



Research Monograph

On

“Legal Status of Rohingya Refugees in Bangladesh: Gaps Between National Law and International Standards”

Research Paper submitted in partial fulfillment of the requirements of the requirements of the degree of LL.M (2 years) under Sonargaon University

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Subject : Letter regarding the Submission of Research Monograph on “Legal Status of Rohingya Refugees in Bangladesh: Gaps Between National Law and International Standards”

Dear Madam,

I am hereby pleased to submit the project on “**Legal Status of Rohingya Refugees in Bangladesh: Gaps Between National Law and International Standards**”. It was a great pleasure to work on such an important topic. This project was assigned to me in partial fulfillment of the requirements for the award of the degree Masters of Laws from Sonargaon University.

I believe that this project will certainly help you in evaluating my work. I would be very happy to provide any assistance in interpreting any part of the paper whenever necessary.

Sincerely yours,

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Student Declaration

I hereby do solemnly declare that the work presented in this dissertation paper has been carried out by me and has not been previously submitted to any other University/College/institution/Organization for academic qualification or professional degree.

I hereby assure that the work that has been presented here does not breach any existing copyright law.

I further undertake to indemnify the University against any loss or damage arising from breach of the forgoing obligations.

Signature

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Certification

This is to certify that the Research Monograph on “**Legal Status of Rohingya Refugees in Bangladesh: Gaps Between National Law and International Standards**” is the bonafide record of the project work done by **Salma Akter Rima**, ID No: LLMp2401030006 in partial fulfillment of the requirements for the award of the degree of the Master of Laws, Sonargaon University.

I do here by certify that the project work has been carried out under my direct supervision and guidance.

Sharmin Jahan Runa
Assistant Professor & Head
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Acknowledgement

At first, I would like to thank Almighty Allah for his kindness on me in accomplishing the report. I would like to express my deep sense of gratitude to my honorable and distinguished supervisor **Sharmin Jahan Runa**, Assistant Professor & Head, Department of Law, Sonargaon University for her individual suggestions, valuable time, important information and guidance during the study period that has greatly inspired me in preparing this report successfully.

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Abstract

The legal status of Rohingya refugees in Bangladesh represents a complex intersection between humanitarian considerations, national security interests, and international human rights norms. Despite hosting over one million forcibly displaced Rohingya people fleeing persecution in Myanmar, Bangladesh is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, nor does it have a national refugee law to regulate asylum, rights, and long-term protection. As a result, Rohingya in Bangladesh are classified as “Forcibly Displaced Myanmar Nationals (FDMNs)” rather than refugees, creating a significant legal gap that directly affects their access to basic rights, durable solutions, and international protection.

Under national law, the absence of a refugee framework means that rights such as freedom of movement, employment, education, and legal identity remain heavily restricted. Rohingya are largely confined to camps in Cox’s Bazar and Bhasan Char and rely primarily on humanitarian assistance. While Bangladesh upholds certain protections under constitutional guarantees of equality, and provides temporary shelter on humanitarian grounds, these measures fall short of the comprehensive rights envisioned under international standards.

Conversely, international human rights law—including the Universal Declaration of Human Rights, Convention on the Rights of the Child, and customary norms against refoulement—requires states to ensure non-discrimination, access to basic services, and the right to a dignified life. Though Bangladesh informally observes many of these principles, practical implementation remains inconsistent due to resource limitations, political concerns, security risks, and the absence of legal codification.

This gap between national law and international standards results in uncertain legal identity, limited protection mechanisms, and prolonged vulnerability for Rohingya refugees. The study highlights the need for a structured national refugee framework, stronger regional cooperation, and alignment with international protection norms. Addressing these gaps is essential not only for safeguarding Rohingya rights but also for ensuring sustainable, rights-based refugee governance in Bangladesh.

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Chapter 1:

Introduction

1.1 Background of the Study

The Rohingya refugee crisis remains one of the most protracted and severe humanitarian challenges in South and Southeast Asia. Bangladesh currently hosts more than one million Rohingya refugees who fled systemic persecution, targeted violence, and statelessness in Myanmar, particularly in the Rakhine State. Although Bangladesh has extended significant humanitarian support on moral and compassionate grounds, the legal framework governing the status, rights, and treatment of Rohingya refugees remains limited and fragmented. This gap generates complex challenges for effective refugee governance, human rights protection, and long-term policy planning.

Historically, the Rohingya have been subjected to discrimination and exclusion, especially following the 1982 Myanmar Citizenship Law, which rendered them stateless by excluding them from recognized ethnic groups. Their displacement to Bangladesh occurred in several waves, with major influxes in 1978, 1991–92, 2012, and most dramatically in 2017. The 2017 violence led to one of the fastest-growing refugee crises in the world, forcing over 750,000 Rohingya to cross the border within months.

Bangladesh, while sympathetic to the humanitarian catastrophe, is not a signatory to the 1951 Refugee Convention or the 1967 Protocol, and it lacks domestic refugee legislation. Consequently, Rohingya are categorized not as “refugees” but as Forcibly Displaced Myanmar Nationals (FDMNs) under administrative directives. This classification limits their legal recognition and restricts rights regarding mobility, employment, education, citizenship, and durable solutions.

At the same time, international human rights norms—such as the Universal Declaration of Human Rights (UDHR), Convention on the Rights of the Child (CRC), and provisions on non-refoulement—place obligations on states to protect displaced persons irrespective of refugee status. The gap between national laws and international standards has therefore become a critical research focus. This study explores how Bangladesh’s national legal

framework addresses (or fails to address) refugee rights, the nature of inconsistencies with international obligations, and potential pathways for legal and policy reform.

Understanding this legal gap is essential because it shapes not only the everyday lives of Rohingya refugees but also Bangladesh's humanitarian responsibilities, national security considerations, and its diplomatic engagement with Myanmar, ASEAN, SAARC, OIC, and global actors. The background of the Rohingya crisis is thus deeply embedded in geopolitics, international law, national sovereignty, and human rights discourses, making the topic timely and academically significant.¹

1.2 Statement of the Problem

The core problem addressed in this study is the absence of a clear, comprehensive legal framework in Bangladesh regarding the status and rights of Rohingya refugees, resulting in a protection gap when compared with international refugee standards. Although Bangladesh continues to uphold humanitarian principles, its reliance on ad-hoc administrative policies, security-based approaches, and temporary protection arrangements limits its ability to ensure long-term rights and protection for Rohingya refugees.²

The problem manifests in several areas:

- No domestic refugee law exists in Bangladesh.
- The Foreigners Act of 1946, which governs non-citizens, does not distinguish refugees from undocumented migrants.
- Rohingya are denied legal identity, affecting access to justice, services, and long-term documentation.
- Restrictions on movement, employment, and formal education prevent socioeconomic integration.
- Bangladesh, while upholding humanitarian principles, does not legally commit to the non-refoulement principle, as it is not codified in national law.
- International protection standards, including UNHCR guidelines, often conflict with national administrative practices.

¹ Myanmar Citizenship Law, 1982.

² UNHCR (2017). Rohingya Emergency Response Report.

This gap between national law **and** international norms creates precarious conditions for Rohingya refugees, limits policy coherence for the government, and increases long-term risks of marginalization, security tensions, radicalization, and instability in the refugee camps.³

The problem is therefore multidimensional—legal, political, humanitarian, and developmental—and requires a systematic academic investigation.

1.3 Research Questions

To address the problem systematically, the study seeks to answer the following major research questions:⁴

1. What is the current legal status of Rohingya refugees under Bangladesh’s national legal framework?
2. How do Bangladesh’s national laws and administrative practices align or diverge from international refugee protection standards?
3. What are the key legal and policy gaps that affect the rights, protection, and long-term well-being of Rohingya refugees?
4. What implications do these legal gaps have for Bangladesh’s humanitarian governance, national security, and international relations?
5. What reforms or policy measures can Bangladesh adopt to minimize the legal gaps and strengthen protection for Rohingya refugees?

These research questions guide the conceptual structure, analysis, and findings of the study.

³ The Constitution of the People’s Republic of Bangladesh.

⁴ Foreigners Act of Bangladesh, 1946.

1.4 Objectives of the Study

The major objectives of this research include:

Primary Objective:

- To analyze the legal status of Rohingya refugees in Bangladesh and identify gaps between national law and international refugee protection standards.

Secondary Objectives:

- To review the national legal instruments affecting refugees and non-citizens in Bangladesh.
- To examine the extent of Bangladesh's adherence to international human rights and humanitarian obligations.
- To evaluate how legal gaps influence the socioeconomic and security conditions of Rohingya refugees.
- To provide policy recommendations for harmonizing national law with international refugee protection norms.
- To contribute to academic discourse on statelessness, asylum policy, and refugee governance in South Asia.⁵

1.5 Significance of the Study

This study holds academic, social, legal, and policy significance.

1. Academic Significance

The topic contributes to research in international law, refugee studies, human rights, geopolitics, and South Asian legal systems. It fills a gap in understanding how a non-signatory state navigates refugee governance.⁶

⁵ United Nations Convention on the Rights of the Child (CRC), 1989.

⁶ UN General Assembly, Universal Declaration of Human Rights, 1948.

2. Legal Significance

The study highlights discrepancies between national legal frameworks **and** international protection norms, offering insights for legal reforms, administrative guidelines, and statutory development.

3. Humanitarian and Social Significance

By examining rights such as identity, education, protection, and mobility, the study emphasizes the lived experiences and vulnerabilities of Rohingya refugees.

4. Policy Significance

The findings support informed policy-making for:

- Government agencies
- International organizations
- Humanitarian actors
- Regional and global partners

It also helps identify long-term strategies for sustainable refugee management.

5. Diplomatic and Security Significance

Legal ambiguity affects diplomatic relations with Myanmar and international bodies. The study illuminates how a rights-based approach can strengthen Bangladesh's global standing.

1.6 Methodology

The study adopts a **qualitative, doctrinal, and analytical research methodology**.

1. Data Sources

The research relies on:

1. Primary sources:

- Constitution of Bangladesh
- Foreigners Act, Penal Code, and other national laws

- International treaties (UDHR, CRC, ICCPR, ICESCR)
- UN guidelines
- Government policy documents

2. Secondary sources:

- Books, journal articles, and academic reports
- UNHCR reports
- NGO publications
- Legal analyses and commentaries
- Media investigations

2. Methods of Analysis

- Comparative legal analysis
- Content analysis of legal documents
- Interpretative analysis using refugee law theory
- Cross-referencing international standards with Bangladesh’s practices

3. Rationale for Method Choice

Since the topic involves legal gaps, doctrinal analysis is essential. Humanitarian issues require qualitative interpretation rather than quantitative measurement.⁷

1.7 Scope and Limitations

Scope of the Study

The scope covers:

- Legal and administrative frameworks in Bangladesh relevant to refugee protection.
- International standards, including UN conventions, customary law, and guidelines.
- Analysis of Rohingya refugee rights: identity, movement, education, safety, health, livelihood, and legal protection.
- Role of national agencies, UNHCR, NGOs, and international actors.
- Implications for human rights, security, and regional diplomacy.

⁷UNHCR, “Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status,” 2019.

Limitations

Despite the broad conceptual scope, the study faces several limitations:

- Bangladesh's refugee policies are not codified, so data relies on policy documents, administrative circulars, and secondary analyses.
- Some government reports may not be publicly accessible.
- Access to camps, if this were a field study, is restricted and regulated.
- International law interpretations may vary across jurisdictions.
- The dynamic nature of the refugee situation may change over time, especially in the context of repatriation, relocation, or political negotiations.

These limitations, however, do not undermine the analytical value of the study; rather, they highlight the need for deeper legal research and continuous policy monitoring.

Chapter 2: Conceptual and Theoretical Framework

2.1 Definition of Refugee

The concept of a *refugee* has evolved through historical, political, and legal developments. In modern international law, the most authoritative definition is provided by the 1951 Convention Relating to the Status of Refugees, which defines a refugee as an individual who, “owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country.”¹ This definition sets a clear distinction between refugees and other categories of migrants, such as economic migrants or internally displaced persons (IDPs).⁸

The term emphasizes *persecution*, *lack of state protection*, and *crossing an international border* as core components. The 1967 Protocol later removed the temporal and geographic limitations originally attached to the 1951 Convention, transforming refugee protection into a global and universal framework.

In addition to legal definitions, broader humanitarian interpretations also exist. International organizations such as UNHCR often describe refugees in practical terms—people forced to flee due to conflict, violence, or human rights violations. Although Bangladesh does not have a domestic legal definition of a refugee, Rohingya people are internationally recognized as refugees under customary international law due to the nature of their forced displacement and the systemic persecution faced in Myanmar.⁹

Thus, the definition of a refugee is not merely semantic; it forms the foundation of legal protection, state responsibilities, and humanitarian obligations in both national and international contexts.

⁸ UNHCR, *Convention and Protocol Relating to the Status of Refugees*, 1951/1967.

⁹ Hathaway, J., *The Rights of Refugees under International Law*, Cambridge University Press.

2.2 Legal Status and Protection Concepts

Legal status is central to determining the rights, entitlements, and protection mechanisms available to displaced persons. In states that are signatory to refugee conventions, refugees are granted legal identity, documentation, and protection from refoulement. However, in countries like Bangladesh—where no specific refugee law exists—the legal status of refugees remains ambiguous.

Refugee protection is built upon several core legal principles:

a. Non-Refoulement

Considered the cornerstone of refugee protection, this principle prohibits returning individuals to a country where they may face persecution. It is recognized as *customary international law*, binding even on states not party to the 1951 Convention.

b. Right to Life, Liberty, and Security

These rights are guaranteed under international human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

c. Access to Basic Services

International norms emphasize refugees' access to healthcare, education, food, shelter, and humanitarian aid. In Bangladesh, these rights are provided primarily through humanitarian agencies rather than formal legal guarantees.

d. Freedom of Movement and Employment

The 1951 Convention grants refugees the right to wage-earning employment, self-employment, and freedom of movement. Bangladesh, however, restricts these rights for Rohingya refugees, limiting economic opportunities and mobility.

Legal protection therefore depends on both *national frameworks* and *international obligations*. The absence of a clear legal category in Bangladesh creates a protection gap that

significantly affects the Rohingya population's ability to claim rights, access justice, and enjoy long-term security.

2.3 Theoretical Perspectives on Refugee Rights

Understanding refugee protection also requires engagement with theoretical frameworks from social sciences, political studies, and international law. These theories help explain how states behave toward refugees, how rights are interpreted, and how humanitarian responsibilities develop over time.

a. Human Rights Theory

This perspective emphasizes that all individuals possess inherent rights simply by virtue of being human. Refugees are therefore entitled to universal protections regardless of their legal status. This theory highlights moral and legal duties of states, even in the absence of formal refugee legislation.¹⁰

b. International Relations and Sovereignty Theory

From a realist perspective, states prioritize national security, territorial control, and political stability. Refugee protection becomes secondary to state interests. This theory explains why states like Bangladesh may hesitate to provide full legal rights to large refugee groups due to perceived security, demographic, and economic risks.

c. Social Protection Theory

This framework focuses on the social welfare dimension of refugee rights, arguing that displaced populations require integrated support systems, including education, healthcare, and livelihood opportunities. Lack of such support leads to long-term dependency and social vulnerability.

d. Burden-Sharing and Responsibility-Sharing Theory

This theory emphasizes the collective responsibility of the international community. Refugee crises often affect neighboring countries disproportionately; therefore, global cooperation is essential for equitable resource distribution and durable solutions.

¹⁰ Donnelly, J., *Universal Human Rights in Theory and Practice*, Cornell University Press.

Together, these theories provide a multidimensional understanding of refugee issues, informing both advocacy and policy design in contexts like Bangladesh.

2.4 International Refugee Protection Framework

The international refugee protection system is built upon legal instruments, institutions, and norms designed to safeguard displaced people.¹¹

a. The 1951 Refugee Convention and 1967 Protocol

These two instruments form the legal backbone of the global refugee protection regime. They outline the definition of a refugee, the rights they are entitled to, and the obligations of states. Although Bangladesh is not a party to these treaties, they influence global norms and expectations.

b. Universal Declaration of Human Rights (UDHR)

Article 14 provides the right to seek and enjoy asylum from persecution. This principle underpins modern asylum systems and applies universally.

c. International Human Rights Treaties

Several treaties indirectly protect refugees, including:

- **ICCPR**: protection from arbitrary detention, rights to liberty and security.
- **ICESCR**: rights to education, health, adequate living standards.
- **CRC**: special protections for refugee children.

Bangladesh is a state party to many of these treaties and is thus bound to uphold their provisions.

d. Customary International Law

Non-refoulement, humane treatment, and protection from torture are widely recognized as customary international norms. Even non-signatory states are obligated to observe them.⁵

¹¹ Betts, A., *International Cooperation in Refugee Protection*, Oxford University Press.

e. Roles of International Agencies

UNHCR plays a central role in refugee registration, protection monitoring, humanitarian coordination, and advocacy. Other agencies such as IOM, UNICEF, and UNDP also contribute to service delivery and long-term development planning.¹²

Despite the availability of these international frameworks, gaps persist when states lack national legislation. In Bangladesh, the absence of a refugee law means that international standards are often applied voluntarily or partially, leading to inconsistencies in protection.

¹² Goodwin-Gill, G., *The Refugee in International Law*, Oxford University Press.

Chapter 3:

Rohingya Refugee Crisis: Historical Overview

3.1 Background of Rohingya Persecution in Myanmar

The Rohingya people represent one of the most persecuted ethnic minorities in the world. Their historical presence in the Rakhine (Arakan) region can be traced back centuries, with evidence of Muslim communities living in the area since at least the 15th century. Despite their deep-rooted history, the Rohingya have long been denied recognition as an official ethnic group in Myanmar. The turning point in their legal marginalization occurred through the 1982 Citizenship Law, which excluded the Rohingya from the list of 135 recognized ethnic groups, effectively rendering them stateless.¹ This law not only denied them citizenship but also limited their movement, marriage, property ownership, and access to education.¹³

The roots of persecution are deeply intertwined with political manipulation, ethnic nationalism, religious polarization, and military dominance in Myanmar. Successive governments, including civilian-led administrations, viewed the Rohingya as “foreigners” or “illegal Bengalis,” despite abundant historical evidence proving their centuries-long presence in Rakhine. State-sponsored discrimination was further intensified by restrictive policies such as forced labor, land confiscation, arbitrary taxation, movement restrictions, and denial of basic human rights.

Intercommunal tensions between Buddhist Rakhine and Rohingya Muslims have also been systematically exploited by political elites to consolidate power and justify military actions. Mass violence in 1978, 1991–92, 2012, and 2016–17 demonstrated a pattern of coordinated campaigns aimed at driving the Rohingya from Myanmar. The 2017 military “clearance operations” marked one of the worst humanitarian atrocities in recent history, involving indiscriminate killings, mass rape, village burnings, and forced displacement. The United Nations later described these actions as a “textbook example of ethnic cleansing,” and several international bodies labeled them as potential genocide.²

¹³ Human Rights Watch, *“The Rohingya: Stateless and Oppressed,”* HRW Publications.

Thus, the background of Rohingya persecution is rooted in state policies, institutional discrimination, and deep-seated ethnic hostilities that evolved over decades, culminating in repeated exoduses to Bangladesh and other nations.¹⁴

3.2 Major Influxes into Bangladesh

Bangladesh has experienced multiple influxes of Rohingya refugees since its independence. These waves of displacement correspond directly with periods of intensified persecution in Myanmar.

a. First Major Influx (1978)

The **Operation Nagamin (Dragon King)** launched by the Myanmar military targeted the Rohingya population under the pretext of rooting out “illegal immigrants.” This campaign involved widespread atrocities and mass registration drives intended to identify and expel Rohingya. As a result, approximately **200,000 Rohingya** fled to Bangladesh.³ Humanitarian conditions were severe, prompting international aid interventions and eventual repatriation agreements, though many returnees reported forced and unsafe conditions.¹⁵

b. Second Major Influx (1991–1992)

Renewed military operations and forced labor policies in Rakhine State triggered another exodus of nearly **250,000 Rohingya**. Bangladesh, still a young and resource-constrained nation, struggled to manage the sudden population increase. While repatriation occurred following bilateral negotiations, many refugees refused to return due to continuing violence.

c. Communal Violence and Minor Influxes (2012–2016)

A series of communal clashes erupted in 2012 between Buddhist and Muslim communities in Rakhine. Hundreds were killed, thousands displaced, and many Rohingya villages were destroyed. Bangladesh faced ongoing trickles of arrivals during this period, although it tightened border controls to prevent mass influxes.

¹⁴ United Nations Human Rights Council, *Report of the Independent International Fact-Finding Mission on Myanmar*.

¹⁵ Ahmed, I., *The Plight of the Stateless Rohingya*, University Press Limited.

d. The 2017 Influx – Largest and Most Devastating

The most catastrophic displacement occurred in **August 2017**, following the Myanmar military's brutal crackdown in response to alleged insurgent attacks. Within a few months, more than **740,000 Rohingya** crossed into Bangladesh, joining earlier arrivals and forming one of the largest refugee settlements in the world. The rapid influx overwhelmed border areas, and Bangladesh responded by allocating land in Cox's Bazar for emergency camps.

These influxes not only highlight Myanmar's repeated failure to ensure Rohingya rights but also reveal Bangladesh's long-standing role as a primary refuge despite significant socioeconomic challenges.¹⁶

3.3 Current Demographic and Settlement Overview

Bangladesh currently hosts over **1.1 million Rohingya**, making it the world's largest refugee settlement in a single country. The majority reside in **Cox's Bazar**, primarily in Ukhiya and Teknaf upazilas. These include registered refugees from earlier influxes and unregistered or new arrivals from the 2017 crisis.

The Rohingya population is characteristically young, with over **55% under the age of 18**, reflecting high birth rates and the impact of conflict on family structures. Gender distribution is relatively balanced, although women and girls face heightened vulnerabilities due to previous trauma, restricted mobility, and lack of livelihood opportunities.

a. Settlement Typologies

1. Registered Refugee Camps (Pre-1992 Arrivals)

These camps house a small proportion of Rohingya refugees who receive formal documentation and structured support.

2. Makeshift Settlements (Post-2017 Arrivals)

The largest sites, such as Kutupalong–Balukhali Expansion Camp, were constructed urgently and lack durable housing. Kutupalong alone is recognized as the largest refugee camp in the world.

3. Bhasan Char Relocation Site

In an attempt to ease overcrowding, Bangladesh relocated some refugees to Bhasan

¹⁶ World Food Programme (WFP), *Rohingya Refugee Response Situation Report*.

Char, an island developed with housing, healthcare centers, and cyclone protection systems. However, concerns remain regarding long-term safety, freedom of movement, and economic sustainability.

b. Socio-Demographic Challenges

- Overcrowding limits access to clean water, hygiene, and adequate living space.
- Limited formal education opportunities leave children vulnerable to exploitation.
- Lack of livelihood opportunities fosters dependency, frustration, and sometimes illicit activities.
- Security concerns, including criminal networks, human trafficking, and camp violence, undermine overall stability.

Thus, demographic pressures and settlement patterns shape the humanitarian response and influence Bangladesh's policy decisions.

3.4 Humanitarian Situation in Camps

The humanitarian situation in Rohingya camps remains extremely fragile, marked by reliance on international aid, limited resources, and vulnerability to natural disasters. Although numerous international and national agencies operate in the camps, the scale of need far exceeds available capacity.

a. Food Security and Nutrition

The World Food Programme (WFP) and other partners provide food assistance, but funding shortages have resulted in ration cuts. Malnutrition, especially among children and pregnant women, remains a persistent challenge.⁴ Food insecurity increases tension within camps and can exacerbate social instability.

b. Health Services

Rohingya refugees have access to basic healthcare through NGOs and UN agencies, but medical facilities remain overstretched. Outbreaks of diphtheria, cholera, and measles have occurred due to population density and inadequate sanitation. Mental health concerns—linked to trauma and displacement—are widespread yet insufficiently addressed.

c. Shelter and Infrastructure

Most shelters are built from bamboo and tarpaulin, making them vulnerable to monsoon rains, landslides, and cyclones. Infrastructure, including roads and drainage systems, remains fragile, requiring continuous maintenance.

d. Education

Formal education is not fully available due to restrictions on integrating Rohingya into the national system. Instead, informal learning centers offer limited curricula, often interrupted by security risks or resource problems. As a result, a “lost generation” of Rohingya children is emerging with minimal access to formal education.¹⁷

e. Protection and Security Issues

The camps face recurring incidents of violence, gang-related conflict, drug trafficking, and gender-based violence. Women and girls remain particularly vulnerable to exploitation. Reduced humanitarian oversight due to funding cuts intensifies these risks.

f. Environmental Impact

The sudden settlement of hundreds of thousands of refugees has contributed to deforestation, soil erosion, and pressure on natural resources in Cox’s Bazar. Host communities face increased competition for firewood, water, and livelihood opportunities.

g. Humanitarian Funding Constraints

Donor fatigue has become a major challenge. As global crises increase, international funding for the Rohingya response has gradually declined, undermining essential services such as food distribution, healthcare, and shelter improvement.⁵

Overall, the humanitarian situation in the Rohingya camps is characterized by chronic vulnerability, limited opportunities for self-reliance, and deep dependence on international aid. Without durable solutions such as safe repatriation, third-country resettlement, or improved legal integration, the crisis is likely to become protracted and increasingly difficult to manage.

¹⁷ UNHCR, *Joint Response Plan for the Rohingya Humanitarian Crisis*.

Chapter 4:

National Legal Framework of Bangladesh and International Standards and Legal Instruments

4.1 Constitutional Provisions Relevant to Refugee Rights

Although Bangladesh does not have a formal refugee law, its Constitution contains several provisions that indirectly relate to the treatment and protection of non-citizens, including refugees. While the Constitution prioritizes the rights of citizens, certain fundamental rights are extended to *all persons*, regardless of nationality or legal status.¹⁸

Article 31 guarantees that every person within the territory of Bangladesh is entitled to the “protection of law” and cannot be subjected to arbitrary treatment by the state.¹ This provision is frequently cited by scholars and practitioners to argue that Rohingya refugees, despite lacking formal legal recognition, are entitled to basic legal safeguards. Similarly, Article 32 ensures that no person shall be deprived of life or personal liberty except in accordance with the law. These rights apply universally and impose constitutional obligations on the state to uphold minimum standards of humane treatment.

Furthermore, Article 33 protects individuals from arbitrary arrest, requiring due judicial process. Although the Constitution does not explicitly mention asylum or refugee protection, these rights form a foundation for humane treatment aligned with international human rights norms¹⁹.

On the other hand, rights such as freedom of movement (Article 36), employment rights, and political participation are reserved primarily for citizens, not foreigners. This legal distinction is central to understanding why Rohingya refugees experience restrictions on mobility, employment, and access to public services.²⁰

The constitutional framework therefore provides limited but essential protections, functioning as a baseline for the humane treatment of Rohingya refugees, though not granting them full legal status or enforceable rights typically afforded under international refugee regimes.

¹⁸ Constitution of the People's Republic of Bangladesh, Articles 31–32.

¹⁹ Rahman, M., *Legal Status of Rohingya Refugees in Bangladesh*, University Press Limited.

²⁰ UNHCR, *Rohingya Refugee Response: Operational Update*.

4.2 Foreigners Act and Related National Laws

The main piece of legislation governing non-citizens in Bangladesh is the Foreigners Act of 1946, a colonial-era law that predates both the emergence of the Rohingya crisis and Bangladesh's independence. The Act defines a "foreigner" broadly as anyone who is not a citizen of Bangladesh. It authorizes the government to regulate entry, stay, and deportation of foreigners.

Under this law, refugees, asylum seekers, undocumented immigrants, and other categories of non-citizens fall under the same legal treatment. The Act does not distinguish refugees as a separate group and does not offer special protections for those fleeing persecution.² As a result, the Rohingya population is legally treated as "illegal entrants," despite the humanitarian rationale behind their presence.²¹

Other related laws include:

a. The Passports Act (1920)

This law criminalizes entry without valid travel documents. Although it is occasionally invoked, Bangladesh has generally refrained from prosecuting Rohingya who enter the country for humanitarian reasons.

b. The Extradition Act (1974)

This law restricts the return of individuals who may face political persecution, indirectly providing legal grounds to avoid forced repatriation in cases of threat to life or liberty.

c. The Citizenship Act (1951)

This law outlines citizenship acquisition but specifically excludes Rohingya from any automatic legal pathway, reinforcing their statelessness in Bangladesh.

d. The Prevention and Suppression of Human Trafficking Act (2012)

Relevant in addressing trafficking vulnerabilities affecting Rohingya refugees, especially women and children.

²¹ Hathaway, J., *The Rights of Refugees under International Law*.

Despite the existence of these laws, none offer clear protections for refugees. Instead, the legal vacuum is filled by **ad hoc administrative orders**, humanitarian principles, and international cooperation.

4.3 Government Policies Toward Rohingya Refugees

Bangladesh's approach to the Rohingya crisis has historically been shaped by humanitarian considerations, security concerns, and geopolitical factors. Although not bound by international refugee law, Bangladesh has repeatedly provided temporary sanctuary to Rohingya populations during major influxes.²²

a. Humanitarian Shelter Policy

Since 1978, Bangladesh has maintained a policy of allowing Rohingya to enter its territory during large-scale persecution episodes. However, this hospitality is framed as *temporary*, and Bangladesh avoids terms like “refugee,” instead using the designation Forcibly Displaced Myanmar Nationals (FDMNs) to emphasize the lack of legal status.

b. Camp-Based Management

The government established a system in which most Rohingya must reside within designated camps in Cox’s Bazar or, more recently, in Bhasan Char. Movement outside these camps is heavily regulated under security considerations.

c. Non-Integration Policy

To prevent long-term settlement, Bangladesh prohibits:

- Entry into the labor market
- Enrollment in formal schools
- Acquisition of land or property
- Travel outside camp areas

The government fears that granting full rights may encourage permanent settlement, strain local resources, and alter regional demographics.

²² Goodwin-Gill, G., *The Refugee in International Law*.

d. Repatriation as the Preferred Solution

Bangladesh consistently advocates for *voluntary, safe, and dignified repatriation* to Myanmar as the primary long-term solution. The government cooperates with international agencies to prepare repatriation arrangements, though political and security conditions in Myanmar have made returns impossible so far.²³

e. Relocation to Bhasan Char

In response to overcrowding and environmental risks in Cox's Bazar, Bangladesh relocated several thousand Rohingya to Bhasan Char, a purpose-built island settlement. While featuring improved infrastructure, concerns persist regarding freedom of movement and long-term sustainability.

Overall, government policies reflect a balancing act between humanitarian obligations and national interests, but the absence of a legal refugee framework results in inconsistent protection standards.

4.4 Administrative Practices and Limitations

Administrative mechanisms governing Rohingya refugees are coordinated by several governmental and international entities, primarily the Refugee Relief and Repatriation Commissioner (RRRC) and the Ministry of Disaster Management and Relief (MoDMR). Despite organized structures, several limitations hinder effective refugee management.

a. Lack of a Comprehensive Legal Framework

Without a national refugee law, administrative practices depend on emergency orders and evolving guidelines, leading to inconsistencies in rights, services, and enforcement.

b. Overreliance on International Agencies

Services such as food distribution, healthcare, education, and infrastructure development are largely administered by agencies such as UNHCR, WFP, UNICEF, and various NGOs.³ Government oversight exists but is constrained by capacity issues.

²³ UNHCR Handbook on Procedures and Criteria for Determining Refugee Status.

c. Security-Driven Restrictions

The presence of criminal gangs, armed groups, and trafficking networks in camps leads to strict security measures. However, these restrictions often limit refugees' movement, livelihood opportunities, and community participation.

d. Documentation Challenges

Biometric registration has improved data accuracy, but undocumented refugees still face barriers in accessing services. Moreover, documentation does not confer legal status or rights beyond camp-based assistance.

e. Lack of Durable Solutions

Administrative policies focus on temporary management rather than long-term planning. This complicates:

- Education systems
- Employment training
- Integrated health services
- Social protection mechanisms

f. Tensions with Host Communities

Competition for employment, resources, and aid creates resentment among local residents, requiring additional administrative balancing.

Overall, administrative practices provide humanitarian support but fall short of meeting international protection standards due to legal, institutional, and resource constraints.

4.5 1951 Refugee Convention and 1967 Protocol

The **1951 Convention Relating to the Status of Refugees** and the **1967 Protocol** constitute the cornerstone of international refugee protection. They outline the definition of a refugee, the rights of refugees, and the obligations of states.

Key rights under the Convention include:

- Protection from refoulement
- Access to courts

- Right to work
- Right to education
- Freedom of movement
- Access to identity documents

Bangladesh is *not* a signatory to either the Convention or the Protocol, largely due to concerns over national security, population pressure, and the potential for long-term settlement of large refugee groups.⁴ As a result, the country is not legally bound by the Convention's obligations.

However, Bangladesh is still influenced by the Convention in practice because:

- International agencies operate within Convention principles.
- Many Convention provisions overlap with customary international law.
- Human rights treaties signed by Bangladesh indirectly reinforce refugee protections.

While the absence of treaty accession limits enforceable obligations, Bangladesh's humanitarian actions often align with Convention standards, albeit inconsistently.²⁴

4.6 Non-Refoulement Principle

The principle of non-refoulement prohibits states from returning individuals to territories where their life or freedom would be threatened. This principle is widely regarded as **customary international law**, binding on all states regardless of treaty status.⁵

Bangladesh, despite not being a party to the 1951 Convention, generally respects non-refoulement in practice by:

- Allowing Rohingya to enter during crises
- Avoiding forced deportation to Myanmar, despite pressure
- Cooperating with international agencies to maintain safe shelter

However, concerns arise regarding:

- Attempted border pushbacks during minor influxes
- Pressure on refugees to participate in repatriation processes
- Lack of formal legal recognition of non-refoulement in domestic law

The absence of codification means non-refoulement remains a moral and humanitarian commitment rather than a legally enforceable protection.

²⁴ UN Office of the High Commissioner for Human Rights (OHCHR), *International Legal Standards on Refugee Protection*.

4.7 International Human Rights Treaties Applicable to Bangladesh

Bangladesh is party to several international human rights instruments that indirectly protect refugees. Key treaties include:

a. International Covenant on Civil and Political Rights (ICCPR)

Guarantees rights to life, fair trial, liberty, and protection from arbitrary detention.

b. International Covenant on Economic, Social and Cultural Rights (ICESCR)

Protects rights to health, education, food, and adequate living standards.

c. Convention on the Rights of the Child (CRC)

Highly relevant in Rohingya camps, as the majority of the population are children. It guarantees:

- Access to education
- Protection from exploitation
- Birth registration
- Health services

d. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Addresses gender-based violence, early marriage, and maternity health—critical issues for Rohingya women.

e. Convention Against Torture (CAT)

Prohibits returning individuals to places where they risk torture, reinforcing non-refoulement.

f. Customary International Humanitarian Law

Applicable to conflict situations affecting refugees.

By ratifying these treaties, Bangladesh has accepted obligations that align with refugee protection standards, even in the absence of a domestic refugee law.

4.8 UNHCR Guidelines and International Best Practices

The United Nations High Commissioner for Refugees (UNHCR) provides operational and legal guidelines that assist states in managing refugee populations. Although not legally binding, these guidelines represent international best practices.

Key principles include:

a. Protection-Oriented Approach

Emphasizes safety, legal identity, access to essential services, and respect for human dignity.

b. Durable Solutions

UNHCR promotes three primary long-term solutions:

1. **Voluntary repatriation**
2. **Resettlement to a third country**
3. **Local integration**

Bangladesh focuses mainly on repatriation, with limited interest in integration.

c. Minimum Standards for Shelter, Health, and Education

UNHCR operational handbooks outline:

- Sphere Standards for humanitarian response
- Protection strategies for vulnerable groups
- Guidelines for child-friendly learning spaces
- Best practices for camp governance

d. Community-Based Protection

Encourages the involvement of refugee communities in camp management, dispute resolution, and protection monitoring.

e. Registration and Documentation Standards

UNHCR's biometric registration system in Bangladesh has improved security and service delivery.

f. International Coordination Frameworks

These include the Joint Response Plan (JRP), Cluster Approach, and interagency coordination platforms.

While Bangladesh collaborates with UNHCR, political considerations sometimes limit full adoption of best practices, especially regarding freedom of movement and opportunities for self-reliance.

Chapter 5:

Gaps Between National Law and International Standards

The legal status and protection of Rohingya refugees in Bangladesh reveal a complex landscape shaped by historical, political, administrative, and geopolitical considerations. While Bangladesh has offered exceptional humanitarian support by hosting one of the world's largest refugee populations, its national legal and policy frameworks remain largely inconsistent with the internationally recognized standards governing refugee protection. This chapter examines the major gaps between Bangladesh's existing laws and international norms, systematically addressing the structural, legal, and operational inconsistencies. Five major thematic areas are highlighted: absence of refugee-specific legislation, challenges in legal identity and registration, restrictions on movement and access to basic rights, inadequate protection mechanisms, and obstacles to durable solutions.

5.1 Absence of National Refugee Legislation

Bangladesh does not have a domestic legal framework specifically dedicated to refugees. Instead, Rohingyas are classified under the Foreigners Act of 1946, an outdated colonial-era law that fails to differentiate between irregular migrants, asylum seekers, and refugees. As a result, the rights and protections that normally accompany refugee status under international norms remain absent.

The lack of a refugee law creates ambiguity in legal identity, protection obligations, and administrative responsibility. Bangladesh's non-accession to the 1951 Refugee Convention and its 1967 Protocol further exacerbates this gap, as the government is not legally bound to uphold the specific rights enumerated in these instruments. Although Bangladesh has historically cooperated with the United Nations High Commissioner for Refugees (UNHCR), such cooperation remains policy-driven rather than law-driven.

In the absence of statutory protection, Rohingya refugees depend on ad hoc government directives, which often shift based on political priorities, national security concerns, or bilateral relations with Myanmar. This undermines predictability, legal certainty, and long-term protection planning. Moreover, without a refugee law, judicial remedies for refugee-related grievances remain severely limited, as courts cannot enforce rights that are not legally recognized within domestic legislation.

5.2 Legal Identity and Registration Challenges

Legal identity is a foundational element of refugee protection under international humanitarian and human rights law. However, in Bangladesh, registration mechanisms have evolved inconsistently, resulting in fragmented databases and complicated verification procedures. The government has frequently prioritized security concerns and population control over full legal recognition of refugee status.

The National Identity (NID) system in Bangladesh does not apply to non-citizens, meaning refugees cannot obtain formal state-issued identity documents beyond temporary cards issued for humanitarian management. Although joint government-UNHCR biometric registration began in 2018, the cards issued do not confer legal status under national law.

This gap results in several critical consequences:

1. **Lack of legal proof of status** undermines access to services and rights.
2. **Challenges in family tracing and reunification** persist due to incomplete documentation.
3. **Refugees remain vulnerable to arrest or extortion** because they cannot prove lawful presence under domestic regulations.
4. **Children born in camps remain at risk of statelessness**, contrary to international child rights standards.

International standards, especially those outlined by UNHCR and the 1951 Convention, emphasize the necessity of civil documentation for every refugee. Without a clear legal identity framework, many Rohingyas face lifelong administrative marginalization.²⁵

²⁵ UNHCR. *Handbook on Registration*, Geneva: UNHCR, 2018.

5.3 Restrictions on Movement, Education, and Employment

One of the most significant deviations between Bangladesh's practices and international refugee protection norms involves restrictions on fundamental rights such as freedom of movement, access to education, and employment opportunities.

Restrictions on Movement

Under current government policy, Rohingya refugees are prohibited from leaving designated camps without permission. These restrictions are enforced through checkpoints, surveillance systems, and administrative controls. While the state justifies these measures based on security and resource constraints, such limitations conflict with the UNHCR Guidelines on International Protection, which underscore refugees' right to liberty and freedom of movement.²⁶

Limited Access to Education

For years, Rohingya children were denied access to the national curriculum, resulting in a "lost generation" with minimal formal learning. Although recent policy changes permit the implementation of the Myanmar curriculum for educational continuity, challenges remain:

- lack of trained teachers
- inadequate infrastructure
- restrictions on higher education
- gender-based barriers to learning

International conventions, including the Convention on the Rights of the Child (CRC), recognize education as a fundamental right irrespective of legal status.²⁷

Barriers to Employment

Bangladesh does not allow formal employment for Rohingya refugees, limiting them to informal or aid-dependent work. This contradicts international norms that encourage self-reliance and economic inclusion to prevent aid dependency and exploitation.

²⁶ UNHCR. *Guidelines on International Protection No. 10*, 2014.

²⁷ United Nations. *Convention on the Rights of the Child*, 1989.

The prohibition on employment contributes to poverty, illegal labor risks, child labor, and involvement in hazardous work. It also affects camp security, as economic exclusion is linked with increased vulnerability to trafficking and criminal networks.

5.4 Inadequate Protection and Security Measures

Although Bangladesh, supported by international agencies, has made significant efforts to ensure humanitarian assistance, protection gaps persist in the areas of safety, justice, and crisis management.

Security Issues Within Camps

The camps face challenges such as:

- gang violence
- trafficking networks
- drug smuggling (especially yaba trade)
- gender-based violence
- intimidation and politicization of refugee leadership structures

Many refugees report fear of retaliation, limited access to justice, and unequal treatment from security agencies. The absence of a structured legal framework to adjudicate refugee-related disputes or crimes leads to inconsistent enforcement and impunity.

Lack of Access to Formal Justice Systems

Refugees generally cannot access Bangladeshi courts due to the lack of recognized legal status. Instead, community dispute resolution or administrative interventions often substitute for judicial procedures, which can perpetuate unfair or gender-biased outcomes.

Humanitarian Dependence

Protection gaps are compounded by funding shortages, environmental vulnerabilities, and overcrowding. Seasonal disasters such as landslides, fires, and cyclones further expose weaknesses in camp planning. International guidelines recommend community-based resilience measures and integrated protection strategies, many of which are only partially implemented.

5.5 Challenges in Ensuring Durable Solutions

Durable solutions for refugees typically include voluntary repatriation, local integration, or resettlement. For Rohingyas in Bangladesh, all three pathways face substantial obstacles.

Voluntary Repatriation

Bangladesh maintains repatriation as its preferred solution; however, conditions in Myanmar remain unsafe and non-conducive to return. The Rohingyas continue to face discriminatory laws, denial of citizenship, military threats, and lack of freedom of movement within Rakhine State.

Myanmar has not demonstrated a concrete commitment to creating a secure environment for sustainable return, contradicting international standards that require returns to be voluntary, safe, and dignified.²⁸

Local Integration

Bangladesh has repeatedly stated that local integration is not an option due to demographic pressure, land scarcity, and domestic political sensitivities. As a result, a long-term socio-economic pathway is absent. This contradicts international refugee norms, which promote local integration when repatriation is unfeasible.

Third-Country Resettlement

Resettlement opportunities remain extremely limited due to geopolitical factors, donor fatigue, and global refugee politics. Only a tiny fraction of Rohingyas have been resettled, leaving the majority without a long-term legal future.

Prolonged Uncertainty

Without meaningful progress on durable solutions, the Rohingyas remain trapped in a cycle of dependency, marginalization, and vulnerability. International standards emphasize the importance of future-oriented planning, which remains largely missing in the Bangladeshi context.²⁹

²⁸ Amnesty International. *“Myanmar: Return Must Be Voluntary and Safe”*, 2020.

²⁹ UNHCR. *Global Report on Durable Solutions*, 2022.

Chapter 6:

Implications of the Legal Gaps and Comparative Perspectives

The absence of a comprehensive refugee protection framework in Bangladesh and the gaps between national laws and international standards significantly shape the living conditions, rights, and long-term prospects of Rohingya refugees. These gaps further influence national governance, economic stability, social relations, and regional diplomacy. This chapter analyzes the broad implications of the existing legal vacuum and examines comparative practices from other countries to identify lessons and best practices relevant to Bangladesh. The analysis is divided into seven major thematic areas that collectively illustrate the complex interplay between law, policy, protection, and international cooperation.

6.1 Human Rights Consequences

The lack of a refugee-specific legal framework results in serious human rights challenges for Rohingya refugees. Without legal recognition as refugees, they remain categorized as “Foreigners” under the Foreigners Act of 1946, a legal position that restricts their access to rights guaranteed under international human rights conventions.

Denial of Fundamental Rights

Restrictions on movement, employment, and education directly impede the refugees’ ability to exercise fundamental human rights. These restrictions contradict universal principles articulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.³⁰ The refugees face systemic exclusion from legal protections, resulting in vulnerability to exploitation and abuse.

Gender-Based Vulnerabilities

Women and girls face heightened risks, including trafficking, child marriage, forced labor, and domestic violence. The absence of legal mechanisms ensuring safety and justice further marginalizes them, violating international norms such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

³⁰ United Nations. *International Covenant on Civil and Political Rights*, 1966.

Children’s Rights Violations

Millions of Rohingya children lack birth registration, formal education, or legal identity. These conditions violate the **Convention on the Rights of the Child**, which obligates states to safeguard children’s rights regardless of citizenship status. Children growing up in a legal vacuum face a lifetime of exclusion, statelessness, and intergenerational poverty.

6.2 Impact on Social and Economic Well-Being

Legal gaps significantly affect refugees’ social protection, livelihood opportunities, and economic resilience.

Aid Dependency and Poverty

Restrictions on employment and economic participation have created widespread aid dependency. With nearly one million Rohingyas dependent on humanitarian assistance, poverty cycles perpetuate and intensify, especially in times of funding shortages. Under international standards, host states are encouraged to facilitate self-reliance and economic inclusion, but Bangladesh’s policy constraints undermine these principles.

Lack of Social Mobility

Economic restrictions prevent refugees from acquiring skills, accumulating capital, or contributing productively to society. The lack of legal pathways for education or employment leads to long-term stagnation. Such limitations violate UNHCR’s guidelines on promoting refugee livelihoods and socio-economic resilience.³¹

Strain on Host Communities

The presence of large refugee populations without a structured legal framework places significant pressure on local resources, including land, water, health services, and job markets. Tensions between refugees and host communities often emerge due to competition for scarce resources. Without legal mechanisms for integrating refugee welfare with local development, inequality and resentment grow.

³¹ UNHCR. *Guidance Note on Refugee Livelihoods*, 2019.

6.3 Security, Governance, and Humanitarian Risks

The absence of a formal legal framework leads to overlapping administrative arrangements that create governance uncertainty. This ambiguity has direct consequences for security, humanitarian coordination, and camp management.

Camp Insecurity

Rohingya camps face frequent incidents of violence, gang conflict, and organized crime. Inadequate policing, combined with restricted mobility and limited access to justice, contribute to lawlessness. These conditions are exacerbated by the lack of clear legal provisions defining refugee responsibilities, rights, and obligations.

Trafficking and Cross-Border Crime

Limited livelihood opportunities drive some refugees toward trafficking routes, drug networks, and unregulated labor markets. Restrictive policies heighten vulnerability to exploitation by criminal groups, undermining national and regional security.

Governance Challenges

Coordination among government agencies, international NGOs, and humanitarian actors is made difficult by the absence of a national refugee law. This leads to administrative overlaps, inconsistent policy decisions, and inefficiencies in aid delivery. International standards emphasize the necessity of legal clarity in refugee governance, an area where Bangladesh faces significant challenges.³²

6.4 International Relations and Diplomatic Implications

The Rohingya crisis has become a defining issue in Bangladesh's international relations, affecting diplomacy, trade, and geopolitical strategy.

Myanmar's reluctance to ensure citizenship, rights, or safety for the Rohingya population complicates bilateral negotiations. Without a legal framework that articulates refugee rights

³² UNHCR. *Policy Framework for Refugee Protection and Solutions*, 2020.

and repatriation standards, Bangladesh faces difficulties asserting its diplomatic position. The crisis remains a major source of bilateral tension. Bangladesh relies significantly on international humanitarian aid to manage the refugee population. Legal gaps often raise concerns among donors and human rights organizations, affecting long-term funding commitments. Donor fatigue becomes more pronounced in the absence of structured refugee policies. Regional powers—India, China, and ASEAN states—play crucial roles in influencing Myanmar’s policies. Bangladesh’s limited domestic legal protections may weaken its moral and diplomatic legitimacy in advocating for refugee rights and repatriation. Alignment with global refugee standards could strengthen Bangladesh’s negotiating position in international forums.³³

6.5 Refugee Legal Frameworks in Other Countries

Examining how other countries legally recognize and protect refugees provides comparative insights into potential approaches for Bangladesh.

India

Although India is not a signatory to the 1951 Refugee Convention, it employs administrative guidelines and judicial precedents to categorize and protect different refugee groups. Courts have often upheld the principle of non-refoulement and granted refugees access to education and healthcare. India’s judicial activism offers an informal but effective protection framework.

Pakistan

Pakistan hosts millions of Afghan refugees under the Proof of Registration (PoR) system, which grants identity documents, access to education, and limited employment opportunities. The registration framework has helped reduce statelessness and enhanced cooperation with UNHCR.

³³ International Crisis Group. *Myanmar–Bangladesh Relations and the Rohingya Crisis*, 2021.

Malaysia

Malaysia, also a non-signatory, relies heavily on UNHCR registration for refugee identification. While it does not grant legal residency, it allows informal employment in certain sectors, improving refugees' socio-economic resilience.

Turkey

Turkey provides the most comprehensive example among non-European states. Under the Law on Foreigners and International Protection (LFIP), refugees and “temporary protection” beneficiaries enjoy legal identity, movement rights, education access, and structured pathways to permanent residency.

Uganda

Uganda's refugee policy is regarded as one of the world's most progressive. Refugees are granted land, employment rights, movement freedom, and access to national services. This model aligns closely with international best practices and fosters host-community integration.

Comparative analysis shows that legal flexibility, administrative reforms, and structured identity systems can significantly improve refugee welfare, even without full accession to the 1951 Convention.³⁴

6.6 Lessons for Bangladesh

Bangladesh can draw strategic lessons from the comparative models analyzed above.

1. Legal Recognition Enhances Protection:

Even basic national guidelines or administrative rules can significantly improve protection outcomes.

2. Identity Documentation Is Foundational:

A standardized, legally recognized registration system can reduce statelessness and security vulnerability.

³⁴ Refugee Studies Centre. *Comparative Analysis of Refugee Policies in Asia and Africa*, University of Oxford, 2020.

3. **Allowing Limited Employment Strengthens Resilience:**

Granting refugees regulated access to labor markets reduces aid dependency and enhances national economic benefits.

4. **Education Creates Long-Term Stability:**

Integrating refugee children into structured curricula prevents the emergence of a “lost generation.”

5. **Community Integration Reduces Tension:**

Participatory governance models and host-community support mechanisms prevent conflict and competition.

6. **Humanitarian and Security Goals Are Interconnected:**

Better legal clarity improves camp administration, reduces crime, and enhances national security.

6.7 Regional and Global Best Practices

Several regional and global practices offer actionable models for states dealing with large refugee populations:

Regional Best Practices

- **ASEAN’s informal humanitarian diplomacy** demonstrates how regional coordination can defuse tensions and facilitate dialogue on refugee repatriation.
- **South Asian judicial activism**—particularly in India—shows how courts can supplement the absence of legislation by framing refugee rights through constitutional principles.

Global Best Practices

- **UNHCR’s Global Compact on Refugees (2018)** promotes responsibility-sharing, socio-economic inclusion, and refugee self-reliance.³⁵
- **Community-based protection systems** (used in Kenya and Uganda) build local resilience and reduce administrative burdens.

³⁵ UNHCR. *Global Compact on Refugees*, 2018.

- **Integrated national service delivery** models (Turkey, Jordan) provide refugees with health, education, and social services through state institutions.
- **Rights-based identification frameworks** used in Europe ensure legal identity from the moment of arrival, preventing statelessness and encouraging long-term planning.

Bangladesh can adapt these best practices by adopting flexible, context-sensitive legal and administrative reforms that uphold human rights while balancing national security and socio-economic realities.

Chapter 7:

Legal Status of Rohingya Refugees in Bangladesh

The legal status of Rohingya refugees in Bangladesh remains one of the most complex, contested, and politically sensitive elements of the broader humanitarian crisis. Although Bangladesh has hosted Rohingya refugees for decades, the country has not enacted formal refugee legislation nor acceded to key international conventions that define refugee rights and obligations. As a result, the Rohingyas live in a prolonged state of legal uncertainty, humanitarian dependence, and restricted access to fundamental rights and services. This chapter examines comprehensive measures that Bangladesh can adopt to address these gaps, focusing on legislative reforms, institutional strengthening, enhanced protection systems, regional diplomacy, and long-term strategic planning for either sustainable repatriation or managed integration.

7.1 Legislative Reforms

A major obstacle to improving the legal status of the Rohingya population in Bangladesh is the *absence of a national legal framework for refugees*. The **Foreigners Act of 1946**, under which the Rohingyas are governed, does not distinguish between refugees, undocumented migrants, and irregular entrants. This legal ambiguity exposes refugees to the constant risk of criminalization, arbitrary detention, or forced return.

Enacting a National Refugee Law

Bangladesh would benefit from drafting a **National Refugee Protection Act** that outlines:

- definitions of refugees, asylum seekers, and stateless persons
- procedures for identification and status determination
- rights to documentation, education, healthcare, and movement
- obligations of refugees within host communities
- penalties for trafficking, violence, and exploitation
- roles of government ministries and local authorities

Such legislation would align with global standards without necessarily requiring Bangladesh to accede to the 1951 Refugee Convention, a model used by several countries in South and Southeast Asia.³⁶

Accession to Key International Instruments

Even without joining the 1951 Convention, Bangladesh can expand its commitment to international norms by ratifying or incorporating provisions from instruments such as:

- the International Covenant on Civil and Political Rights
- the Convention on the Rights of the Child
- the Convention on the Elimination of All Forms of Discrimination Against Women
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons

These instruments already shape international expectations for refugee protection and can serve as the backbone for national reforms.

Strengthening Rules on Legal Identity

Legal reform should also include provisions ensuring legal identity for all refugees. Such mechanisms reduce statelessness, increase access to services, and facilitate orderly repatriation when conditions are safe.

7.2 Strengthening Institutional Mechanisms

While legislation provides the foundation, effective protection requires strong administrative and institutional systems.

Creating a National Refugee Management Authority (NRMA)

A specialized institution could coordinate all refugee-related functions:

- registration and identity management
- camp governance and security
- coordination with UN agencies and NGOs
- oversight of education, health, and welfare programs

³⁶ Refugee Studies Centre, University of Oxford. *Refugee Legislation in Non-Signatory States*, 2020.

- liaison for international negotiations

Such an authority would prevent fragmentation of responsibilities across ministries, improve accountability, and promote coherent policy implementation.

Modernizing Registration and Documentation

Registration systems must be unified, biometric, and legally recognized. A centralized database—managed jointly by NRMA and UNHCR—would streamline service delivery, prevent duplication, and enhance oversight.

Training and Capacity Building

Government officials, law enforcement, and local administrative officers should receive training on:

- international refugee law
- humanitarian protection
- child safeguarding
- gender-based violence prevention
- human rights principles

Capacity building reduces misinterpretation of laws and enhances refugees' access to justice and protection.³⁷

Strengthening Judicial Access

Legal aid programs and mobile court services can be introduced in refugee-hosting regions to ensure refugees can access remedies for exploitation, violence, or administrative grievances.

³⁷ UNHCR. *Capacity-Building Toolkit for Refugee Hosting States*, 2018.

7.3 Enhancing Protection and Service Access

Legal recognition must translate into meaningful improvements in protection, well-being, and basic rights.

Improving Security and Rule of Law

The camps suffer from gang activity, trafficking, smuggling, and internal conflicts. Security improvements should include:

- community-policing models
- increased female police presence
- mechanisms for reporting abuse without fear
- stronger anti-trafficking enforcement

Such reforms align with UNHCR’s *Protection and Solutions Strategy* guidelines.³⁸

Expanding Access to Education

Bangladesh’s decision to allow Myanmar’s national curriculum is a significant step forward, but full implementation requires:

- more trained teachers
- recognized certification processes
- access to secondary and vocational education
- inclusion of girls and students with disabilities

Long-term educational access prevents the rise of an uneducated “lost generation.”

Health Services and Well-Being

Health services must meet international humanitarian standards and include:

- maternal and newborn care
- mental health and psychosocial support
- reproductive health services

³⁸ UNHCR. *Protection and Solutions Strategy for Refugees*, 2021.

- disability-inclusive treatment

Facilitating Livelihood Opportunities

While Bangladesh restricts formal employment, legal pathways for regulated work can improve:

- income security
- skill development
- local economic contribution
- reduced dependency on humanitarian aid

Such programs have been successfully implemented in Turkey, Malaysia, and Uganda, even without granting full citizenship rights.³⁹

7.4 Regional and International Cooperation

The Rohingya crisis is not solely a national issue but a regional and global humanitarian challenge. Effective solutions require coordinated international engagement.

Strengthening Bilateral Diplomacy with Myanmar

Bangladesh must continue diplomatic efforts to ensure repatriation based on principles of:

- voluntariness
- safety
- dignity
- citizenship recognition
- protection guarantees in Rakhine State

Without these conditions, repatriation is neither sustainable nor ethical.

Engagement with ASEAN and SAARC

Regional organizations can play critical roles by:

- pressuring Myanmar to reform discriminatory policies

³⁹ International Rescue Committee. *Economic Inclusion Models for Refugees*, 2020.

- coordinating humanitarian support
- facilitating dialogue between affected states
- monitoring human rights conditions

ASEAN's non-interference principle is a challenge, but humanitarian diplomacy can still be leveraged.⁴⁰

International Burden-Sharing

Countries such as Canada, the United States, and several EU states can assist through:

- increased funding
- third-country resettlement programs
- capacity-building assistance
- legal and technical support for documentation systems

Strengthening Partnerships with UN Agencies

Collaborating with UNHCR, IOM, UNICEF, and UNDP ensures comprehensive, rights-based approaches to protection, governance, and development.

7.5 Long-Term Strategies for Rohingya Integration or Repatriation

The future of the Rohingyas depends on sustainable long-term strategies, as indefinite encampment is neither humane nor practical.

Voluntary Repatriation

Repatriation remains Bangladesh's preferred solution, but it must meet international standards. Key requirements include:

- citizenship recognition in Myanmar
- freedom of movement
- security guarantees
- dismantling discriminatory laws
- access to livelihoods, education, and political participation

⁴⁰ ASEAN Humanitarian Centre. *Regional Response to Displacement in Southeast Asia*, 2022.

Until Myanmar meets these conditions, repatriation cannot proceed.

Local Integration (Partial or Conditional)

Full integration is politically unlikely, but partial/legal integration could include:

- temporary work permits
- expanded education
- limited mobility rights
- inclusion in local development projects

Such models reduce dependency and enhance human security.

Third-Country Resettlement

While limited, resettlement must be expanded for vulnerable groups, particularly:

- victims of torture
- women-headed households
- disabled persons
- unaccompanied minors

Resettlement contributes to international burden-sharing and alleviates pressure on Bangladesh.⁴¹

A Hybrid Approach

A combination of strategies—enhanced rights in Bangladesh, continued pursuit of safe repatriation, and expanded global responsibility—offers the most realistic long-term solution. This approach aligns with the Global Compact on Refugees, emphasizing responsibility-sharing, self-reliance, and coordinated international action.

⁴¹ UNHCR. *Global Trends in Forced Displacement, 2023*.

Chapter 8:

Findings, Conclusion, and Recommendations

8.1 Findings

The study reveals several critical observations regarding the legal status, rights, and protection challenges faced by Rohingya refugees in Bangladesh. First, the absence of a comprehensive national refugee framework remains one of the most significant gaps in Bangladesh's governance of displaced populations. Although Bangladesh is a signatory to several human rights instruments, it is not a party to the 1951 Refugee Convention or its 1967 Protocol. This creates a legal vacuum in which Rohingya refugees are largely governed through ad hoc administrative measures rather than a structured and rights-based legal regime. As a result, their legal status remains precarious and subject to policy fluctuations rather than enforceable rights.

Second, the findings highlight persistent barriers to legal identity and documentation for Rohingya refugees. Many refugees lack formal registration, and even those enrolled in biometric systems often face bureaucratic hurdles. The uncertainty surrounding legal identity complicates access to essential services, including healthcare, education, and humanitarian aid. Moreover, it increases vulnerability to exploitation, trafficking, and arbitrary restrictions.

Third, the study identifies multiple restrictions placed on the movement, education, and employment of Rohingya refugees. These limitations stem from national security concerns, socio-political pressures, and resource constraints. Confined primarily to refugee camps in Cox's Bazar, Rohingya individuals have restricted mobility and are legally prohibited from formal employment. While Bangladesh has allowed limited access to learning centres, the curriculum and certification are inadequate for long-term development or integration. These constraints significantly hinder refugees' ability to achieve self-reliance, contributing to aid dependency and psychological distress.

Fourth, the study finds that protection and security measures within the camps are insufficient to meet international standards. Challenges include overcrowding, limited law enforcement presence, gender-based violence, criminal networks, and periodic conflicts among refugee groups. Women and children face heightened risks of exploitation, trafficking, and domestic

violence. Humanitarian actors often face operational limitations due to administrative restrictions or inadequate resources, resulting in gaps in protection services.

Finally, the study identifies major challenges regarding durable solutions for Rohingya refugees. Repatriation to Myanmar remains unfeasible due to the absence of guarantees for citizenship, safety, and dignity. Local integration is politically sensitive in Bangladesh and faces strong public resistance. Resettlement to third countries is extremely limited due to global political trends and restrictive migration policies. As a result, Rohingya refugees remain in a prolonged state of uncertainty without any realistic pathway to legal resolution.

8.2 Conclusion

The analysis demonstrates that the legal status of Rohingya refugees in Bangladesh is shaped by a complex intersection of humanitarian concerns, national security considerations, geopolitical dynamics, and international human rights obligations. While Bangladesh has shown extraordinary generosity by hosting more than one million Rohingya refugees, the absence of a national refugee law and the reluctance to adopt international refugee instruments continue to impact the overall protection framework.

The restrictive policies on movement, employment, and education illustrate the government's attempt to balance humanitarian responsibility with domestic socio-political concerns. However, these restrictions inadvertently perpetuate dependence on aid, limit human potential, and expose refugees to protection risks. The limitations in legal identity documentation and registration procedures further compound the vulnerabilities, leading to a lack of durable legal safeguards.

Protection challenges within the camps remain a pressing concern. Overcrowding, security threats, gender-based violence, and emerging criminal networks undermine the safety of refugees and complicate humanitarian operations. Despite efforts by the government and international agencies, gaps persist due to resource limitations and policy constraints.

A major conclusion of the study is that durable solutions for Rohingya refugees require a multi-dimensional and multi-stakeholder approach. Repatriation remains the preferred long-term solution but is currently impossible without structural reforms in Myanmar, including citizenship recognition and security assurances. Local integration, although unlikely in the

present political climate, could become feasible in specific forms such as controlled economic participation or community-based development initiatives. International resettlement also remains a potential but limited solution.

In essence, addressing the legal status of Rohingya refugees requires coordinated national, regional, and international efforts grounded in human rights principles, political pragmatism, and sustainable development strategies. Without such collaboration, Rohingya refugees will continue to face significant legal and humanitarian challenges for years to come.

8.3 Recommendations

1. Enact a National Refugee Legal Framework

Bangladesh should consider developing a comprehensive refugee law aligned with international standards. Such legislation would formalize rights, outline responsibilities, and provide procedural clarity for managing refugee populations. Even without joining the 1951 Refugee Convention, Bangladesh can adopt domestic mechanisms to ensure protection, registration, and service delivery.

2. Strengthen Legal Identity and Registration Systems

Improving biometric registration, issuing universally recognized documentation, and ensuring consistent legal identity processes are essential. This measure would facilitate access to education, healthcare, and humanitarian services and reduce the risks of trafficking, statelessness, and exploitation.

3. Revise Restrictions on Movement, Education, and Employment

Bangladesh, in collaboration with international partners, should explore controlled mobility frameworks that allow refugees limited movement for essential services. Expanding access to accredited education and vocational training would empower refugees and reduce aid dependency. Similarly, introducing carefully regulated livelihood opportunities within or near camps could significantly improve self-reliance and community stability.

4. Enhance Protection and Security Measures

Increasing law enforcement presence, strengthening refugee community policing, and improving coordination with humanitarian agencies can help mitigate insecurity. Enhancing gender-sensitive interventions, safe spaces for women and children, and community-based protection systems should be prioritized. Investments in infrastructure, lighting, and surveillance can further improve safety.

5. Promote Durable Solutions Through Diplomacy and Cooperation

Bangladesh should intensify diplomatic engagements with Myanmar, ASEAN, OIC, and UN agencies to ensure conditions for safe, voluntary, and dignified repatriation. At the same time, opportunities for third-country resettlement should be expanded in collaboration with the international community. Bangladesh should also explore limited integration pathways, such as access to education or economic participation, without compromising national security concerns.

6. Strengthen Institutional Mechanisms

The government should enhance the capacity of agencies involved in refugee management, including the RRRC (Refugee Relief and Repatriation Commissioner), local administration, and law enforcement. Establishing specialized coordination units, improving data systems, and enhancing training on human rights-based refugee management can significantly improve efficiency.

7. Expand Regional and International Partnerships

Greater collaboration with regional organizations, international financial institutions, and donor agencies is essential for sustainable refugee response. Long-term development funding, joint regional initiatives, and technical support can help Bangladesh manage the protracted crisis more effectively.

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