

Refugee Rights In Bangladesh: A Leap Towards An Effective Legal And Institutional Framework

Md Istiak Akondo¹

¹MPhil Fellow, Department of Law, Bangladesh University of Professionals (BUP), Mirpur Cantonment, Mirpur DOHS, Mirpur- 1216, Dhaka, Bangladesh

Abstract: Protection of refugee rights and discouragement of dispute between countries of origin and asylum nations are causing national and international tension. Bangladesh lacks in terms of standard domestic legislation and policy on refugee rights and protection. This study examines how and to what degree Bangladesh can build a legal and institutional framework for identifying, treating, and protecting refugees and asylum seekers. Basically, this report examines national and international legal frameworks to appreciate refugee difficulties and the protection gap. This analysis indicates that Bangladesh needs a new legal and policy framework to develop a robust refugee protection apparatus.

Keywords: *Refugees, Rohingya, human rights, protection, and national law.*

Introduction: In the modern era of globalization, when border openness is common, nation-states with territorial borders seldom compromise forced migration, refugees, and internally displaced persons for domestic security, national values, and sovereignty and independence [1]. Fortification of refugees' protections, who are beyond national security, and prevention of discontent between refugees' home countries and asylum nations have presented a huge scale of impact on social, political, financial, racial, and tribal conflict on national and international society. It has additionally encouraged dubious diplomatic connections between nearby nations and impeded the government's capacity to provide fair treatment and asylum to those in need. Bangladesh did not ratify 'The Convention Relating to the Status of Refugees, 1951' and its 1967's Protocol, or 'The Convention Relating to the Status of Stateless Persons, 1954' and the 'Convention on the Reduction of Statelessness, 1961' [2]. In Bangladesh, protective space for refugees, asylum seekers, and stateless individuals is limited and unpredictable due to the lack of a comprehensive national legislation addressing their rights and status [3]. Thus, the Rohingyas have no legal status in Bangladesh [4]. Besides that, this country also does not have any legal obligation under the aforesaid convention [4]. Nevertheless, Bangladesh is trying its level best to uphold the spirit of the conventions by giving asylum to Rohingyas [5]. A new look at this issue with a specialized legal and policy framework complying with international and regional refugee provisions is required in order to secure fundamental human rights and access to justice for refugees and asylum seekers.

Research Methodology: This qualitative and descriptive study uses secondary sources such textbooks, national and international journals, research papers, and news articles. To safeguard Bangladeshi migrants, background information was investigated. Besides that, the statutes, case laws and the constitution of the country is also used for detailed analysis. Legal world considers statutes and case laws as primary sources.

Understanding the Legal Interpretation of the term 'Refugee': In theory, a person is considered a refugee if they are compelled to leave their home country for causes beyond their control [1]. Basically, anyone who is at the verge of experiencing serious violation of human rights and there is no other option, other than fleeing the native land as the concerned government has failed or is not willing to ensure protection, but such victims are intitled to receive international protection [6]. The basic model of 'refugee' is included in Article 1, Paragraph 2 of the 1951 Refugee convention -

"An individual that, because to a legitimate worry about being persecuted for reasons related to ethnicity, faith, citizenship, involvement in a specific social group, or political ideology, has left the state of his nation state and cannot or is afraid to employ himself of just that nation's security" [7]

Hence, according to the mentioned convention a few essential components must be proven until an individual may seek the status of refugee-

"a. legitimate worry (well-founded fear) about being persecuted; b. leaves native country; c. segregation upon the grounds of ethnicity, gender, and faith; d. not interested to repatriate to native state, till assurance of wellbeing i.e., security is confirmed" [8] and a mirror of those other elements that may work either alone or together [9].

Article history:

Received 25 March 2023

Received in revised form 22 August 2023

Accepted 23 October 2023

Available online 15 November 2023

Corresponding author details: Md Istiak Akondo

E-mail address: ahmedisti1@gmail.com

Tel: +8801576882086

Copyright © 2023 BAUET, all rights reserved

Nevertheless, upon a scrutiny it can be discovered that, there is significant difference between refugees and migrants, as being a refugee is the last resort due to the threat of prevailing violence but on the other hand, a migrant is not a subject to any violation of human rights [10]. Thus, to be a refugee, one must experience a legitimate or genuine risk of violation of human rights. In modern time, multiple judicial touchstones are being introduced by different countries to scrutiny the claim of being a refugee. For instance, the Supreme Court of United States of America in the matter of ‘*INS vs. Cardoza Fouseca*’ suit, has illustrated an interpretation of ‘legitimate or well-founded fear of persecution’ –

“When in a whole, the objective phenomena are established by evidences then there is no requirement to illustrate that such is bound to result into persecution. But only the establishment of objective test is not sufficient to establish that persecution is a reasonable” [11].

Using the same argument as in *R vs. Secretary for the Home Department* [12] and *Sivakumaran* [13], United States Judge ruled that the ‘Test’ also should contain evidence of an actual or significant threat of persecution. “This legitimate scope of persecution must be supported by both objective and subjective test i.e., the ‘well-founded fear’ term must be supported by both” [14]. It really is critical to highlight that when deciding whether such an anxiety of victimization is well-founded, the crucial fact of inquiry is the moment a decision is made, instead of when the applicant left their country, [14] and must consider not the present predicament instead of what is probable in the future [15]. Thus, the designation of Refugee status has to pass through subjective and objective test.

The personal component focuses (subjective test) just on person’s assessment of the risks associated with repatriation to the concerned nation [16]. Subjective ideas about the horrors that confront individuals at their home country are seldom a deciding factor in making the choice of refugee status [16]. Obviously, a claimant’s direct views on the topic matter are indeed the best proof of how he or she believes [16]. It is challenging to dismiss a claimant’s allegation that they are afraid of victimization [16]. This is particularly true considering that such an assumption is not required to be rationally supported [16]. Nonetheless, in some situations, a reality detector may be justified in rejecting such a claim as deceptive [16]. Instances include when the applicant enters their nation of origin freely and on a frequent basis, or when there is no evidence to support the fear [16].

To summarize, it has been proven that courts consistently employ a very liberal approach in deciding refugee status [1]. In Bangladesh, the administration or courts have not adopted any standard in determining whether a person is considered a refugee or not, instead basing their judgement on the circumstances and details of the situations or on bilateralism strategy [1]. Nonetheless, this same government has not established an official or written policy to acknowledge the assertion of refugee status [1].

Refugee Protection: Contemporary Scenario of Bangladesh: The situation of refugees in Bangladesh today, strongly backs up the fact that since the country became independent, it has given shelter to refugees. In keeping with its secular policies, Bangladesh has taken in a lot of refugees from other countries since it became independent. About 30,000 Biharis became refugees after independence [1]. They called themselves ‘Stranded Pakistanis’, and a lot of ‘Biharis’ chose to reside in the new country [1]. Also, Bangladesh has had a refugee problem since 1978 [1]. According to a report from the ASEAN Parliamentarians for Human Rights (APHR) in January 2018-

“The Cox’s Bazar area is presently overwhelmed with 1 million Rohingya refugees, including about 700,000 newly victimized refugees from August 2017, and the adjoining Kutupalong and Balukhali camps, as well as Transliterate temporary villages, combine to form the world’s biggest refugee camp” [17].

By executive order, the government has given some of these refugees the right to be considered refugees [17, 18, 1]. With the help of the Bangladesh government, about 650 thousand Rohingya refugees with and without papers are residing in Cox’s Bazaar, Bandarban, and Kutupalong [19]. Even though Bangladesh hasn’t signed the 1951 Convention or the 1967 Protocol, the state knows it is its job to protect basic human rights and is committed to help refugees in need, this is because Bangladesh knows that the refugee crisis is a global problem [1]; which the civilized western nations and the legislator of Convention Relating to the Status of Refugees, failed to recognize at the time of formulating the convention. When the Refugee Convention was legislated, the legislating nations under Article 1 (A) (2) set a time frame, which is for the events that took place before 1st January 1951 has the opportunity of getting the refugee status. The legislators failed to recognize the universality of the issue. It took them sixteen long years to recognize the universality of the issue; they removed the time frame by the 1967’s protocol. Bangladesh took lesson from such and also from the liberation war of 1971, when the nation’s people have to take asylum in neighboring countries. In this situation, the Bangladesh government asked the United Nations High Commissioner for Refugees (UNCHR) to start their work in Bangladesh during the refugee crisis from 1991 to the present [18].

At first, the UNHCR, the Red Cross, and other international groups that wanted to help the refugees were welcomed by the Bangladeshi government [1]. By then, the government of Bangladesh had given about 258,000 Rohingyas refugee status through an executive order [20], “point to be noted that, Bangladesh upholds a policy of making the state unwelcoming for the Rohingya refugee” [21] as the country (Bangladesh) tried to stop the migration of the refugees [22], and “only 32,000 are enjoying a

registered refugee status where as others (an estimation of 200,000+) are living unregistered” [23]. Another source claims the registered number to be 30,000 [24]. Besides that, Bangladesh plans to repatriate them or resettle them to a third country [25]. The government of Bangladesh decided not to let the Rohingya refugees stay in the country; this was for the sake of national security and because the country already had too many refugees [26]. There is a debate, whether to consider the asylum seekers (Rohingya) as a refugee or not, to draw a line, it is impossible as Bangladesh did not ratify the conventions. But the state is providing most of the facilities if not all, that a refugee is entitled. The duty is on the government to clarify the dichotomy. Besides that, an argument has been envisaged in the later part of the paper about the admissibility of international treaties or conventions in our country, there a clear idea about the refugee conventions’ admissibility can be comprehended. Refugees taking asylum in Bangladesh illustrates a significant vulnerability to the security, stability, prosperity, welfare, and reputation because there are instances that they are getting themselves involved in serious crimes like drug and people trafficking, smuggling, robbery, and other organized crimes [1]. Early in 2014, Bangladesh revealed its national strategy for refugees (which includes Rohingyas) and undocumented personals, recognizing that they need a few fundamental humanitarian aids until a permanent solution is found [27].

Refugees Protection: Domestic and International Obligations of Bangladesh: Bangladesh is still a long way from having a uniform legal system to protect the rights of refugees. However, due to Bangladesh’s liberal constitutionalism, the same basic human rights guaranteed by the constitution apply to all citizens, including refugees.

Since there is a scarcity of specific statute or policy that protects the rights of refugees, scholars and professionals in the field think that, the Constitution and other international instruments that respect basic human rights keeping the focus on refugees can come into play.

A) Refugee rights and the Constitution of Bangladesh: The Bangladeshi constitution is the country's highest legislation, and it guarantees citizens protections for their most fundamental rights, such as the right to life and freedom of expression (Article 32 of the Constitution of Bangladesh). Citizens of Bangladesh, as well as anybody else residing in Bangladesh, may attest to the rights [28]. Some more rights that the constitution ensures are, Article 27 of the Bangladeshi constitution guarantees everyone the same legal protections regardless of their socioeconomic status; Article 31, temporary foreign residents have the same legal protections as native-born citizens; Article 32: “no person should be deprived of life or liberty unless in conformity with the law” [29]. Because the term ‘person’ rather than ‘citizen’ is used in the relevant articles, the rights in issue may be extended to anybody, whether they a citizen or a refugee in Bangladesh [1]. The Constitution of Bangladesh further protects a number of fundamental liberties, including the right to be free from unlawful arrest and detention (Article 33) [30], the prohibition of forced labor (Article 34) [31], the right to a fair trial (Article 35) [32], the freedom of movement (Article 36) [33], the right to assemble (Article 37) [34], right to form association (Article 38) [35], the right to freedom of expression (Article 39) [36], right to means of livelihood i.e., profession (Article 40) [37], right to freedom of religion (Article 41) [38], right to property (Article 42) [39] etc. But these constitutional rights would not be able to be used by refugees in Bangladesh until the government gives a clear explanation of the law and takes concrete steps to make these rights real [1].

B) Protection of Refugees under the Statutory Laws: Although the Foreigners Act of 1946 provides some legal protection for refugees in Bangladesh, the legislation does not specifically address refugees and does not provide enough protection [1]. This lack of a robust and efficient protection mechanism runs counter to the fundamental rights guaranteed by the Bangladeshi constitution and international norms and principles under the international refugee framework [40]. Typically, the Bangladeshi government issued an ‘executive order’ granting them refugee status [1]. However, these policies fail to acknowledge refugees as a distinct population deserving of particular consideration; in its place, they provide varying levels of therapy to the refugee population [1]. Since there is an absence of specific and uniform set of laws for refugees, the following laws, which may not have been made for them, are usually used to protect their interests in Bangladesh [1]-

- ✓ The Foreigners Act, 1946 [41];
- ✓ The Foreigners Order, 1951 [42];
- ✓ The Registration of Foreigners Act, 1939 [43];
- ✓ The Registration of Foreigners Rules, 1966 [44];
- ✓ The Passports Act, 1920 [45];
- ✓ The Passport Rules, 1955 [46];
- ✓ The Bangladesh Passport Order, 1973 [47];
- ✓ The Citizenship Act, 1951 [48];
- ✓ The Bangladesh Citizenship (Temporary Provisions) Order, 1972 [49];
- ✓ The Bangladesh Control of Entry Act, 1952 [50];
- ✓ The Extradition Act, 1974 [51];
- ✓ The Naturalization Act, 1926 [52];
- ✓ The Code of Civil Procedure, 1908 [53];
- ✓ The Children Act, 1974 [54].

C) Bangladesh's Obligation under International Agreements: Bangladesh did not ratify either the 1951's Convention or its 1967's Protocol. However, it has ratified a number of UN and International Conventions on Human Rights, especially those that deal with refugee rights and related issues [1]. Bangladesh has been a part of the Executive Committee of the High Commissioner's Program (EXCOM) since 1995, so it cares about and has a duty to protect the rights of refugees [1].

Bangladesh has also signed numerous international treaties protecting human rights, including the Universal Declaration of Human Rights (UDHR) (ratified on 07 Oct 1998), the International Covenant on Civil and Political Rights (ICCPR) (ratified in 2000), the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (ratified in 1998), the Convention on the Rights of the Child (CRC) (ratified in August 1990), the Four Geneva Conventions of 1949 (ratified in 1972), as well as their two additional protocols from 1997, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (ratified in 1984), the Convention against Torture (CAT) (ratified on 05 Oct 1998), etc. [1]. To get a better idea of the basic rights of refugees that are protected by these international agreements, it is important to list some of the most important ones.

a) UDHR: The Universal Declaration of Human Rights of 1948, states, all people have the right to life, liberty, and security of person [55]; they have the right to be free from slavery [56]; they have the right to be free from torture and cruel, inhuman, or degrading punishment and also have the right to be recognized as a person [57]; they have the right to be treated as equals before the law; they have the right to leave their country and to return to it [58]; they also have the right to seek and enjoy asylum from persecution in foreign countries [59].

b) ICCPR: "Every human being has the intrinsic right to life, and the state must preserve this right by law" [60]. This means that the refugee may enjoy the same rights and freedoms as a national, although not being a citizen, under Articles 2, 6(1), and 7 of the ICCPR [61]. It is expected that Bangladesh, as a signatory to the ICCPR, would uphold these standards [1].

c) CRC: The CRC mandates that all states that have signed on to it is to protect "the rights of each child without any kind of discrimination" [62]; that they act in the best interest of all children [63]; that they protect the right to health [64]; that they protect the right to education [65]; and that they protect juvenile justice [66]. On the other hand, a prime article has been laid out in the convention, that states –

"a refugee or a refugee status seeking child is entitled to receive reasonable humanitarian help, whether the child is with their parents or not, the concerned help extends throughout the convention and also to those humanitarian instruments that the state is a party" [67].

d) CAT: According to Article 3 of the CAT, "the member states must not expel, deport, or extradite a person to another state if there are serious grounds to suspect that he would be tortured" [68].

e) United Nations Declaration on Territorial Asylum: Bangladesh signed the UN Declaration on Territorial Asylum, which enhances her responsibilities to safeguard refugees and not send them home [40].

f) ILO: Bangladesh has pledged to offer social security for refugees and stateless individuals in its territory as part of its ratification of International Labor Organization Convention No. 118 [69].

As a part of the country's responsibility to safeguard the rights of refugees, the government abides by a variety of international legal regulations [1]. However, the 'erga omnes principle' (no state can violate a few rights like, right to life, food, shelter, medical care, freedom of faith, thought and conscience etc.) states that all nations have a responsibility to uphold and advance some fundamental human rights, such is eminent under the international convention to protect human rights [1].

Admissibility of Unwritten International Treaties or Conventions in the Judiciary of Bangladesh: The 1951 Refugee Convention, the 1967 Protocol to it, and the 1954 and 1961 Statelessness Conventions were all rejected by Bangladesh. Due to the absence of a comprehensive national law addressing the rights and status of refugees, asylum seekers, and stateless persons, the safe haven available to them in Bangladesh is constrained and unpredictable. All in all, the need of a clear legislation is eminent as according to professor Dr. Muhammad Ekramul Haque, Bangladesh follows civil law system, just like France, but in most of the palaces it is preached that it follows common law system, this very idea is a myth [70, 71]. On the other hand, it can be said that our legal system takes contents from common law system but it follows the rigid form of civil law system [70, 71]. Besides that, Bangladesh being a dualist country, the direct implementation of the International Treaties is not possible, until and unless the ratified international instrument has been incorporated in the domestic legislation [72- 74]. But prior to this decision, the supreme court of Bangladesh also has decided in *BNWLA vs Bangladesh* (2001) case that, if there is any limitation domestic law then till the legislation of the concerned statute, the international instrument can be used [75]. Professor Dr. Ekramul Haque also proclaims that the international treaties that are ratified are applicable in Bangladesh and the treaties that are not ratified can all be applicable, till it coincides with the domestic laws [76]. Besides that, *Hussain Muhammad Ershad v. Bangladesh and others* (2001) case, clearly dictates that there is no compulsion is the implementation of the international treaties or convention but at the same time the court does not put a bar on such [77]. But in 2008 in the matter of *Bangladesh v Hasina* case, it was

strongly decided that the court will not implement the International Human Rights Instruments (Treaties or Conventions) unless those are incorporated in domestic statutes but it also dictates that, in order to interpret the rights that are envisaged in the constitution, the court would look in those Instruments [78].

As a result, there is not a single constitutionally (Article 25 and 145A has a few elements but no clear guideline, thus the precedents of the court is eminent here) or statutorily obligatory provision in our legal system regarding the legal standing of treaties and international law, nor is there any method for how they would be applied in our domestic jurisdiction [75]. The ease with which international instruments would be utilized in our legal system is of vital national importance [75]. It must be recognized that under international law, our state institutions and people have both rights and duties [75]. As a result, a detailed image of the regulatory system for the implementation of international law in Bangladesh is required [75].

Recommendations: Although many refugees wish to return to their countries as quickly as possible, many worry about their safety or worry that they would not be allowed to return for at least a few years. They need a long-term solution to the issues they experience as refugees, which can only be provided by a stable platform. Asylum seekers and refugees alike require access to the legal system in Bangladesh; thus, the country must guarantee that this is available to them. The followings can be utilized to prepare an effective and ideal refugee protection mechanism-

A) Making a Complete Set of Laws for the Whole Country [1, 40]: The treatment of refugees, their recognition, and their protection, as well as the resolution of various legal and administrative obstacles, will all be facilitated by a formal and standard legal framework or policy. Given that, the presence of well-structured legal guidelines (law) is very important, this country needs to make a comprehensive set of laws and policies in order to safeguard the privileges of refugees and people seeking asylum. Not having a clear domestic legislation that corresponds with international instruments on refugees might make ratifying a number of them complicated [79]. Creating a specific legal framework for protecting refugees also makes it easier for the government to keep track of them; for example, the government could create a database with detailed information about refugees and asylum seekers, such as where they are now, who they are related to, what they did in their home country, and why they left. At present, under Bangladeshi law, they may be required to stay in touch with the relevant administrative authorities about where they live, work, or move to in Bangladesh, as well as any other issues that may come up.

B) Making a Model Legal System that can be Adaptable for South Asian Countries [1]: At this point, the refugee problem in Bangladesh has become a tough and complicated issue from both a social and political point of view [1]. Recently, Bhutan and Sri Lanka, as well as Bangladesh in south Asia have become the main places where refugees and people looking for asylum in the world go [1]. Pakistan has problems with Afghan refugees, Bangladesh has mostly Myanmar refugees, Nepal has Bhutanese refugees, and Sri Lanka has its own problems with people moving around inside the country [80].

Surprisingly, neither the 1951 Convention nor the 1967 Protocol have been ratified by most of the Asian countries, including India, and none of these nations have enacted their own legislation to safeguard the rights of refugees inside their borders. A solid, adaptable model legislation for the long-term evolution of the refugee problem is needed, and it is reasonable to claim that Bangladesh and other South Asian nations should come up with one.

First, it was the Constitution of the Eminent Person Group (EPG) for South Asia in 1994. Then, in 1995, the Colombo Consultation stressed the need for a south Asian regional legal regime for refugees [40]. So, the New Delhi Consultation of 1996 emphasized how important it was to have a model law for refugees. In 1997, at the Dhaka Consultation of EPG, the state parties finally agreed on a national model law to protect refugees' basic rights in an effective way [40]. Even though there have been some technical and political disagreements about the model law, most people agree that it should be used as a starting point for future discussions about protecting refugees [81]. But for a model law that applies to all South Asian countries to be successfully put into place, it needs to set up a body that thinks about its goals, institutional structure, and financial support [1]. In this case, it would be helpful to look at what the Organization of African Unity (OAU) Bureau of Refugees has implemented and how the European countries have coordinated their policies on refugees and related issues [82]. Despite of the region's diversity, such regional mechanism will harmonize the refugee policy framework [40].

Conclusion: Given security concerns and other economic issues, particularly in recent years [83, 84], Bangladesh has very certainly seen the refugee crisis as humanitarian. Even while political leaders, bureaucrats, and the media speak a lot about protecting refugees, Bangladesh lacks a proper legal or institutional framework to do so. Bangladesh should build a national legislative framework for refugees as soon as feasible to create an appropriate and effective protection system that can handle varied refugee circumstances smoothly.

Bangladesh's planned national law for refugees should have an institutional framework that combines international, regional, and national methods. Bangladesh should also ratify the international refugee instrument. The 1951 Convention is flawed. All nations should adopt a model legislation or regional legal framework. This would improve refugee protection. Bangladesh should obey international law and safeguard refugees residing on its soil to find a long-term solution to the refugee situation. This course uses

administrative and judicial activism to fulfill international refugee rules and UN Conventions. One strategy is to utilize a human rights-based approach, which involves protecting refugees as required by human rights.

The Bangladesh Supreme Court, like the Indian Supreme Court, may play a significant role in protecting the fundamental human rights of refugees by interpreting international customary law in a manner that is compatible with international conventions and treaties on refugee law. Bangladesh may also cooperate on bilateral or multilateral refugee arrangements with its neighbors and other Asian nations. This includes registered and unregistered refugees. Bangladesh may also lead a debate with the international community to urge the countries of origin to address the refugee situation quickly. Since the refugees in Bangladesh are in a terrible condition, endure a lot of hardship, are vulnerable, and feel dangerous, the government and the world must act immediately to address this issue permanently. Without appropriate national laws and policies for this many refugees, Bangladesh would face severe problems and at present, some of which are evident. And the practice of providing refugee status through executive orders [18], can come to an end.

Acknowledgements: The author is really grateful to the Almighty Allah for being able to pursue the paper. The author is also grateful to his parents for their vivid support. Besides that, Abu Bakar Siddique, Assistant Professor, Department of Law, BUP also helped the process by conducting International Human Rights and Migration Law courses in Post Graduation Level (LLM).

References

- [1] M.A.A. Chowdhury, Challenges to the Protection of Refugee's Rights in Bangladesh: In Search of a Comprehensive and Effective Legal and Institutional Frameworks, *International Journal of Ethics in Social Sciences*. 18(1) (2018) 51- 66.
- [2] UNHCR (2011), Policy Development and Evaluation Service (PDES), States of Denial, A review of UNHCR's Response to the Protracted Situation of Stateless Rohingya Refugees in Bangladesh, Geneva, Switzerland. <http://www.unhcr.org/4ee754c19>
- [3] B.U. Kumar, Constitutional obligation and necessity for a uniform legislation in Bangladesh to protect refugees. *bdnews24.com*, (21 October 2017). <https://bdnews24.com/opinion/comment/constitutional-obligation-and-necessity-for-a-uniform-legislation-in-bangladesh-to-protect-refugees>
- [4] M.K.H. Arif, The Rohingya Refugees in Bangladesh: Non-refoulement and Legal Obligation under National and International Law, *International Journal on Minority and Group Rights*. 27(4) (2020) 856. <http://dx.doi.org/10.1163/15718115-02702014>
- [5] S.S Sejan, 'Bangladesh's contribution to standards on refugee protection, *The Daily Star* (11 November 2022). www.thedailystar.net/law-our-rights/news/bangladeshs-contribution-standards-refugee-protection-3166331.
- [6] Amnesty International, Who is a refugee, a migrant or an asylum seeker?. www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/
- [7] Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention) article 1 (A) (2).
- [8] H.F.A. Imran, M.N. Mia, The Rohingya Refugees in Bangladesh: A Vulnerable Group in Law and Policy, *Journal of Studies in Social Sciences*, 8(2), (2014) ISSN 2201- 4624, p.226-253.
- [9] T. Ananantachari, Refugee in India: Legal Framework, Law Enforcement and Security, *ISIL Yearbook of International Humanitarian and Refugee Law*, (2011). <http://www.worldi.org/int/journals/ISILYBIHRL/2001/7>
- [10] Concern Worldwide, Refugee vs. IDP vs. migrant... What's the difference? (22 April 2022) www.concern.net/news/refugee-idp-migrant-difference accessed 23 March 2023.
- [11] *INS v. Cardoza-Fonseca*, 480 U.S. 421 (1987).
- [12] *Ali* ER 193, 1998
- [13] *Sivakumaran case*, (1988), House of Lords Decision (1988), 1 ALL ER.
- [14] [1989] HCA 62 (9 December 1989).
- [15] *Minister for Immigration and Ethnic Affairs v Wu Shan Liang* [1996] HCA 6 (7 March 1996), [47].
- [16] J. Vrachnas, P. Dimopoulos, A. Pathinayake. *Well-founded fear of persecution. Migration and Refugee Law Principles and Practice in Australia*. 3rd ed., Cambridge University Press, (September 2011) pp. 257.
- [17] ASEAN Parliamentarians for Human Rights (APHR), (2018), *The Rohingya Crisis: Past, Present, and Future; Summary Report of Fact-Finding Mission to Bangladesh*, pp.1-9.
- [18] N. Mohammad, Refugee Protection Under the Constitution of Bangladesh: A Brief Overview. *Refugee Watch, A South Asian Journal on Forced Migration*. Issue- 39 (2012) 141- 156.
- [19] E. Haque, Humanitarian vs. Legal deals, *The Daily Star*. (2 July 2013) www.thedailystar.net/news/humanitarian-vs-legal-deals
- [20] B. D'Costa, Rohingyas and the Right to Have Rights, *The Daily Star, Forum*, 6 (8) 2012.
- [21] *The Economist*, Exile Island. (2015, July 23). <https://www.economist.com/asia/2015/07/23/exile-island>
- [22] M. Guhathakurta, Understanding Violence, Strategising Protection: Perspectives from Rohingya Refugees in Bangladesh. *Asian Journal of Social Science*, 45, (2017) 639-665. <https://doi.org/10.1163/15685314-04506003>
- [23] Bangladesh plans to move Rohingya refugees to island in the south, *The Guardian*, Agence France-Presse, ISSN 0261-3077. (2015).
- [24] S. Wazed, Why Bangladesh Cannot Accept All the Rohingya. *The Diplomat – The Diplomat is a current-affairs magazine for the Asia-Pacific, with news and analysis on politics, security, business, technology and life across the region.* (2018, January 19). <https://thediplomat.com/2018/01/why-bangladesh-cannot-accept-all-the-rohingya/>
- [25] A.H. Milton, M. Rahman, S. Hussain, C. Jindal, S. Choudhury, S. Akter, S. Ferdousi, T. A. Mouly, J. Hall, & J. T. Efirid, Trapped in Statelessness: Rohingya Refugees in Bangladesh. *International Journal of Environmental Research and Public Health*, 14(8) (2017), 942. <https://doi.org/10.3390/ijerph14080942>

- [26] M. S. Huda, The Rohingya Refugee Crisis of 2012: Asserting the Need for Constructive Regional & International Engagement, South Asian Journal, Issue 7 (January 2013) <http://southasiajournal.net/the-rohingya-refugee-crisis-of-2012-asserting-the-need-for-constructive-regional-international-engagement/>
- [27] UNHCR (2015), Sub Regional Operation Profile- South-East Asia: Overview. <http://www.unhcr.org/pages/49e487546.html>
- [28] The constitution of the People's Republic of Bangladesh 1972, article 32.
- [29] The constitution of the People's Republic of Bangladesh 1972, article 27, 31, 32.
- [30] The constitution of the People's Republic of Bangladesh 1972, article 33.
- [31] The constitution of the People's Republic of Bangladesh 1972, article 34.
- [32] The constitution of the People's Republic of Bangladesh 1972, article 35.
- [33] The constitution of the People's Republic of Bangladesh 1972, article 36.
- [34] The constitution of the People's Republic of Bangladesh 1972, article 37.
- [35] The constitution of the People's Republic of Bangladesh 1972, article 38.
- [36] The constitution of the People's Republic of Bangladesh 1972, article 39.
- [37] The constitution of the People's Republic of Bangladesh 1972, article 40.
- [38] The constitution of the People's Republic of Bangladesh 1972, article 41.
- [39] The constitution of the People's Republic of Bangladesh 1972, article 42.
- [40] M.M. Naser & T. Afroz, Protection of Refugees in Bangladesh: Towards A Comprehensive Legal Regime, Dhaka University Law Journal, Vol. 18, Number 1, June 2007, pp.109-130.
- [41] Act No. XXXI of 1946.
- [42] National Legislative Bodies / National Authorities, Bangladesh: Foreigners Order, 1951, 22 October 1951. <https://www.refworld.org/docid/3ae6b50314.html>.
- [43] Act No. XVI of 1939.
- [44] National Legislative Bodies / National Authorities, Bangladesh: Registration of Foreigners Rules, 1966. <https://www.refworld.org/docid/3ae6b4fa8.html>
- [45] Act No. XXXIV of 1920.
- [46] Bangladesh Immigration Rules. (1955). Immigration, Bangladesh Police. https://www.immi.gov.bd/Immi_rules#:~:text=Passport%20Rules,%201955,-Relevant%20Section:&text=Subject%20to%20the%20provisions%20hereinafter,in%20possession%20of%20a%20passport.
- [47] President's Order (Ordinance) No. 9 of 1975.
- [48] Act II of 1951.
- [49] President's Order (Ordinance) No. 149 of 1972.
- [50] Act LV of 1952.
- [51] Act LVIII of 1974.
- [52] Act No. VII of 1926.
- [53] Act No. V of 1908.
- [54] Act No. XXXIX of 1974, repealed by Children's Act, 2013.
- [55] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 3.
- [56] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 4.
- [57] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 5.
- [58] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 12.
- [59] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 14.
- [60] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) article 6 (1).
- [61] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) article 2, 6 (1), and 7.
- [62] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 2.
- [63] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 3.
- [64] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 24.
- [65] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 28.
- [66] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 37.
- [67] Convention on the Rights of the Child (adopted 20 November 1989, entered into force September 1990) E/CN.4/RES/1990/74 (CRC) article 22 (1).
- [68] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (CAT) article 3.
- [69] Equality of Treatment (Social Security) Convention, 1962 (No. 118).
- [70] Professor Dr. Muhammad Ekramul Haque, "Dissolution of Marriage in Muslim Law", class lecture, Comparative Family Law, Bangladesh University of Professionals, Dhaka, Bangladesh, September 15, 2022.
- [71] M.I. Akondo, Codification of Muslim Personal Law in Bangladesh: Problems and Prospects, Asian Journal of Arts, Humanities and Social Studies. 6(2) pp. 8- 14.
- [72] Chaudhury and Kendra v Bangladesh and ors, Writ petition, No 7977 of 2008, 29 BLD (HCD) 2009, ILDC 1515 (BD 2009), 19th January 2009, High Court Division, Supreme Court of Bangladesh.
- [73] BNWLA v. Government of Bangladesh, 14 May 2009, Petition No. 5916 of 2008, Supreme Court of Bangladesh.
- [74] S. Khair, Bringing International Human Rights Law Home: Trends and Practices of Bangladesh Courts, 17 Asian Yearbook of International Law 47, 52 (2011).
- [75] M. Islam, 'Absence of legal regime to apply treaties' The Daily Star. (8 September 2015). www.thedailystar.net/law-our-rights/absence-legal-regime-apply-treaties-139354
- [76] M.E. Haque, 'Current International Legal Issues: Bangladesh' (2019) 23 Asian Yearbook of International Law, 23 (2017) 1, 14.
- [77] Hussain Muhammad Ershad v. Bangladesh and others, 21 BLD (2001) 69.

- [78] Bangladesh v Hasina, Appeal Judgment, Case No 46/2008, 60 DLR (AD) (2008) 90, ILDC 1409 (BD 2008), 8th May 2008, Bangladesh; Supreme Court; Appellate Division
- [79] S.S. Wijetne, International Refugee Law and The Proposed National Model Law on Refugees for Countries in South Asia, edited by CR Abrar and Shadeen Malik, Refugee and Migratory Movements Research Unit (RMMRU), Dhaka, 2000, pp. 1-13.
- [80] M.K. Sinha, Protection of Refugees through Human Rights Instruments: Indian Perspective, in Om Prakash Mishra (ed.) Forced Migration in the South Asian Region: Displacement, Human Rights and Conflict Resolutions (Manak Publishers, New Delhi, 2004), pp. 433-452.
- [81] R. Dhavan, Refugee Law and Policy in India, *PILSARC*, New Delhi, India, (2004).
- [82] B.S. Chimni, The Law and Politics of Regional Solution of the Refugee Problem: The case of South Asia, *RCSS Policy Studies* 4 (1998).
- [83] A. Kiphayet, Rohingyas pose a grave security threat to Bangladesh: Relocation and repatriation an urgent necessity *South Asia Monitor*. (24 October 2020). www.southasiamonitor.org/spotlight/rohingyas-pose-grave-security-threat-bangladesh-relocation-and-repatriation-urgent
- [84] N. Tasnim, Growing insecurity in Rohingya Refugee Camps: A Threat to South Asian Security? *Modern Diplomacy*. (4 July 2022) <https://moderndiplomacy.eu/2022/07/04/growing-insecurity-in-rohingya-refugee-camps-a-threat-to-south-asian-security/>