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**Rohingya Refugees Crisis And Political Economy: A Bangladeshi
Perspective**

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I hereby declare that I have compiled the thesis independently and all works, important standpoints, and data by other authors have been properly referenced and the same paper has not been previously presented for grading.

The document length is 10,500 words from the introduction to the end of the conclusion.

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ABSTRACT

One of the greatest buzzwords, Rohingya, is a global phenomenon nowadays. Even though Rohingya crisis is an Asian issue, its tense fume has spread all over the world. However, the importance of legislation on refugees to ensure their rights and solve the issue is deemed so powerful that in spite of international refugee communities administration to eradicate refugee issues, notwithstanding their assistance due to the absent of national legislation nations are significantly struggling, particularly the rising nations, to accord essentials to both their domestic people and refugees as well, particularly when there's lack of applicable national legislations to ensure refugees right that those refugees entitlements are being violated

Based on these situations, in this paper is designed to depict how Bangladesh, being host state, has been experiencing difficulties rendering even basic needs to Rohingya refugees due to lack of explicit governing system. Additionally, the prime point of this thesis would be to demonstrate the legal systems taking into account the existing laws and where the gaps are to be filled up. Besides, in order to illustrate the fact, the existing legal systems would be examined if they comply with international human rights mechanisms. Furthermore, in this paper I'll analyze the gaps in the protection of refugees and will point out some resolutions to be considered in the light of international human rights mechanisms.

Keywords: International Committee, Basic Needs, Ensure, National Legal System, Existing Law, Gaps, Human right.

TABLE OF ABBREVIATIONS

ARSA	Arakan Rohingya Salvation Army
IDPs	Internally Displaced Persons
LDCs	Least Developed Countries
HDI	Human Development Index
GoB	Government of Bangladesh
Tk	Taka (Bangladesh Currency Name)
GoM	Government of Myanmar
UNDP	United Nations Development Program
UN	United Nations
EU	European Union
WHO	World Health Organization
ISCG	Inter Sector Coordination Group
UNICEF	United Nations International Children's Emergency Fund
ICISS	International Commission on Intervention and State Sovereignty
UNB	United News Bangladesh
IOM	The International Organization for Migration
UNGA	United Nations General Assembly

INTRODUCTION

Even though Rohingya issue is considered one of the major issues in Bangladesh, but since time immemorial Bangladesh has been experiencing de facto such crisis remarkably in 1978 when around 1million refugees entered into Bangladesh from Myanmar to find a safe zone. Following the reoccurring incident, years 2017-18 again witnessed their gathering to locate into a secure zone when government of Myanmar chronologically launched unlawful massive wave of violence known as clearance operation.

Indeed based on the humanitarian ground Bangladesh could not ignore Rohingya refugees, however it's failed to ensure refugee rights due to the lack of explicit legal system on refugees. It's a vital point to be notated that Bangladesh does not have any legal system neither on refugees nor on asylum seekers rather it has been treating Rohingya refugees based on Foreigners Act of 1946 where in accordance with Foreigners Act of 1946 GoB is so called empowered to restrict the rights of refugees considering them foreigners, for instance freedom of movement, right to employment, right to justice, and lot.

However, even it's cristal that the 1951 Convention and the Protocol of 1967 are couple of significant Conventions what Bangladesh did not sign but it's a member of numerous international human rights instruments¹ where compliance with these mechanisms obligatory for Bangladesh to ensure protection to refugees within her territory. In addition, Constitution of Bangladesh, in its preamble, ensures the rights of all within her territory. Nevertheless, excusing the gaps of legal system and State practice GoB does not perform obligatory acts towards refugees that violating their rights. Moreover, there're numerous difficulties refugees are experincing everyday while staying in Bangladesh due to absent of relevant legal system. Consequently, this paper aims to introduce the importance of inclusion of explicit refugee law in Bangladesh's domestic legal system, establish guidelines for the interpretation of applicable legal system to ensure the rights of refugees and eradication of violance towards stateless people.

¹ Yesmin, S. (2016). Policy towards Rohingya refugees: a comparative analysis of Bangladesh, Malaysia and Thailand. *Journal of the Asiatic Society of Bangladesh (Hum.)*, 61(1), 71-100.

Besides, this paper highlights the significance of tackling bunch of jeopardizes what the state must solve without delay in term of social capacities development, for example refugees social protection. Furthermore, being member state of international human rights mechanisms, this paper depicts the obligations that Bangladesh must ensure towards refugees in her territory.

Yes indeed, Bangladesh has never seen massive number of refugees gathering, similar to very recent case, in its territory within such a short timeframe is recognised a surprising fact. Consequently, the relevant question is raised how Bangladesh can manage the reoccurring case particularly when legal system of Bangladesh does not allow refugees right to work or freedom of movement due to increase economic precarity and stresses. Nevertheless, in order to ensure their basic rights and daily necessities refugees are engaging in labour market without work permit, hence such illegal engagement contrary to domestic legal systems. In this regard, the topmost logical research questions raised in this paper:

1. How can the national legislation remedy the labour market and wages discrimination?
2. What are the existing remedies in tackling refugee crisis following the international standards?

However, based on the topic's nature and paper's philosophical stand point qualitative assessment is introduced. In this case, to analyze the effect of refugees on Bangladesh's economy this paper applies qualitative method. As the research is based on secondary sources, analyzed all data is not generated by author solely rather analyzed data incorporates vital points from several scientific articles, books, journals, statistic website and official reports. However, numerous data, specially scientific articles and books, are collected through Taltech library and online databases. It's important to point out that as the secondary data is regarded primary data's interpretation, the sources are carefully treated in this paper in order to avoid misleading.

The flow of this paper is sketched in three chapters. The opening chapter introduces the governing systems to Rohingya refugees and their legal states while residing in Bangladesh. In this chapter I introduce what are the existing legal systems are applied to treat refugees in Bangladesh by government. In addition, this chapter illustrates if Bangladesh is following obligatory international human rights mechanisms to ensure refugees right or their rights are violated due to lack of having national legislation on refugee. Also this chapter proposes the legal norms to be implemented to Bangladesh legal system. The second chapter, I focus on the discussion of employment act in Bangladesh and what are the aftermath of non-existence of employment act towards refugees specially focusing on whether Bangladesh legal system allows refugees residing here freedom to work. Additionally, this chapter demonstrates the impact of violating refugees freedom to work and wages descrimination. However, in the final chapter I conclude the summary of findings and propose essential solutions for ongoing situation in order to ensure that refugee rights are protected in Bangladesh.

1. GOVERNING MECHANISMS AND THE RIGHTS OF ROHINGYA IN BANGLADESH

One of the greatest formations of all time pertaining to the protection of refugees, 1951 Convention and its 1967 Protocols, is obligatory and binding upon the signatory member states. Even though Bangladesh is a member state of numerous international human rights organizations, however it's not a signatory state to 1951 Convention and its 1967 Protocols to follow the international key legal documents to ensure the refugee rights. Similarly, it has not been yet included any legal regime to its national legislation to ensure refugee status. Consequently, the difficulties remain unfulfilled status ensuring compliance and sustainability in the standards of protection as there's no legal system to govern refugee status per se.

1.1. Definition of refugee

Due to the 1st and 2nd World War the history witnessed uncountable number of people escaping their home nations that led to set international refugee regime in order to assist, protect and ensure those vulnerable peoples' right. However the basis of the international refugee regime was treaty and international organization what later formed 1951 Geneva Convention and its 1967 Protocols in order to protect refugees status and ensure international human rights, and UNHCR, respectively, to aid millions escaped or lost their livings.

However, as part of treaty indeed it was significant since it formed a set of legal mechanisms focusing international migration. Importantly, the treaty placed legal term for refugees in order to recognize them by a legal definition. However, the treaty defines a refugee who's afraid of fear of being victimized for the reasons of nationality, religion, race, membership of a particular social group or political decision, is outside the nation of his nationality and is not able or is unwilling to avail himself, owing to such fear, of the protection of said nation; or who does not possess a nationality and being outside the nation of his earlier habitual residence due to such fears, is not

able or, owing to such events, is reluctant to return to it.² Considering the treaty's definition those stateless Rohingya people fall under the refugee term since notwithstanding their living in Myanmar for several decades they're unrecognized as an official ethnic group and additionally since 1982 their citizenship have been denied what introduced them largest stateless people in the world. Broadly defined, those Rohingya people are refugees since in Myanmar they suffer persecution on the ground of nationality, religion and ethnic origin what forced them to flee their country of origin, additionally on their return they would continue to experience such persecution.

1.2. State policy and judiciary towards Rohingya refugees

Unfortunately, In Bangladesh, there's no explicit and sophisticated national mechanisms according to what the Refugee issue could be dealt. Consequently, any person out of Bangladesh's territory irrespective of refugees, asylum seekers or visitors are dealt with old legal system established in 20th century what incorporates 1920, The Passport Act; 1926, The Neutralization Act; 1939, The Act of Foreigners Registration; 1951, The Bangladeshi Citizenship Act of 1972 and so on. In addition, Bangladesh's Constitution is silent in that matters too. As a result, Bangladesh's government depends on the old model Foreigners Act 1946, adopted during the British colonial era and the Foreigners Act of 1946 was lauched for the basis of governing migration movement³ and according to the lawful provisions of Foreigners Act of 1946 the entry, stay and exit of non-citizens in Bangladesh are mostly identified and such provisions govern all foreigners residing in Bangladesh, regardless of their grounds of stay, no matter a person is a refugee or asylum seeker or foreigner visiting, within her territory.⁴

² *UNHCR Convention and Protocol Relating to the Status of Refugees, Article A(2): 14)*

³ *Indian Law Commission, 175th Report of the Indian Law Commission on the Foreigners (Amendment) Bill, 2000, September 2000, available at: <http://lawcommissionofindia.nic.in/reports/175thReport.pdf>*

⁴ *Al Imran, H. F., & Mian, N. (2014). The Rohingya refugees in Bangladesh: A vulnerable group in law and policy. Journal of Studies in Social Sciences, 8(2).*

As referred above, the Constitution of Bangladesh in its some provisions specially in Article 31 ensures protection for all people on its territory regardless of race, gender, religion, ethnicity and so on, however in fact there're couple of refugees type, registered and unregistered, receiving different types of rights. The registered refugees are enjoying constitutional provisions and there're some national legislation that are related to any person residing in Bangladesh's territory, for instance registered refugees are capable of accessing to court in case of extream violation of rights, but those rights are limited and do not follow international standards. On the contrary, in accordance with Foreigner Act 1946, government of Bangladesh does not recognize unregistered or undocumented refugees as stateless people and they're not granted protection at all, additionally they're recognized as illigal immigrant.

Even relying on the establishment of old laws Bangladesh did not sign the 1951 Convention and its 1967 Protocols known as the UN Convention Relating to the Status of the Refugees⁵ what left Bangladesh opportunity not to accept Rohingya refugees. However, even it's taken a mercy-based approach, Bangladesh failed to provide any refugee status due to the lack of applicable legal system. The study covers that approximately 1 million Rohingya refugees residing in Bangladesh with unofficial and illegal refugee recognition status. Besides, in Bangladesh refugee protection mechanisms are not rights-based and its extend particularly relies on ad-hoc strategies depended on mercy and hospitality of the executive. Additionally, even though those applied ad-hoc policies are supportive of rendering significant humanitarian aids, Bangladesh implies prohibition on refugees freedom of movement and right to work.

⁵ Ahmed, I. (Ed.). (2010). *The plight of the stateless Rohingyas: Responses of the state, society & the international community*. University Press.

1.3. Present status of Rohingya in Bangladesh

However, in 2017 when Rohingya refugee influx, the international human rights communities recognized the Rohingya as refugees; UNHCR prima facial considered them as stateless people. Nevertheless, the GoB has been considered that they're Forcibly Displaced Myanmar Nationals (FDMN)⁶ and restrained their rights considering Foreigners Act of 1946 that allows Bangladesh government to decide on the ground of the act's application. Consequently, Bangladesh government restricted their fundamental rights, for instance freedom of movement, right to employment, access to education and justice, and so on.

Later by the following year 2018, in co-operation with UNHCR, Bangladesh government launched a new verification process to further the functions of RRRC and HoHa cards in a new smart card. Since Rohingya refugees lost their citizenship on that time and the process of new and comprehensive documentation and registration was regarded particularly crucial, that was the only document for refugees to hold their identity to be recognized as stateless people.

1.3.1. Rights arising from Constitution of Bangladesh

Constitution of Bangladesh, specially Part III, guarantees the human core rights. However, there're some fundamental rights in this part reserved for specially People Republic of Bangladesh where the other rights are applicable to all people residing in the territory of Bangladesh, regardless of their citizenship, race, gender, religion or ethnicity. Among others, Article 11 of the Constitution ensures fundamental human rights, respect and dignity to human kind, and it also guarantees worth of the human persona . Besides, Article 31 is considered the vital one that stipulates the right to protection of the legal system for every persons within Bangladesh territory. Furthermore, Article 32 ensures the right to life and personal freedom of every individuals. Likewise, in order to avoid illegal detention and arrest Article 33 of the

⁶ *Inter-Sector Coordination Group. (December 2018). Joint Response Plan for Rohingya Humanitarian Crisis March. Retrieved from <http://reporting.unhcr.org/node/20415>.*

Constitution sets out safeguards. Additionally, the Constitution of Bangladesh does not ignore an individual's right to be fulfilled that can be seen in Article 44 of the Constitution.

However those Constitutional rights are not enough to uphold explicit status of refugees and to govern what rights they may be accorded. Due to that Bangladesh has adopted dualist system according to that as long as international legal mechanisms are not inconsistent with national legislation then there's scope to apply international legal instruments to ensure refugee rights. Based on that approach Bangladesh regards 1951 Convention and its 1967 Protocols as customary international legal instruments, considering Article 25 of Constitution, including non-refoulement and those fundamental principles referred in treaties are applied to Rohingya refugees since Bangladesh's domestic legal system on the treatment of refugees and asylum seekers is apparently non-existent.⁷ Again, due to the non-existent of explicit legal system regarding the protection of refugees or stateless persons, practically in accordance with the Foreigners Act of 1946⁸ Rohingya refugees are governed according to the lawful provisions of non-citizens or foreigners that does not significantly ensure their fundamental rights.

However, during the British colonial era the Foreigners Act of 1946 was launched for the basis of governing migration movement⁹ and according to the lawful provisions of Foreigners Act of 1946 the entry, stay and exit of non-citizens in Bangladesh are mostly identified and such provisions govern all foreigners residing in Bangladesh, regardless of their grounds of stay, no matter a person is a refugee or asylum seeker or foreigner to visit Bangladesh, within her territory.

⁷ A. Jobir (2020). "The Status and Rights of the Rohingya as Refugees under International Refugee Law: Challenges for a Durable Solution, *Journal of Immigration & Refugee Studies*."

⁸ Kiragu, E. Rosi, A. Morris, T. (December 2011). *States of Denial: A Review of UNHCR's Response to the protracted situation of stateless Rohingya refugees in Bangladesh*. UNHCR. Retrieved from: http://www.netipr.org/policy/downloads/20111201_UNHCR-states-of-denial.pdf.

⁹ Indian Law Commission, *175th Report of the Indian Law Commission on the Foreigners (Amendment) Bill, 2000, September 2000*, available at: <http://lawcommissionofindia.nic.in/reports/175thReport.pdf>

1.3.2. Rights arising from international refugee and statelessness law perspective

Since provisions from Statelessness and Refugee Conventions have gained the status of customary international law and indeed Bangladesh recognize those provisions as customary international legal instruments; a bunch of fundamental human rights obligations are arising to the treatment of Rohingya refugees residing in Bangladesh. Like the other nations, recognizing customary international mechanisms Bangladesh has responsibilities to protect all persons in her territory regardless of whether they're Bangladeshi or foreigners, refugees, stateless persons, asylum seekers. Hence, Bangladesh is bound not to repatriate Rohingya refugees forcefully Myanmar from where they fled from persecution rather it's obligation to recognize those stateless people as refugees and ensure their fundamental rights.

1.3.3. Rights arising from international human rights law perspective

There're numerous legal protections for Rohingya refugees residing in Bangladesh that are stipulating based on international human rights legal system since Bangladesh is an active signatory nation to most of the United Nations human rights mechanisms. Additionally, being member of UNHCR'S Executive Committee, Bangladesh explicitly recognizes refugee legal norms. Besides, as stated above Bangladesh is a signatory state to numerous international human rights mechanisms, for instance the International Convention on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Racial Discrimination, Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and lot. Recognizing those international instruments Bangladesh is obliged to ensure refugees rights in its territory as it's ratified those international treaties. Generally speaking, regardless of nationality or citizenship, a persecuted person staying in Bangladesh's territory who falls under the legal term of refugee or asylum seeker has the legal right to receive general protections, inter alia, the non-

discrimination right¹⁰, freedom from all kind of ill-treatment for instance torture, inhuman, cruel or degrading punishment or treatment¹¹, equal right to jurisdiction¹², right to education¹³ and work¹⁴ and so on.

However, Constitution of Bangladesh in its Article 25 ensures respect for UN Charter and international mechanisms. As stated above Bangladesh follows dualist mechanisms and consequently international provisions require incorporation into national legal system to be enforceable.¹⁵ The process for inclusion of international provisions into domestic legal system is affirmed in Article 145A of Constitution. In this case Article outlines that foreign nations treaties shall be submitted to Bangladesh President who later shall reason the treaties to be enacted before Parliament. Hence, international legal instruments are applicable in Bangladesh as long as they're compatible with national legislations. However, on any specific issue if there's found lack of provisions in domestic legislation then the relevant international legal system is applicable.

1.4. Effect of non-existent national legislations on refugee

However, since the non-refolument principle is considered now a rule of international costumary legal system, the Supreme Court of Bangladesh abide it by, given the absence of a municipal regulation contracting it. But merely adhering to specific regulations not enough when relues are not binding rather those rules are significantly crucial to apply to ensure human rights are protected, but surprisingly these mechanisms are absent in the context of Rohingya refugees rights. Since Bangladesh's Constitution is silent regarding Rohingya matter and there's no domestic legal system that can be applicable and importantly international treaties require to be included into Bangladesh's domestic law before they can be enforcable lawfully, hence it can be

¹⁰ *International Covenant on Civil and Political Rights (ICCPR)*, 999 U.N.T.S. 171, 1966, Article 2(1) and Article 26; *International Covenant on Economic, Social and Cultural Rights, (ICE-SCR)*, 993 U.N.T.S. 3, 1966, Article 2(2).

¹¹ *ICCPR*, Article 7; *ICMW*, Article 10.

¹² *ICCPR*, Article 14; *ICMW*, Article 18.

¹³ *Convention on the Rights of the Child (CRC)*, 1577 U.N.T.S. 3, 1989, Article 28; *ICESCR*, Article 13

¹⁴ *ICESCR*, Article 6.

¹⁵ *The Constitution of the People's Republic of Bangladesh*, 1972, Article 25.

concluded that due to the absence of national legal system and legally binding structures to handle the refugee issues in Bangladesh, it's had several effects. Arbitrary and discretionary decision making can be incorporated, for instance. If we go back, the earlier waves of Rohingya migration to Bangladesh, in 1978, and between 1991 and 1992 were recognized as humanitarian issues. Through an executive order from the government, the Rohingyas were registered and granted refugee status. Like UNHCR, multilateral organizations, and other international organizations were also requested to provide assistance. Nevertheless, in both cases government immediately launched negotiations with Myanmar government and involved in compelled repatriation of Rohingya refugees. More recently, after the inter-communal violence, in 2012, erupted in Rakhine state, Bangladesh sought blocking international aid organizations from aiding Rohingya refugees since refugees were in the state illegally and the proposed assistance would influence greater numbers to cross the border. However, such policies have been antiquated, and the Rohingya refugees continued fleeing to Bangladesh over the last half decade. Importantly, the absence of national legal system and lack of legally binding structures resulted in a failure sufficiently signifying the necessities of the refugee population. The absence and lack led to slow-moving and ad hoc policies, for instance the absence of institutionalized legal and policy processes has launched logistical hurdles and the Bangladesh government only began to establish a national policy for addressing the rising refugee crisis in October 2017.

1.5. Core legal norms to be implemented to Bangladesh legal system

The Rohingya, being refugees, are subjected to a variety of rights regardless of race, gender, religion and country of origin. However, Bangladesh's position pertaining to the Rohingya is deemed that they're proposed hospitality but not significant protection. Even though Bangladesh shows more protection than it admits, it should ensure international legal system protections treating the Rohingya as refugees establishing national legislations. Furthermore, being member of UNHCR'S Executive Committee, Bangladesh explicitly recognizes refugee legal norms. Besides, Bangladesh is a signatory state to numerous international human rights mechanisms, for instance the International Convention on Economic, Convention on the Elimination of All Forms of Discrimination against Women, Social And Cultural Rights,

Convention on the Rights of the Child, Convention on the Elimination of All Forms of Racial Discrimination, Convention against Torture and Other Cruel, and lot. Therefore, Bangladesh is ought to incorporate the rights in its national legislations of all within her territory, regardless of nationality. However, in my view the following key rights can be established in Bangladesh's national legislations for the Rohingya refugees to ensure their rights are protected.

Non-refoulement: To ensure the protection of refugees, the commitment to non-refoulement has been stipulated by the UN General Assembly is strongly accepted by States, and is included in Article 3 of CAT. In accordance with Article 7 of ICCPR "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment", which has been entitled as holding an implied prohibition on refoulement. Again, within the meaning of Article 2(1) and 7 of ICCPR, all States require to ensure covenant rights "to all persons who may be within their territory and to all persons subject to their jurisdiction", incorporating refugees and asylum-seekers for whom there is harm risk.

However, non-refoulement may cause socioeconomy and other burdens for the host States, specially during mass influxes of displaced people whose refugee status has not been ensured. But the ExCom decided that the outcome of Article 33 should not be concluded upon the official recognition of refugee status, and the said refoulement is unjustifiable, even though there's a situation of sudden influx of refugees debilitating a State's economy, political situation or resources. Consequently, Bangladesh is bound to abide by non-refoulement of the Rohingya.

Freedom of movement: Due to the absence of national legal mechanisms on refugee and as the legal status of Rohingya refugees is governed in accordance with the national legislation on the entry and residence of foreign aliens, rather than regulations which ensure their specific vulnerabilities to be removed, hence refugees residing in Bangladesh experiencing considerable restriction on their freedom of movement. Such restriction results in the impacts on their fundamental rights, deeply the right to seek livelihood. For example, once they cross the camps

illegally to seek their livelihood or other necessary purposes, they're under the thread of being arrested and detained by police along with the risk of being bullied, harassed and beaten by the locals. Hence, considering such vulnerable situations, without doubt Bangladesh government requires to formalize and expand national legislations in the context of free movement opportunity for Rohingya refugees to bolster their self-reliance, livelihood and enable them to help their families. Bangladesh requires to establish national legislation on refugees what must ensure freedom of movement right for them incorporating the right to choose, by Rohingya, where they like to live within her territory. In addition, the right must allow refugees to move freely and choose a place of living within Bangladesh without restriction, including setting up a purpose or reason for doing so.

Employment: Since Bangladesh's Constitution remains silent regarding the refugees work permit and freedom of movement, the Rohingya refugees are not allowed to work or move out of the camps. Consequently, they surviving thorough self-employment, informal works, volunteer positions with domestic NGO's, and local and international assistance. Among the NGOs there's a widely held view that Rohingya refugees have increasingly involved illegal work and they're subject to arrest and exploitation. Moreover, according to UNHCR, Rohingya men have been abstained from their roles as family provider and they feel that their manful strength have been undetermined.¹⁶ On the other hand, women are involving themselves in sex profession and experiencing domestic violence in Bangladeshi households, in which refugee women and children holding profession as domestic servants.¹⁷ These situations uphold the legal norms establishment gaps where Bangladesh is not achieving its abidance to international mechanisms to which it's a party, inter alia, Articles 6(1), 7&8(1)(a) of ICESCR, ICCPR Article 8&22, Article 3 of ILO Convention No 182 on Worst Forms of Child Labor (WFCL), Article 27 of CRPD, and lot. Yet it's true that Bangladesh is burdened with hosting approximately 1 million refugees, but depriving refugees from opportunity to work merely inviting their vulnerabilities and reliance on assistance. So, such conditions urgently require Bangladesh government

¹⁶ Mathieson, D. S. (2009). "Plight of the demand: Burma's Rohingya. *Global Asia*, 4(1), 86–91"

¹⁷ Heanue, S. (2018, February 8). "Rohingya girls targeted by child traffickers at Bangladesh border crossings."

formalizing and expanding national legislations in the context of employment opportunity for Rohingya refugees to bolster their self-reliance and enable them to help their families and communities.

However, the skills, willingness to employment and self-support intentions must be acknowledged apart from rendering facilities. Through the unofficial economy in Bangladesh it's deemed that Rohingya refugees may involve themselves finding limited job opportunities, however the lack of legal protection shaping them more unprotected to misuse and exploitation. In this case, a significant step can be allowing them to hold job in areas with worker demands expected on being registered. Besides, steps for Syrian refugees in Jordan to engage in International Labour Office for the purpose of supporting skills teaching and creating employment opportunities can be taken into account that might inspire other nations in Asia continent to adopt similar footsteps.

Healthcare: In Bangladesh, there're approximately 200 healthcare services that serve minimum basic healthcare facilities, based on the Ministry of Health and Family Welfare's service delivery package and guidelines of UNHCR. Nevertheless, facilities are not systemized, additionally quality differs considerably and is unfair due to poor transportation system and high densities of population. WHO has marked condition in Bangladesh as a "Level 3 Emergency".¹⁸ However, life-saving basic aid, safety along with dignity and respect, essential conditions and conducive managements of camps are the three major components of healthcare facilities refugees are lacking. Hence, among the Rohingya refugees there're high level of medical need.

In this case, the general principle of healthcare policies for citizens of foreign states and stateless persons should be incorporated in Bangladesh's national legislation framework to ensure all persons medical rights are protected within her territory, regardless of nationality. Citizens of

¹⁸ WHO, (2018). *Bangladesh: Rohingya refugee crisis 2017–2018: Public health situation analysis*. <http://www.searo.who.int/mediacentre/emergencies/bangladesh-myanmar/public-health-situation-analysis-may-2018.pdf?ua=1>

foreign states and the refugees who are in Bangladesh should have the equal rights to access healthcare services with Bangladeshi citizens. Like many other nations, the state shall provide voluntary and local government welfare services. Apart from these, the national legislation shall provide regulations for refugees who're having families with many children and persons with disabilities shall be under the special care of the local governments and state.

However, the right to the protection of health may not mean that the state has an obligation to ensure all of the known health promotion services, for instance cosmetic surgery or medical products related to lifestyle, rather state may promote a range of national healthcare services for persons within her territory. Importantly, the health care service plan should incorporate scientifically proven health care services and diagnostic methods necessary for people to follow and improve their quality of life and are significant each patient's health issues. Once the mentioned health care services have been established in national legislations, the national legislation shall guarantee that such services must be available and accessible to all within Bangladesh's territory, again regardless of nationality. Additionally, national legislation shall ensure this right that if the patient experiences that his or her rights have been violated, the patient has the right to file a complaint to health care service provider, health insurance fund, the Health Board of Bangladesh or the health care quality committee expert.

Education: At around 60 percent of the Rohingya refugees in Bangladesh are children.¹⁹ Since there's absent of legal status or national identity documents refugee school goers are abstained from enrolling in Bangladeshi government schools for many years. In 2007, Bangladesh agreed to grant provide free and formal academic access for Grades 1 to 5, and later extended academic system to post-primary levels Grades 6 and 7 in primary schools of 21 and secondary schools of 2 established in the camps. But while 82 percent of the Rohingya children were admitted in primary education system, merely 11 percent were passed to secondary school due to poor learning environment and scarcity of resources to teach vulnerable children. However, the right to

¹⁹ SCG (2018). *Humanitarian response plan 2017: Rohingya refugee crisis*. <https://www.humanitarianresponse.info/en/operations/bangladesh>

education for Rohingya refugees was intensified by the 2017 influx. Such conditions are refulted from weak compliance with international legislations along with the absence of the essential resources and importantly absence of significant refugee legal system in Bangladesh.

In this case, Bangladesh should establish regulation to ensure that the refugees get the right to access education. Education must be compulsory for schoold-age children to the level outlined by legal system. A child with a foreign citizenship status of age for mendatory education should have the right to attend compulsory education in Bangladesh. Government may establish law for refugees with opportunities to carry their education based on a short-term abd long-term period. For the short-term plan, there can be excluded expectation that the student will continue their studies in Bangladesh on a permanent basis where the goal of long-term plan would be to integrate children into local education system. Bangladesh'a legal system may grant parents of aged students to decide on matters concerning their child's compulsory education. This decision may incorporate the time of stay in Bangladesh, the language of instruction and the language or cultural space with which one is familiar. Academic institutions and school administarators can provide parents advice and present possibilities to assist them taking informed consent. Since refugee students' age vary from child to young students who're residing in Bangladesh, the participation in school should be standarized, for example pre-school education, in kindergarterns and childcare for pre-schoold children 1, 5-7 years olds as like Bangladeshis. Similarly, basic education cor children and young people 7-17 years ages. Likewise, universities of applied sciences and universities for upper to secondary, higher and vocational.

However, establishing these proposed legal structure and institutionalising these policies will obviously constitute a challenge for Bangladesh, particularly regarding the state's doemstic context and its poor resources. Nevertheless, Bangladesh must co-operate with regional, local and international bodies, incorporating multilateral actors, civil society, aid organizations and forced migration experts from academic realm and elsewhere in order to advance lasting and ethical solutions to the refugee crisi.

2. BANGLADESH EMPLOYMENT ACT AND CONSEQUENCE OF NON-EXISTENT EMPLOYMENT ACT TOWARDS REFUGEE

This chapter illustrates how labor act in Bangladesh is structured and if the labor law in Bangladesh is applicable to non-citizens, for instance refugees. Additionally, this chapter demonstrates how the lack of employment regulation is affecting Bangladesh's economy.

2.1. Nature of Bangladesh employment act

In Bangladesh, labour entities or companies or garments have specified their own rules and regulations but all of them are bounded to obey the minimum statutory obligations and obliged to set rules according to the same. Generally speaking, employment act or federal labour legal system in Bangladesh is governed by the Labour Act, 2006²⁰, and Labour Rules 2015 (amended). According to Section 2(65) of Labour Act 2006, the worker refers to any person, including an employed trainee in any establishment or industry, either directly or through a contractor, to continue with any skilled, unqualified, manual, commercial promotional or clerical hire or reward work, whether the standards of employment are expressed or applied. In addition, Labour Act 2006 sets timeframe of daily and weekly basis of working hours including overtime hours and their remuneration. According to section 108, the daily working time shall not exceed 8 hours with a break whereas the weekly performance hours shall not cross 48 hours. Notably, there's a limited work hours for woman that there shall not be any shift from 10.00pm to 16.00 am without having woman worker explicit consent. Furthermore, employees have fundamental right to step forward for leave, for instance sickness, maternity leave or annual leave, according to following Act. Besides, in accordance with Section 345 of Bangladesh Labour Act 2006, employers are bounded to set up equal remuneration for male and female employees for equal nature or value work and there shall be no any kind of discrimination on the gender ground. So, it can be said, based

²⁰ *Bangladesh Labour Act, 2006.*

on above discussion, Bangladesh Labour Act sets up vital standers to ensure employees right and incorporates majority of the internationsl standardized legislation for workers who're citizens.

2.2. Employment acts towards refugees

However, regarding the refugees, Bangladesh's Constitution remains silent on these cases since her legal system does not allow Rohingyas' to work or freedom of movement. Consequently, neither the mentioned defination of worker consider the refugees as employees in Bangladesh nor the Labour Act standars are maintained inside or outside refugee camps there. Even though Rohingya refugees have few rights in Bangladesh but when it comes to local labour market and wages act, as stated above, Bangladesh's legal system does not allow Rohingyas' to work or freedom of movement, pertaining to growing economic precarity and security stresses. As a result, the total influx of refugees practically refers to increased labour supply that results in reduction of wages pertaining to low skilled jobs. In addition, there are approximately 10,000 unofficial shops inside the Rohingya camps²¹ however, altogether the number can be risen up if refugee camps outside shops are included run by Rohingyas'. These shops provide daily essentials and luxurious goods like ornaments and electronics. However, shops are run without authorized commercial trade licenses and without paying tax to government. Besides, Rohingya men and women are working as day labourers, whatever options are available for them, in various parts of Chittagong district from morning till countless hours. Hence such illegal performances affecting both the host nation: breaching domestic employment acts and local labours, and refugees themselves: unwanted detains and arrest. Since Rohingyas' are accepting low wages for their informal labours with low skilled jobs, the locals are incapable of earning their livelihood or facing wages discrimination. Apart from this, the Rohingya who work outside the camps are requested by some Mahjis, community leaders, to hire more people from camps to

21 K, M, Jamil.(2020) "*Refugee camps in Coz's Bazar: Rohingyas tangled up in crimes*".

provide Rohingya with Bangladeshi passports and facilitate employment in Bangladesh and abroad.²²

However, in order to eradicate illegal activities acted by Rohingya refugees residing in Bangladesh, urgently Bangladesh should establish a set of employment policies towards refugees to eliminate the existence of want of daily necessities, lack of support to families, perceived inaccessibility to service, drug abuse, unemployment and lot.

2.3. Aftermath of lack of refugees right to work

Indeed, in order to eradicate vulnerability, developing resilience, protecting and securing dignity, the refugees right to work must be taken into consideration by host nations. Besides, a host nation's financial activity and national enhancement can be benefited utilizing refugees' work skills. On the contrary, a state where refugees are welcomed for a short term period but being restricted from holding employment merely violate their rights what leads to obstruct welcoming life-sustaining assistance. In addition, the absent of concrete employment act towards refugees invites unwanted burden, reduces durability and marks a nation holding unsecured dignity.

As part of Bangladesh, before 1992 the registered refugees and Rohingya who're undocumented do not have official right to work and there's no Bangladeshi labor regulation that can cover them.²³ As a result refugees are disallowed to access local markets and they're abstained from being credited from micro-finance organizations in Bangladesh. As there's no concrete national labor legislation that can incorporate refugees to permit to be self-employed, own property or

²² IOM, UN Migration.(2018) "IOM Bangladesh: Rohingya Refugee Crisis Response Situation Overview of Human Trafficking".

²³ Zetter, R., & Ruaudel, H. (2016). *Refugees' right to work and access to labor markets—An assessment*. World Bank Global Program on Forced Displacement (GPDF) and the Global Knowledge Partnership on Migration and Development (KNOMAD) Thematic Working Group on Forced Migration. KNOMAD Working Paper. Washington, DC: World Bank Group.

engage in trade, numerous unexpected collapses are occurring in Bangladesh specially in the field of political, economical, social and State dignity sectors.

2.3. 1. Labour market collapse

As stated above the influx of refugees practically refers to increased labour supply that consequences reduction in wages pertaining to low skilled jobs due to lack of explicit legal system balance. Nevertheless, skilled domestic employees may exercise the benefits from the demanding international presence, a refugee crisis incorporates. In addition, if refugees arrive to an area and the said area require labour supply, then they can participate in the local labour market ensuring positive impact on wages. However, the vital determining factor is the degree of replacement between locals and refugees, regarding the study of the impact of Rohingya refugees on the labour supply. By utilizing replacement methods or better to say substitution strategies, they consider language abilities and academic background that enable refugees to launch competition in the host labour market.²⁴ Besides, as increased number of workers raises the supply on the labour market, and refugees care for undertaking work even with lower remunerations, as there's no concrete employment legislation, usually wages are getting down specially in agricultural area since there are increased competition. On the other hand, producers are utilizing these increased supply of labour and at the same time exploit the increased demand for products from refugees. As mentioned above, all informal markets are outside of state's sphere: no taxation, unwanted exploitation, misuse of workers, consequently poverty and insecurity issues are heading.

²⁴ R. Gracie, H. John, D. Paul, T. Ernesto, F. Mateusz (2019). "Modeling the Economic Impact of the Rohingya Influx in Southern Bangladesh."

2.3.2. Downfall on local earnings

Undertaken studies have addressed that the sudden influx of low skilled workforce with the capability of substituting the domestic workforce would push a negative stress on local labour market's remuneration. Since the Rohingya refugees share language identity and physical structure with Chittagong people and with their dialect, hence they're capable of understanding and speaking the language of the Chittagong region that result in competition for the unskilled labour force. Consequently, people who are residing in Ukhia and Teknaf living from unskilled labour works, being the poorest area they're experiencing significant rough competition. Since migration is a system to bring cheap labour, according to critical migration theory, the sudden unexpected influx of Rohingya refugees causes cheap labour. In this respect, the lack of national legislation on refugee employment could be taken into consideration. There must be explicit regulation that can remove discrimination in labour earning field between refugees and domestic people. The payment must be equal to all regardless of gender, domestic or refugee people. Otherwise the absent of legislation will keep Rohinya people hiding their identity illegally since they share similar language and physical structure. Additionally, such identities would be utilized illegally by local employers in exchange for the cheap labour force and in many cases exploitable way.

Considering the survey, the mean remuneration of all workers decreased from Tk. 417 pre-influx to Tk. 357 post-influx, what calculates that wages rate reduced by 14% in Teknaf. As part of Ukhia the estimation is 6%. Unexpectedly, agricultural remunerations have decreased by a conspicuous higher rate. In sharp contrast with Ukhiya and Teknaf, the mean salary in the rest Cox's Bazar have risen up by more than 4% for all workers and 6.7% for workers involved in agricultural activities. According to study, it's estimated that the influx has reclined wages rate in Teknaf and Ukhia by on average 20% . However, rest of Cox's Bazar district experienced wages risen by 6.7percent.

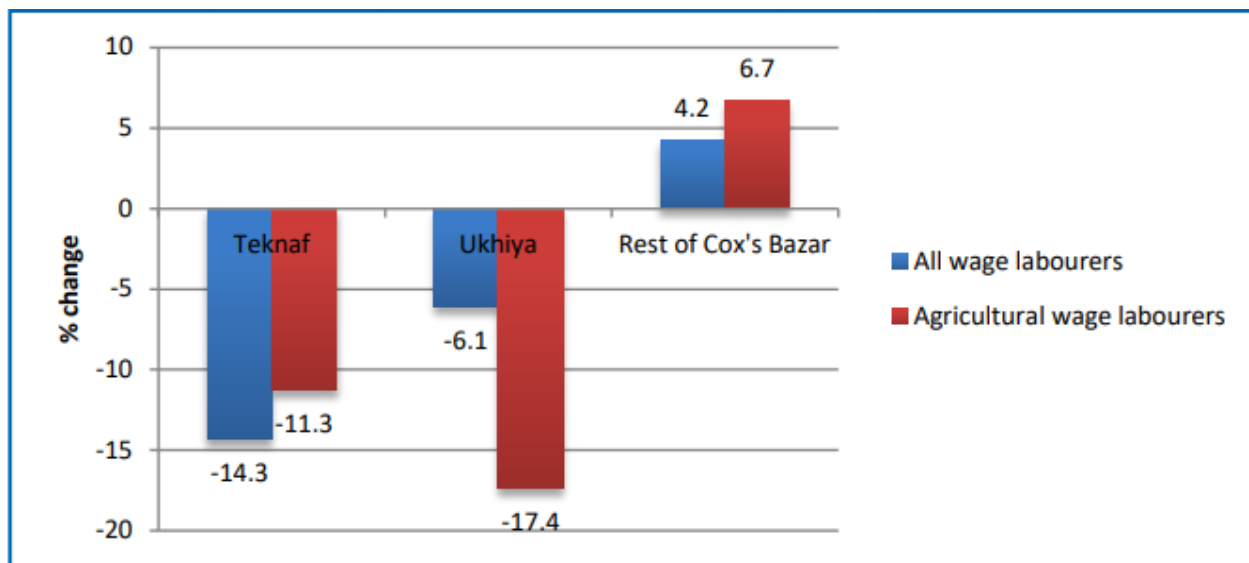


Figure 1. Wage impacts in June 2018

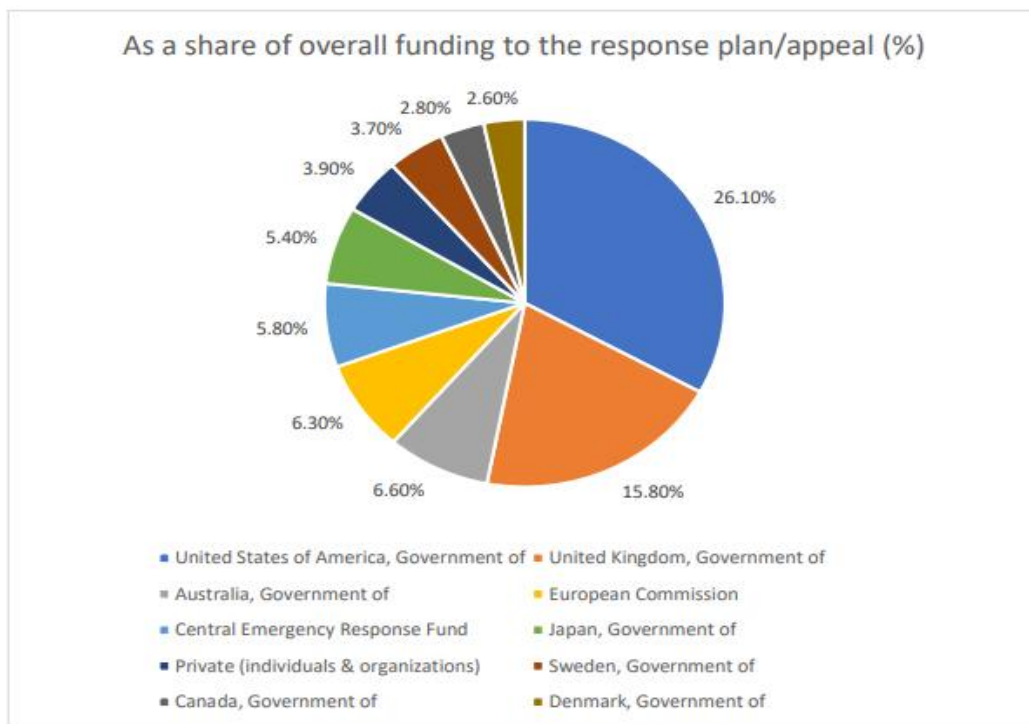
Source: UNDP household survey 2018.

2.3.3. Breakdown of gross domestic product and government budget

In 2016, Bangladesh's nominal gross domestic product was 221.4 billion USD. Again in 2017, the government revenue was 28.64 billion USD in accordance with present day's currency and exchange rate. However, the conservative calculates the required assistance to allow for the Rohingya refugees approximately 1 billion USD a year, 2017, calculates around 3.5% of the government's revenue in 2017. Being a developing nation, this estimation depicts a significant amount to expense and a massive potential difficulty for a nation. Such statement also clarified by Bangladesh Finance Minister who emphasized that the Rohingya crisis puts huge stress on nation's economy and furthermore Myanmar will destroy Bangladesh's economy this year, (added Abul Maal Abdul Muhith , Minister of Finance Bangladesh, Harmachi 2017). However, after the refugee crisis developed, Bangladesh's Finance Minister declared money allocation to tackle the Rohingya issue but hardly the exact amount of spending was received from government of Bangladesh.

Bangladesh's different ministers requested 7,664,764.43 USD from which Tk 50 crore was required for rehabilitation of Rohingya refugees at Bashan Char, besides Tk 10 crore for safe sewage and water facilities, additionally for the law enforcement Tk 5 crore, i.e. military deployed to manage refugee camps. In addition, to relocate around 100,000 Rohingya refugees to Bashan Char Island, sketching long-term solution, Bangladesh was paying 280 million USD²⁵. Such needs of refugees and financial spending pushing threats to Bangladesh's economy.

In 2017 October, there're 25 agencies started the Rohingya Refugee Crisis Response Plan (RRCRP), between 2017 September and 2018 February, where they required 434 million USD to spend on their operation in camps. However, along with the international organizations the developed nations provided at around 345 million USD, where 77.2% was needed to provide for the refugees. Consequently, it sketches that Bangladesh is in need of developed nations support.



²⁵ S. Jonathan (2018). "Bangladesh sees little foreign funds for Rohingya refugee island: minister".

Figure 2: Overall funding to the response plan

Source: Response plan overall funding, FTS.

The incoming funding used up for following areas:

*Food Security

*Shelter

*Education

*Health

*WASHA

*Nutrition

*Protection

*Child Protection

*GBV (Gender Based Violence)

*Cwc (Communication with Communities)

*Multi Sector.

However, studies undertaken have addressed that according to requirements the aid hasn't been distributed by each cluster, with unplanned spending on food security and remaining need for aid in others, for instance education or health care. If the unexpected spending covered by Bangladesh Government that would result in a significant burden on the state's budget and would definitely lessen government spending in other areas, for instance in development or social security, where Bangladesh still itself a developing nation.

As there was various way to stop humanitarian aid until repatriation of Rohingya ceases, which has not launched even in 2021 meditated by china due to the lack of guarantee for the Rohingyas' safety, the Joint Response Plan (JRP) for Rohingya Humanitarian Crisis had been launched where with the Joint Response Plan (JRP) the international community UN appealed US\$877 million for Rohingya refugee response in Bangladesh²⁶ in order to ensure the protection of the refugees and local community.

The continuing international assistance to Bangladesh until a comprehensive solution is found to the crisis will sketch an additional year influx of money and goods to the nation, in value amounting to approximately 0.6% of the state's GDP, which would again switch the domestic economy. On the other hand, the ongoing long-term external aid can have a negative macroeconomic impact leading to strengthening currency, hence more costly export, increased import, poor markets and less competition. Furthermore, the external assistance is unpredictable since there is no guarantee that the requested support will be available in requested timeframe. Consequently, host nation can experience difficulties with budgeting. At the end of the day, consecutive external support to Bangladesh can easily head to increased dependency on developed nations.

2.3.4. Negativity on international commerce

According to World System Theory, the Core nations utilize the resources of the Peripheric nations, with a view to accumulating economic surplus. However, a Peripheric nation is marked by exporting natural resources and basic products, whereas it imports manufactured items from Core nations. This characterization complemented with the idea of the critical International Political Economy (IPE) approach, demonstrating that the global economic system depicts global politics, provides ground to study the international trade of Bangladesh, in order to see how

²⁶ *UNHCR, The UN Refugee Agency (2020). UN appeals for US\$877 million for Rohingya refugee response in Bangladesh.*

nation fits into this system and what are the suggestion of the humanitarian aid flowing into the nation.

Due to the poor value of exported goods compared to the value of imported items, since 1976 Bangladesh has been experiencing trade deficiency. However, among the import goods petroleum and oil which are 11% of total imports, textile and food items are 10% and 11% respectively which are the main, whereas readymade garments are the main export goods what 80% of total export revenue.²⁷ In the light of import and export goods, according to World System Theory and suggest, Bangladesh is unquestionably relied on more advanced nations.

According to study, Bangladesh's trade deficit has augmented considerably since Rohingya refugees influx period due to absent of management regulations , August 2017, but it's literally difficult to consider this increase resulted from refugee issue since the increased trade deficit is due to numerous facts, for instance importing raw items for upcoming large scale infrastructure projects, oil price increase, food import increase, and lot. However, among these the last one, an increased food import, may be connected to the refugee influx. Furthermore, it's believed that the raised rice import is due to crop losses of the previous year's flood (2016) but the timing of the increased food import can not be considered as a coincident since it's exactly when the Rohingya crisis launched. Considering the whole, based on the collected data, even though it's literally difficult to decide that the arrival of Rohingya refugees had a significant effect on Bangladesh's cross-border trading, the unwanted trade deficit determines the state's increased dependency on the developed nations.

²⁷ O, Keunyeob, H, Sumon(2018). "A study on the Export Potential of Bangladesh's Ready-Made Garments."

3. SUMMARY OF FINDINGS AND ASSESSMENT

Throughout the analysis, from August 2017; the beginning of the Rohingya refugees crisis, the internal legislative situations in Bangladesh examined with a focus on the absent of national legislation and its effect, existing governing mechanisms, proposed legal norms and so on. However, those analysis emergence Bangladesh to set up concrete legal system on refugees and stateless people since once Bangladesh ratifies the significant conventions, it would be then obligatory for Bangladesh to follow the basic principle of international mechanisms what would ensure that its national legislation and exercise are compatible with treaty requirement. Generally, once the treaty is incorporated into national law or whatsoever the treaty would provide the significant key measures to be considered. Besides, as the treaty incorporates vital stipulation, the state would be required to follow the legislative measures in order to protect refugee rights.

3.1. Establishing national legislation and compliance with constitution

Approaching to bring resolutions based on mentioned perspectives, I find some principal weapons what can do set down the resolutions that may further the goals. To begin with, I believe despite Bangladesh's Constitution does not have specific provisions on refugees or asylum seekers, however, national legislation may adopt a number of rights that may apply equally to citizens of Bangladesh and to stateless persons, hereafter Rohingya refugees. In this regard, recognized principles and rules of international legal system can be combinably inseparable part of Bangladesh's national law which means customary international legal framework may form a part of Bangladesh's national legal system vis a vis refugees protection. The national legal system may mostly focus on procedural aspects of granting protection²⁸ along with the legal status of refugees have been granted international protection and the legal basis of their temporary stay, freedom from discrimination, prohibition of incitement to violence, the right of recourse to the court, freedom to belong to unions and federations of employers and employees, right to

²⁸ Naser, M. M., & Afroz, T. (2007). *Protection of Refugees in Bangladesh: Towards a Comprehensive Legal Regime*. Dhaka University Law Journal Studies, (Part 1).

education, freedom to preserve ethnic identification, and lot, on the basis of treaties and formation of national legislation.

Significantly as stated above, in Bangladesh's Constitution, Part III enshrines a series of fundamental human rights formatting heavily from the international human rights discourse which should be followed by Bangladesh. In Article 27 of the Constitution, for instance, it's stipulated equal protection of law for all. In addition, Article 31 outlines that not only the Bangladeshi citizens are entitled to have protection of legal system but the foreigners, non-citizens, who stay in the state's territory for the time being are also have equal protection. Furthermore, it's specified in Article 32 of the Constitution that no person shall be deprived of liberty and life save within the meaning of law. However, it's notable part that the word "person" is used rather not "citizen" which means irrespective of whether he/she is a citizen of Bangladesh.

3.2. Ratifying significant conventions and compliance with international instruments

Bangladesh should not avoid to accede Convention Relating to the Status of Refugees and its Protocol, adopted on 1951 and 1967 respectively, that provide the basic instrument of Refugee Law to fully promote, protect, respect and fulfill obligations towards stateless persons under international human rights legal framework. Moreover, Bangladesh should ratify and after ratification it should fully implement the 1954 Convention relating to the Statues of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness to ensure guarentee of minimum standards of treatment for statelss persons in respect to a number of fundamental rights.

In addition, as Bangladesh has ratified a number of vital international human rights mechanisms which are Universal Declaration of Human Rights (UDHR), International Convention on Civil and Political Rights (ICCPR), Four Geneva Convention of 1949 and Additional Protocols of

1977, Convention on The Rights of the Child (CRC), Convention Against Torture (CAT) and so on, hence, Bangladesh has a bearing obligation to protect refugees within the meaning of Article 2 of the ICCPR, 1996, that even though refugees are foreigner they could enjoy the same rights and freedoms as nationals. Furthermore, according to CRC Bangladesh has to take care of the rights and interest of the refugee children incorporating their birth registration. Likewise, the Declaration and Programme of Action of the World Conference on Human Rights obliges Bangladesh to ensure right of every person seeking refugee and asylum status.

3.2.1. Inclusion through Constitution

Since the existing constitutional legislations what governing the refugee status in Bangladesh are not sufficient to protect refugee rights, Bangladesh is required to incorporate new legislations into constitution putting the Convention into exercise. In this case Bangladesh should adopt explicit and comprehensive legal statement of the entitlement of stateless people with refugee status, and specific legislations to ensure those rights real in exercise. However, the refugee protection and recognition are significantly vital in the state's supreme law since such recognition and protection would ensure the state to prohibit any kind of discrimination against Rohingya refugees. Besides, such introduction would consider Rohingya refugees as one of the grounds on which equal treatment must be ensured along with assuredly refugee rights are being protected in the state's constitution, either as a general protection of equality or in a manner of explicit details pertaining to refugee rights protection.

3.2.2. Affiliation through legislation

In order to ensure refugee rights are protected in Bangladesh, significant Convention can be adopted entirely by the parliament into national legal system. Since the existing legislations that governing the refugee status in Bangladesh are not enough to protect refugee rights, Bangladesh is required to incorporate new legislations putting the Convention into exercise. Once Bangladesh ratifies the significant conventions, it would be mandatory for it to follow the basic principle of international mechanisms what would ensure that its national legislative and exercise

are compatible with treaty requirement. Generally, once the treaty is incorporated into national law the treaty would provide the significant key measures to be considered. Besides, as the treaty incorporates vital stipulation, the state would be required to follow the legislative measures in order to protect refugee rights.

If so, there should be explicit indication that the Convention principles are self-executing meaning those provisions are adopted to enforce directly before tribunals and national courts. Nevertheless, introducing legal system would be still required basically even though the entire Convention is included into national legislation since this won't be usually enough to accord entire effect to its principles. In addition, along with implementing law there would be necessity of inclusion of detailed legal system in particular field, for instance legal system that would prohibit employment discrimination. Indeed, ratifying the Convention and Protocol to ensure refugee rights would bound Bangladesh to abstain from performances that might minimize the purposes and object of the mechanism. Additionally, once Bangladesh signs the significant Convention and Protocol, it would introduce if not several then at least an act to be obliged by provided mechanisms as well to apply such legal system in good faith. Thus, the refugee and stateless persons' rights stipulated in the Convention would be guaranteed by the domestic legal system. Indeed, the rights that would be enumerated in national legislation ensured by Convention would be provided enough efforts by the Parliament Members in Bangladesh.

3.2.3. Incorporation through regulatory

Along with the inclusion through constitutional and legislative measures, after signing the Convention Bangladesh may incorporate the Convention into exercise through regulatory system. However, it's thought that to set forth the specific legislation and standards signified to guarantee equal justice of particular rights before law by persons with stateless status, it won't be possible or applicable consistently for the legislators. Consequently, along with legislation, the Bangladesh could be required to apply essential policy and regulatory standards to follow vital

principles arising from appropriate measures to be adopted in particular areas for instance family matters or birth control or communication and information systems. Besides, it could be significant to introduce legal system that grants for standers to be followed in mentioned areas and to appeal that the mentioned standers be provided to the legislator for explicit idea and information and/or acceptance as it's not impossible to see that the parliaments are not introducing these specific legal systems.

3.3. Assessment

Neither Bangladesh is a signatory party to any legally binding international instrument dealing with the protection of refugees nor it's uniformed domestic legal system and unique policy to deal with refugee rights status and protection. Additionally, over the customary international mechanisms, the municipal regulation provisions are always provided priority even in some extend the esistance of national legal system is available. Indeed, due to the lack of national legislation, refugees involvement in unethical economy makes them endangered to compatible low wages and illegal employment exercises, if exploited leaving them vulnerable to lawful protection. Even though very low positive changes have been brought out accessing to education in 2013, prohibitions on the access to education and freedom of movement additionally incorporate the chance of self-reliance. Besides, for Rohingya refugees engagement in work has been restricted or replaced applying numerous initiatives and restrictive policies what's upset labour market incidentally in wage pattern

In order to ensure refugees' right, Bangladesh has responsibility to promote, protect, apply and comply with all human rights and essential freedoms. In this case, Bangladesh must ratify international human rights conventions since the conventions provide protection, ensure human right and obligation, and responsibilities regarding refugees. Inter alia, the conventions incorporate right to get identification and travel documents, freedom from discrimination, right to work, access to education and jurisdiction, the right to own possession and independently choose a residence place. Moreover, even though Bangladesh has not been yet signed the 1951 Convention and 1967 Protocols and does not have any domestic legal system concerning refugee

issues, Bangladesh is constitutionally proclaimed to respect international legal instruments and the UN Charter principles.²⁹

Additionally, Bangladesh urgently requires a permanent, comprehensive and constant national legislation to develop an inclusive legal framework for the protection of human basic rights of Rohingya refugees and to help asylum seekers to ensure their access to legal system. Additionally, common to the nations in South Asia, a statutory reigm may be formulated to develop a legal system model for refugee protection in the South Asian territory.

²⁹ *H.M. Sanjeeb Hossain, (2021). Bangladesh's judicia encounter with the 1951 Refugee Convention, (page 60-61). (https://www.fmreview.org/issue67/hossain#_edn4)*

CONCLUSION

Refugee law is *prima facie* a significant and powerful sign of solidarity with the globe's most severely vulnerable people since it's the only international human rights remedy which can be engaged and applied immediately and directly by vulnerable persons themselves. However, as stated above, Bangladesh's hosting refugees for a long period, yet it's not a signatory party to the UN Convention Relating to the Status of Refugees 1951 or its 1967 Protocol. Additionally, there's no domestic legal system to deal with the issue of refugees and asylum seekers. However, there're a few provisions in Bangladesh's Constitution which could be interpreted for the protection of refugees but there's a lack of common understanding on these provisions. In this case, there's a point for Bangladesh to accede the UN Convention Relating to the Status of Refugees 1951 and adopt national legislations since the Refugee Convention and its Protocol, adopted on 1951, provides the basic instrument of Refugee Law that specifies a refugee, sets out the refugee rights and responsibilities of states that grant asylum. In addition, the Convention stipulates which people do not qualify as refugees, for instance war criminals or involved on serious non-political crimes, *inter alia*. Adding up with the above mentioned points, the Convention establishes standards for the treatment of refugees, incorporating issues for instance their legal status, welfare, employment and so on. In order to ensure refugee rights in Bangladesh, once Bangladesh ratify the Convention, it would be able to provide minimum humanitarian standards of treatment in respect of refugees. Likewise, it would be significant establishment for Bangladesh to accord to refugees within her territory with the same treatment as that accorded to her own nationals, in cases of artistic rights and industrial property, access to justice in accordance with Article 16 of the 1951 Convention, rationing public benefits, social security and labour legislation, conditional wage earning conditions, freedom of movement³⁰ which are vital to be established. The ratification of 1951 Convention would also allow Bangladesh not to impose penalties, on account of refugees illegal entry from a territory where refugees' life or freedom is not ensured, and not to expel refugees against her will to a territory where he/she may be exposed to persecution save on the basis of nation security, in accordance with Article 33 of the Refugee Convention 1951, principle of non-refoulement what ensures unhindered access of

³⁰ Article 26, *ibid*

refugees in need of international protection to any state's territory. Additionally, right to work and access to labour markets for refugees are fundamental rights for becoming self-reliant, securing dignity, and rebuilding their lives. Since such rights are included in articles 17 to 19 of the 1951 Convention, Bangladesh may form national legislation on the ground of its nature and combining international approaches to provide opportunities for refugees for wage-earning employment, self-employment and for employment in independent professions. Similarly, Bangladesh should ensure right to education for the refugees in its domestic legal system to maintain international standards for refugee and asylum seekers which is outlined in Article 22 of the Convention of 1951 relating to the Status of Refugees. The government should accord to refugees the same treatment as is accorded to domestic people with respect to education.

Generally speaking, the 1951 Convention stipulates the most comprehensive legal systems for refugee right and is to be applied without discrimination of race, religion, gender or country of origin. In addition, it's the principle mechanism of universal application in relation to the refugees and has been acceded by almost all nations in the world. Besides, when a nation ratifies it, signs or accepts to any Convention or treaty, usually it recognizes that the Convention is not contrary to the state's national interest rather it respects national interest, likewise 1951 Convention does not place burdens contrary to national interest, constitutional norms, government policy and culture of Bangladesh. Hence, Bangladesh must ratify the 1951 Convention on the ground of ensuring refugees right and maintaining co-operation with the international community and UNHCR in their efforts to bring solution to the refugee problem and to facilitate UNHCR's task to mobilize international assistance to address a refugee situation that may arise in any nation. Overall, it's recommended that Bangladesh accede to the 1951 Convention and its 1967 Protocol along with drafting and adopting national legislation on refugees. Such introductory measures are essential for Bangladesh to be recognized formally for decades-long hospitality and solidarity towards refugees from Myanmar and underlining the importance attached by Bangladesh to comply with the international community in efforts to identify solutions for refugees. Furthermore, such initiatives would assist the government to deal with issues pertaining to asylum in a formal manner, thus accomplish Bangladesh's responsibilities under international human rights mechanisms, along with provisions in its Constitution

However, Bangladesh's not a signatory State to neither the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness where 1954 Convention guarantees minimum standards of treatment for stateless people in respect to a bunch of fundamental rights, for instance right to education, employment, public and housing relief along with significant rights i.e. travel documents and specify and to administrative assistance. On the other hand, Convention on 1961 sets forth an international framework to guarantee the right of every individual to a nationality by ensuring safeguard to prevent statelessness at birth and later in life.

In this backdrop, in order to ensure and facilitate that the refugee rights are protected adopting legal framework to prevent and eradicate statelessness and avoid the detrimental impacts of statelessness on individuals and society ensuring minimum standards of treatments for stateless individuals, Bangladesh may consider acceding 1954 and 1961 Conventions along with drafting and establishing national legislation governing prevention and reduction of statelessness or the protection of stateless people.

Apart from this, the legal system for refugees in Bangladesh should establish an institutional standard to provide legal protection of refugees, incorporating a standard definition, compatible with Article 1 of Definition of The Term "Refugee" of 1951 Convention And Protocol Relating to the Status of Refugees. Besides, there should be mechanism in legal system to resolve refugee issues in a manner which signifies international solidarity and cooperation while respecting refugee protection. Moreover, government can establish strategy to prevent problems occurring in the future. However, the ideal institutional framework should form combining international, national and regional approaches.

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