their emergency responses.

During the first phase of the emergency the respective member organisations (MOs) provided lifesaving humanitarian assistance – among others – basic food assistance, shelter, water, emergency latrines, and non-food items (NFIs). As of today, the organisations continued providing humanitarian assistance, while supporting health care centres and focusing on psychosocial support, running child and women friendly spaces and tackling gender-based violence (GBV). For more information refer to: <https://www.aktion-deutschland-hilft.de/de/hilfseinsaetze/rohingya-myanmar-bangladesch/> (German only).

### **3. Purpose, key evaluation questions and general aims of the evaluation**

DH aims to ensure quality in its work and thus has built a strong culture of lessons learnt. As such ADH is committed to review its joint appeals through external evaluations. ADH intends to commission an external evaluation of its joint appeal “Rohingya Myanmar Bangladesh”.

#### **3.1. Purpose of the evaluation**

According to the definition of protection given in the ‘Core Humanitarian Standard on Quality and Accountability’ all activities aim at ensuring the full and equal respect for the rights of all individuals, regardless of age, gender, ethnic, social, religious or other background. It goes beyond the immediate life-saving activities that are often the focus during an emergency<sup>46</sup>. People affected by crisis have a right to protection and security - a right that is enshrined in the international humanitarian law and human rights declarations, which most countries have signed up to.

The Sphere Humanitarian Charter summarises four core protection principles that have most bearing on the welfare of those affected by disaster or conflict.

Humanitarian agencies should be guided by those principles, regardless having a specific protection mandate or not. It is, however, recognised that the extent and the degree to which humanitarian organisations are able to mainstream protection principles within their activities may vary according to the context they are working in.

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<sup>46</sup> Core Humanitarian Standard on Quality and Accountability (2014), page 19  
[<https://corehumanitarianstandard.org/files/files/Core%20Humanitarian%20Standard%20-%20English.pdf>]  
assessed 26 October 2018

The objective of the present evaluation is to identify to what extent the SPHERE core protection principles have been considered in the design and implementation and which approach the MOs have adopted to support the Rohingya in the refugee camps in Bangladesh. A special emphasize should be laid on Protection Principle 1 (avoid exposing people to further harm as a result of your actions) and 3 (protect people from physical and psychological harm arising from violence and coercion).

The aspect of learning is of particular importance for this evaluation.

### **3.2. Main questions / relevant aspects to cover**

The evaluation will address three Key Evaluation Questions (KEQs), following sub-questions are conceivable:

*KEQ1: Policies, standards and mechanisms related to protection of staff and beneficiaries in refugee camps in Cox's Bazar with a special emphasize on protection principles 1 and 3 taking into account sexual exploitation and abuse (PSEA).*

- Which kind of policies, standards and mechanisms in relation to protection of staff and beneficiaries are available at headquarters level and field level (community-based partners)?
- To what extend are those polices, standards and mechanisms known and implemented by the staff (headquarters, international field personnel and community-based partners) and beneficiaries?
- Have the organisations been contributing to strengthening local capacities in the area of protection?

*KEQ2: Protection of staff (international and national personnel and community-based partners) – Organisational responsibilities with a special emphasize on protection principles 1 and 3 taking in to account sexual exploitation and abuse (PSEA)*

- In which way has the protection of international, national staff and/or local partners been ensured?
- Were complaint mechanisms in place? If yes, in which way staff has been informed about? Have they being used?
- Have international and national staff and/or local partners unintendedly been put at risk while carrying out their activities? And if so, to what extend?

*KEQ3: Protection of beneficiaries with a special emphasize on protection principles 1 and 3 taking in to account sexual exploitation and abuse (PSEA)*

- Were there specific activities to protect the people concerned from the fear of abuse or directly from abuse (especially preventing sexual exploitation and violence)?
- Were complaint mechanisms in place? If yes, in which way beneficiaries have been informed about? Have they being used?
- Have beneficiaries involuntarily been put at risk as a result from the activities of the organisations?

The KEQs should be addressed considering effectiveness, impact, appropriateness and relevance.

As a reference the SPHERE protection principles 1 and 3 should be taken in to account. The KEQs listed above are to be considered as guiding questions only and the evaluation team is not limited to them. The refining and further elaboration of the questions should be done by the evaluation team which will propose a matrix of detailed evaluation questions. The final evaluation questions will be discussed and agreed upon through consultation with the ADH Bonn office and the MOs participating in the evaluation.

### **3.3. General aims of the evaluation**

The aims of this evaluation are to:

- better understand the addressing of the SPHERE core protection principles within the projects,
- identify good practices in protection,
- identify gaps and areas of unmet needs both in activities and from a cross-cutting perspective,
- provide “lessons learnt” for future projects in order to improve the work of ADH and its organisations, and
- formulate individual recommendations for MOs participating in the evaluation.

#### 4. Evaluation approach and methodology

The evaluation team must adopt a consultative and participative approach to triangulate data.

This will include:

- Briefing by the ADH Bonn office, kick-off workshop and inception report
- Secondary information analysis
  - Desk review of relevant programme and project documents and reports such as proposals, assessments, project budgets, monitoring and assessment reports, organisations' own evaluations, accountability policies, standards and guidelines
- Direct information analysis
  - interviews with ADH Bonn office and the MOs to be evaluated in Germany
  - field visits to selected sites in Cox's Bazar district (selection done together with the ADH Bonn office) and country/regional offices in Bangladesh; interviews, focus group discussions and/or questionnaires with local partners, beneficiaries, governmental authorities and other stakeholders (balanced mix of quantitative and qualitative methods required)
- Submission of a draft evaluation report to ADH Bonn office and the evaluated MOs for comments and feedback
- Debriefing workshop at the end of the field visit in Cox's Bazar with evaluated organisations led by the evaluation team to
  - present the draft findings of the field visit
  - discuss possible recommendations and substantive issues emerging from the draft findings of the field visit
- Debriefing workshop with ADH Bonn office and the evaluated MOs led by the international/lead evaluator to
  - present the draft findings of the draft evaluation report
  - discuss substantive issues emerging from the draft report
  - gather feedback on the findings and build consensus on recommendations
- Submission of final evaluation report

The evaluation should combine evaluation tools based on international standards and guidelines like the Code of Conduct of the Red Cross/Red Crescent societies, the adapted ALNAP and OECD/DAC criteria, the Core Humanitarian Standard on Quality and Accountability and the Sphere Minimum Standards in Humanitarian Response and Grand Bargain commitments.

## **5. Deliverables and report deadline**

### **5.1. Proposal outlining methodology and work plan (max. 4 pages)**

The proposal outlining the methodology of the planned evaluation and the work plan are part of the documents to participate in the second stage of the tender (refer to Chapter 9). The proposal will be used as the basis for the inception report.

Deadline: 18 November 2018, only after invitation by ADH

### **5.2. Inception report (max. 5 pages)**

The inception report should set out the planned approach to meeting the consultancy objectives, methodologies to be used and questions to be answered through the reviews and planned interviews. It should provide a description on how data will be collected and drafts of suggested data collection tools such as questionnaires and interview guidelines.

Deadline: 3 days after the kick-off workshop.

The inception report needs the approval of ADH Bonn office and the permanent working group on quality assurance prior to the start of the evaluation.

### **5.3. Draft evaluation report (for the structure, refer to point 5.4. Final evaluation report)**

Deadline: End of January / Beginning of February 2019

### **5.4. Final evaluation report including a summary (max. 35 pages excluding annexes)**

The report should include (but is not limited to) the following:

- executive summary (max. 2-3 pages)
- evaluation purpose, objectives, and scope
- methodology (reflection and linking to the TOR and possible constraints leading to deviations from the TOR)
- findings (related to the objectives of the TOR)
- conclusions
- recommendations
- lessons learnt
- appendices (including TOR, maps, questionnaires, list of interviewees, and bibliography)

Deadline: Will be agreed at the debriefing workshop

### 5.5. Individual recommendations for all participating MOs (max. 1 page per organisation)

Around 6 MOs will participate in the evaluation.

Deadline: Will be agreed at the debriefing workshop

### Language

All documents should be written in English.

The evaluation team will directly report to ADH Bonn office.

They will be bound by ADH rules of confidentiality. All material collected during the evaluation process will be handed over to ADH prior to termination of the contract. The evaluation report and all background documentation will become property of ADH and will be published accordingly by ADH rules and regulations.

The evaluation team will not be allowed to present any of the analytical results as its own work or to make use of the evaluation results for private publication purposes.

### 6. Expected timeframe

Activities	Deadlines
Call for CVs, references and work samples of at least one report that was completed for a recent evaluation of a humanitarian programme	18 November 2018
Closing date for applications (only short-listed candidates)	7 December 2018
Recruitment of evaluation team	10-14 December 2018
Kick-off workshop	10 or 15 January 2019 (1 day)
Inception report	3 days after the kick-off workshop
Evaluation phase including draft evaluation report	End of January/ Beginning of February 2019
Debriefing workshop in Germany	Beginning /Mid-February 2019 (1 day)
Finalisation and submission of evaluation report	Will be agreed at the debriefing workshop

The evaluation team leader is requested to immediately inform ADH Bonn office if serious problems or delays are encountered. Any significant changes to the evaluation timetable must be approved by the ADH Bonn office.

## **7. Budget**

Offers should include a proposed budget for the complete evaluation, covering all consultancy fees, visa, transport, accommodation and subsistence costs. The budget should present consultancy fees according to the number of expected working days over the entire period.

It is anticipated that the evaluation will last 43 working days (around 29 for the international and 14 for the national evaluator).

The evaluation team is responsible for its own travel arrangements, including related visas and insurance. ADH Bonn office and/or the MOs will provide all contact persons (addresses etc.).

## **8. Qualification of the evaluation team**

The team should consist of minimum two evaluators, one international and one national, and be appropriately gender balanced. The international evaluator is leading the team and is responsible to select an adequate local evaluator in order to complete the evaluation team.

As a team the evaluators should have the following skills and experiences:

- Longstanding experience in evaluating humanitarian programmes targeting refugees and/or internally displaced people.
- Knowledge of multi-methodological approaches (qualitative and quantitative methods) in humanitarian evaluation (as evidenced by recent publications about new methods or evaluations that employ new methods).
- Understanding of Humanitarian Principles; the Code of Conduct of the Red Cross/Red Crescent societies, the adapted ALNAP and OECD/DAC criteria, the Core Humanitarian Standard on Quality and Accountability and the Sphere Minimum Standards in Humanitarian Response, as well as an appreciation of key challenges and constraints to their application in the relevant context.
- Good understanding of Protection from Sexual Exploitation and Abuse (PSEA) concepts
- A sound knowledge of the context in Bangladesh and the sensitivities around people fleeing Myanmar.

- Experience in collecting data from vulnerable groups.
- Demonstrated capacity to work both independently and as a team.
- Excellent oral and written communication skills.
- Demonstrated cross-cultural skills.
- Knowledge and experience working with ADH is a plus.
  
- For the international evaluator:
  - Strong analytical skills and ability to clearly synthesize and present findings, draw practical conclusions, make recommendations and to prepare well-written reports in a timely manner.
  - Knowledge and prior experience of working in South Asia, preferably in Bangladesh.
  - Excellent writing and presentation skills in English.
  - Considerable knowledge of German
  
- For the national evaluator:
  - Fluent in English and Rohingya and Chittagong languages.

## 9. Tender

Tenders will be accepted by consultants as well as from commercial companies, NGOs or academics.

### **ADH has a 2-stage recruitment process:**

- **First stage:** Call for up to date CVs, at least two references for all evaluators involved and work samples of at least one report that was completed for a recent evaluation of a humanitarian programme.

- **Second stage:** Short-listed evaluation teams will be invited by ADH to submit a complete offer.
  - **This offer must include the following:**
    - Covering letter explaining interest and suitability for this position
    - Proposal outlining methodology and work plan (max. 4 pages)
    - Comments and suggestions on this TOR
    - Proposed evaluation budget

The final decision on tenders will be taken by ADH, following short-listing and possible interviews. Only short listed candidates will be invited to submit a complete offer and will be contacted for the next step in the application process.

**Deadline for CVs, references and work samples:**

Forward CVs, references and work samples electronically to Markus Moke (moke@aktion-deutschland-hilft.de) and Sibylle Gerstl (sgerstl@aol.com) **by 18 November 2018.**

**Deadline for complete offers (after invitation by ADH only):**

Forward offers **electronically** to Markus Moke (moke@aktion-deutschland-hilft.de) and Sibylle Gerstl (sgerstl@aol.com) **by 7 December 2018.**

Postal address:

Aktion Deutschland Hilft e.V.

Department of Quality Assurance

Dr. Markus Moke

Willy-Brandt-Allee 10-12

53113 Bonn

Germany

## Annex 2: List of Agencies and Others Interviewed or Consulted

During the review period in February 2019, the Evaluation Team interviewed or consulted one or more representatives from the following organization or institutions:

### *ADH Member Organisation/Partner Representatives in Germany*

- ASB
- CBM
- arche noVa
- CARE Germany
- Malteser International
- World Vision

### *ADH Member Organisation/Partner Representatives in Bangladesh*

- CARE Bangladesh
- World Vision
- CDD
- CBM
- OBAT Helpers
- Malteser International
- GK

### *Representatives from other agencies working on protection*

- Catholic Relief Services
- OXFAM
- UNHCR
- NGO Platform Coordinator
- NRC
- ISCG

In addition to the interviews with the key informants listed in this table, the Evaluation Team also consulted more informally with a range of staff members and volunteers working in the camps.

# Annex 3: Map of Camp Intervention Sites, Cox's Bazar, Bangladesh

