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**The Pathway to Restoration of Human Rights of the Rohingya
Refugee: A Legal Analysis**

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Letter of Transmittal

Dr.Kudrat-E-Khuda Babu

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Dear Sir,

It is a great pleasure for me that I have been able to make research on “**The Pathway to Restoration of Human Rights of the Rohingya Refugee: A Legal Analysis**”. During concluding this research I have given my best effort to form the useful research and by collecting all the relevant information from different sources that it can fulfill your expectation.

Therefore, I shall remain grateful to you if you pass through this research paper for your evaluation and I would like that if any valuable recommendation is formed from your part in this matter.

I'm always available for any further clarification of any part of this paper at your convenience.

Yours Sincerely,

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CERTIFICATION

This is to certify that the thesis on “**The Pathway to Restoration of Human Rights of the Rohingya Refugee: A Legal Analysis**” is done by Name: Sadia Chowdhury, ID: 221-38-033, Department of Law, Daffodil International University, in the partial fulfillment of the requirement for the degree of LL.M (Final) from Daffodil International University of Bangladesh. The thesis has been carried out successfully under my guidance.



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DECLARATION

I'm Sadia Chowdhury, ID: 221-38-033 LL.M (Final) hereby declare that this research work titled as **“The Pathway to Restoration of Human Rights of the Rohingya Refugee: A Legal Analysis”** has been conducted by me and I can assure that this is my own work.

It has been submitted in the satisfaction of the necessity for the degree of Masters of Law: LL.M (Final).

This work presented is my unique work and it has not been submitted before. The work does not make any transgression of copyright law.



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DEDICATION

I would like to dedicate this work to my department, The Department of Law, Daffodil International University, my classmate, all my younger and seniors, and obviously my honorable teachers, who always stood there for me in absence of my guardian. Thank you all for making my journey memorable.

Abstract

Bangladesh is a South Asian country which is over populated and also known as one of the most densely populated country of the world, sharing its border with India and Myanmar. Right after the independence of Bangladesh in 1971, it has started experiencing the constant refugee flight of Muslim Rohingya from Myanmar. Half a decade has passed after several hundred thousand Rohingya refugees fled to Bangladesh joining the previous hundred thousand who arrived earlier, but still there is no long-term solutions visible in sight. This paper observes and explores associated notions of this scenario. The right to return and the right to remain of Rohingya refugees from Myanmar has been considered as main focus. The paper has also discussed the rights and attempts to make experience of them throughout the light of human rights; along with human protection and human capital approaches. This is done based on secondary studies and authentic sources, NGO reviews and numerous different online documents. The primary reasons of Rohingyas displacement have included in the following manner as- rejection in their citizenship and identity, styles of land colonization, ethnic discrimination in livelihoods and education, ethnic and religious exclusion along with apartheid segregation. Denial of the rights of ethnic Rohingyas to citizenship rights is each one of the root reasons of the Rohingya refugee query. This paper intends to find out the solutions and pathway to sustainable restoration of the human rights of the Rohingya refugees by making analysis of the possibility of their return to their own land throughout legal analysis under the light of international legal instruments and international practices.

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List of Abbreviations

CAT	Convention Against Torture
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
GA	General Assembly (UN)
GAOR	General Assembly Official Records
HRC	Human Rights Committee
HRW	Human Rights Watch
ICC	International Criminal Court
ICJ	International Court of Justice
ILC	International Law Commission
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention at the Elimination of All Forms of Racial Discrimination
NGO	Non-Governmental Organization
RCRSR	Refugee Convention Relating to the Status of Refugees
UDHR	Universal Declaration of Human Rights
UNHCR	UN High Commissioner for Refugees
UNOCHA	United Nations office for the Coordination of Humanitarian Affair

CHAPTER 1

INTRODUCTION

1.1. Background of the study

The case of the Rohingya attract me due to the fact they may be one of the maximum susceptible ethnic minorities in South Asia and they have their own records, subculture and religion, and a records of persecution. A violence exploded in Myanmar's Rakhine State in past due August 2017, greater than 1/2 of 1,000,000 Rohingyas needed to fleeing throughout the border. This turned into to grow to be the maximum speedy ever emergency refugee disaster globally.¹

There have been preceding mass exoduses, as an instance in 1978 additionally to Bangladesh. At that point as much as 10,000 Rohingyas died in camps in which they have been forcibly displaced, and 180,000 have been then deported lower back to Burma. Once greater in 1991-92, about 250,000 Rohingya have been repatriated from Bangladesh throughout the border.² It turned into global strain that motivated Myanmar to just accept Rohingyas lower back. In Cox's Bazar District 971,627 refugees have been already registered via way of means of eleven January 2018, and in keeping with the "Bangladesh Immigration and Passports Department."³ Of these, 688,000 refugees arrived among August 2017 and January 2018 alone.

Extend army violence happened to Rohingya in Rakhine country turned into abuse of human rights law. Which includes via acts of sexual and bodily violence.⁴ For full-size dislocation of the ethnic Rohingya population, maximum of them left Myanmar. Their persisted discrimination that resemble the world over condemned approaches of apartheid. The chief of UNHRC has described the violence in a "textbook instance of ethnic cleansing", and UN warned the Myanmar government that escalating "gross violations of the human rights"⁵ of the unique Rohingya Muslims, via massive and systematic assaults at the network, amounted to "crimes in opposition to humanity". This is the history to the maximum speedy refugee motion in current times. The proper to go back has been described via way of means of Article 13(2) of the UDHR as follows: "Everyone has the proper to go away any United States of America, which includes his very own, and to go back to his United States of America".⁶ But the global network has identified that

¹ McConnell, Andrew, "100 days of the horror and hope: A Timeline of the Rohingya Crisis". pp, 12-13.

² Medecins Sans Frontieres-Holland, "10 Years for Rohingya Refugees in Bangladesh: Past Present and Future". pp, 22-23.

³ UNOCHA, "Rohingya Refugee Crisis", <<https://www.unocha.org/rohingya-refugee-crisis>> (Retrieved 29th November, 2022)

⁴ Akram, S.M. and T. Remple, "Temporary Protection as an instrument for implementing the right to return for Palestinian refugees", Boston University International Law Journal, Vol.22. p, 3.

⁵ UN News Center, "Textbook example of ethnic cleansing", <<http://www.un.org/apps/news/story.asp?NewsID=57490#.Wndj2PmnG1s>> (Retrieved 29th November, 2022)

⁶ UDHR, "United Nations (1948) Universal Declaration of Human Rights"

returning a refugee to their place can be a problem of individual's fundamental human rights. So, their rights in Myanmar aren't secure. Thus, in this case (when you consider that Bangladesh isn't always a signatory of the Refugee Convention or 1967 Protocol) from UNHCR at the global network's behalf.

This study examines the proper pathway to return and the proper way to stay for Rohingya refugees in Bangladesh, within the framework of global human rights standards and legal guidelines. So, they are able to rebuild their lives with long-time period safety, if the world grants Rohingyas as third country resettlement and start a new home.

Contextual background

In Myanmar, Multi-religious and multi-ethnic identification have been fashioned. A postcolonial shape engaged in kingdom constructing considering independence from the British Colonial government in 1948. The gift Myanmar kingdom, fashioned from more than one ethnic companies, has been held collectively with the aid of using the previous ruling military elite. Rohingyas remember themselves a people, an ethnic and religious community, and within the beyond they lives in Rakhine kingdom in Myanmar. It is famous that Rohingyas have lived in Rakhine for extra than one thousand years, this means that they're entitled to assert citizenship in Myanmar on an identical basis.⁷ Overall, The Rohingyas are authentic residents of Myanmar and Heins had been previously slaves delivered in from Bengal and extra current settlers. Other Rakhine ethnic companies were diagnosed with the aid of using the Myanmar kingdom as protectors of 'land and religion' as posing a "chance to race and religion" of the Buddhist country wide network.⁸ They were regularly reframed as "intruders", and sell the advent of an Islamic kingdom in Myanmar.

With is background, the trouble of statelessness and of what the destiny holds for this displaced network. The origins of tensions among Rohingya Muslims and Buddhists in Myanmar may be traced proper returned to the quilt of the primary Anglo-Burmese battle in 1826. However presently extra Muslim Rohingyas moved to Myanmar from British India to Arakan. Already at that time, this unexpectedly created tensions with the Buddhist Arakan people. In practice, the Rohingyas nowadays are made of the descendants of 3 numerous companies of immigrants who reached the Rakhine kingdom over 3 specific intervals of time.

The 2nd group arrived round 300-700 CE, and consisted of Arab Muslim traders and seafarers, Gulf Arabs, Moors, and Persians who arrived in valuable Rakhine State from diverse Arab international locations. This organization coincided with the Vesali Empire, the second one Rakhine Dynasty, while Muslim investors from specific international locations settled in Rakhine State. The 3rd group of Muslim, in 1406, the Rakhine King Naramaikhla, fled to Gaur, the capital of Bengal, having been defeated with the aid of using the Buddhist Myanmar King Min

⁷ Abrar, C.R., "*Repatriation of Rohingya Refugees*" <<http://www.burmalibrary.org/docs/Abrar-repatriation.htm>> (Retrieved 15th october, 2022)

⁸ Gibson, T, H. James and L. Falvey, "*Rohingyas: Insecurity and Citizenship in Myanmar*", Thailand University Press. pp, 15-16.

Khamaung.⁹ The Empire of Arakan changed into a Muslim Kingdom, with a few Buddhist influence. From this ancient viewpoint, Rohingyas who stay Kyauktaw, Mrauk U and Minbya settlements consider their descendants of King Naramaikhla's squaddies and were in Rakhine for extra than one thousand years.¹⁰

By 1974, after Arakan Partition, "the Emergency Immigration Act" diminished Rohingya citizenship fame so they held most effective overseas registration cards, rather than protecting country wide registration certificates. In 1978, the Myanmar military all started the Nagamin (Dragon King) movement that required registering all Burmese residents previous to growing a country wide register. In 1982, the New Citizenship Law changed into delivered to exclude Rohingya from the 135 country wide ethnic companies listed. This New Citizenship regulation supposed hat in impact in 1982 the Rohingya turn out to be stateless persons, and the maximum marginalized minority community in Burma, subjected from then directly to the indiscriminate violation in their maximum fundamental human rights. In particular, they had been disadvantaged of the fundamental proper to nationality, an essential human proper, and one on which many different fundamental rights rely in practice.¹¹

The UN considers go back one of the three everlasting solutions to the status of refugee, Their proper to go back to their domestic regions and their proper to have their homes restored to them is obvious from four specific styles of worldwide regulation: nationality regulation, and additionally humanitarian regulation; human rights regulation, and refugee law.¹² The proper to go back is based on the equal time at the Universal Declaration of Human Rights (UDHR), the 1964 International Covenant on Civil and Political Rights (ICCPR), and the International Convention at the Elimination of All Forms of Racial Discrimination (ICERD). The opportunities contained withinside the language of those human rights instruments, the UDHR, the ICCPR and ICERD (e.g., "everyone" and "country"), indicates strong safety and need to over-ride another military or conventional regulation.¹³

Now, the hundreds of thousands of Rohingya, forcefully displaced via the army operations in Rakhine, have fled to diverse South and South East Asian nations along with India, Indonesia,

⁹ Nemoto, K., "*The Rohingya Issue: a thorny obstacle between Burma (Myanmar) and Bangladesh*", The Institute of Developing Economies, Tokyo, Japan. p, 35.

¹⁰ Gibson, T, H. James and L. Falvey, "*Rohingyas: Insecurity and Citizenship in Myanmar*", Thailand University Press. p, 24

¹¹ Sen, A., "*International Symposium on Human Security*". pp, 23-24.

¹² Boling, G.J., "*Palestinian Refugees and the Right to Return: An International Law analysis*", Issue No.8.

¹³ Zedalis, R.J., "*Right to Return: A Closer Look*", Georgetown Immigration Law Journal, Vol.6. pp,7-8.

Thailand and the biggest numbers being simply throughout the border in Bangladesh,¹⁴ almost all of them in Cox's Bazar.

1.2. Research questions

I will take this research further more basis of the following questions-

1. How the restoration of human rights of Rohingyas' can sustainably be done by ensuring their legitimate residence?
2. What are the important thing determinants of Rohingyas' as bearers of the right to return?
3. How can we examine the right to return amidst insecurity, discrimination and violence towards Rohingyas' in Myanmar?

1.3. Methodological Strategy

This research paper is analyze existing literature on the issues addressed and also use collected data from secondary sources, this argument in the academic and policy literature in current discussion around Rohingyas right to return and right to remain. In order to meet the objectives of the proposed research. I analyze a number of specific documents including reports of international and national human rights agencies and organizations with Rohingya refugees and also documents of Myanmar and Bangladesh governments. The methodology of this research is mainly qualitative method.

I would use international organizations, laws, case laws, reports and different books, journal article and online article which significant secondary source of information and would establishing the Rohingya situation as well as legal status, human development, human rights and specifically the right to return and the right to remain of Rohingya refugee in the country of refugee, in this case it is Bangladesh.

1.4. Literature Review

This research has an intention to explore the right to return and right to remain of Rohingya refugee. Within the important treaty and worldwide regulations for the safety of Rohingya refugee. Though the analysis is developed on history and modern time. The main question of this research is “Where would they return to? To which region or a part of Myanmar? What type of society would they return, given the records of racism, discrimination and violence? What would be their legal status and would their citizenship be restored?” took times to get answered with the help of many infamous writings.

¹⁴ Rosand, E., “*The Kosovo Crisis: Implications of the Right to Return*”, Vol. 18. p,12.

With the study of the book, “International Refugee Law and Socio-Economic Rights: Refugee from Deprivation”¹⁵ by Michelle Foster I have discovered it for the first time in online. This e-book has explored the volume to which the important thing treaty in worldwide regulation for the safety of refugees the Refugee Convention is able to accommodating claims primarily based totally at the deprivation of monetary and social rights. The guiding purpose is that an interpretation of the Refugee Convention which seeks to make sure its current relevance through taking into account an evolutionary knowledge of key standards such as ‘being persecuted’, arguably required through the authoritative ideas of treaty interpretation set out in Chapter 2, has the ability to house quite a number monetary-primarily based totally claims, and that lots of the plain boundaries can be triumph over through the software or extrapolation of current settled ideas to those new actual situations. The vital end turned into that, whilst decision-makers presently will be inclined to undervalue and in any other case brush aside monetary claims primarily based totally on unsuitable notions approximately their content material and value, an method centered on accurate ideas of worldwide human rights regulation holds full-size promise in accommodating a brand new variety of claims primarily based totally on monetary deprivation. Chapter 6 then became to bear in mind an appropriate interpretation of the Convention grounds, concluding that the ‘club of a specific social group’ floor holds the best ability relevance to claims primarily based totally on monetary deprivation. The 2d hassle with the floodgates argument is that it is also primarily based totally on the idea that everyone humans who're able to gratifying the refugee definition will in reality depart their domestic nations and are seeking safety in any other nation (in particular in an advanced, northern nation), in order that to extend the ability scope of the definition will always impose impractical duties on advanced states. The solution is that whilst it's far actual that the translation promoted on this e-book gives the scope for a greater expansive and liberal interpretation of the Refugee Convention, such that a much wider variety of claims may be encompassed, this doesn't imply that everybody who qualifies will in the long run are seeking safety. For example, a liberal method to an interpretation of the Refugee Convention through the judiciary may also lead (and certainly in a few occasions has led) to the legislature amending home regulation so one can restrict the scope of home refugee regulation, even wherein such modification brings the home jurisdiction into warfare with its worldwide felony duties. Eight In addition, the belief that after an immigrant is allowed to attain the territory of a nation celebration it is going to be tough to put off her or him because of an expansive interpretation of the nation’s felony duties may also lead (and certainly has led) to the govt in a few nations imposing restrictive regulations designed to save you such humans from achieving the territory of the nation, as an instance through bodily stopping their arrival.

Moreover, it's far broadly time-honored that the Refugee Convention have to continue to be the important thing governing regime for the safety of folks that can't or have to now no longer be required to go back to their country of origin,³² most significantly as it confers quite a number civil and political and socio-monetary rights on the ones diagnosed as refugees, and for this reason

¹⁵ Michelle Foster, “*International Refugee Law and Social-Economic Rights: Refugee from Deprivation*”, 2007.p-7.

presents some distance extra safety than the proper of non-go back which (albeit essential) is frequently the simplest treatment to be had beneathneath the subsidiary schemes.

1.5. Significance of the study

Right to return is one of the maximum essential questions for refugees, but the right to remain also can now no longer be ignored. My contribution is bringing those discussions together, and beginning with the criminal framework. I then replicate at the social and political contexts of such questions, and description the situations inside which the Rohingya refugees should stay in Bangladesh. Both the right to return and right to remain on of a greater fundamental right - Right to life. Rohingyas' right to life is their fundamental right and it issues peace, security, economic prosperity, and political balance. Universal Declaration of Human Rights and its implication rely on the country events and political commitment, and global strength actors have crucial position in securing this proper of Rohingyas. Analyzing how the ones rights can be found out and what are the consequences in their consciousness is essential in phrases of sensible implementation issues, in addition to in phrases of higher know-how the criminal and political framework inside which the ones rights are described and defended. Thus, specializing in Rohingyas, this research hopes to provide information that is relevant beyond their concrete circumstances, and may be essential for other refugee situations.

CHAPTER II

Return and Remain: Human Rights Considerations

2.1. Introduction

UDHR says the right of to return according to Art 13(2) - ‘everyone has the right to leave any country, including his and return to his origin country. Article 12(4) of the ICCPR gives that “[n]o one shall be arbitrarily deprived of own the right to enter his regional country”.¹⁶ The right to return is, therefore, important to the rights agenda identified over the constant necessities and responsibilities of the UNCCP, UNHCR, and the Refugee and Stateless Convention, for nationless Rohingyas people as refugee.¹⁷

Thus, the right to return of Rohingyas to Myanmar is hooked up via way of means of the Universal Declaration of Human Rights (UDHR), consisting of “International human rights regulation, International refugee regulation and international humanitarian regulation”. These felony frameworks are important, and as a consequence the ideas established inside regard to the return of refugees can assist to make clear what the right to return would possibly seem like in practice.¹⁸

2.2. Right to Return under circumstance of Rohingya Ethnic cleansing

The biggest example is the article by Rosand’s (2000) about The Kosovo Crisis- Implication of the Right to Return” and Boling’s (2001) “Palestinian Refugees and the right to return: An International Law Analysis”. Rosand centered at the global human rights regulation method to treatment the right to return of Kosovar Albanians. It is outstanding that withinside the Palestinian in addition to the Kosovo crisis, even though the UN Security Council surpassed resolutions, they had been now no longer carried out successfully. In the case of Palestinians, even though the UN Security Council has exceeded some of Resolutions towards Israel’s profession of Palestine and denial of Palestinian rights, such as the right to return to their original homes, the state of Israel has neglected those until now. But good vibes that the Kosovo refugees finally coils go back their origin after sometimes because of the military action against Serbia by NATO.

As in line with the Myanmar authentic report, on August 25, 2017 12 military officers have been killed but Rohingya rebels. The result of the Myanmar’s military crackdown in Rakhine state become the large-scale departure of the Rohingya ethnic Muslim minority from Myanmar. As

¹⁶ Lawand, K., “*The Right to Return of Palestinians in International law*”, Vol. 8. p, 8.

¹⁷ Akram, S.M. and T. Remple, “*Temporary Protection as an instrument for implementing the right to return for Palestinian refugees*”, Boston University International Law Journal, Vol.22. p, 2.

¹⁸ Lawand, K., “*The Right to Return of Palestinians in International law*”, Vol. 8. P, 5.

violence worsened in August 2017, Myanmar's Rakhine state become emptied as extra as 1/2 of one million Rohingya fled their country of an in a count of days. The UN described the Rohingya disaster is a Human Rights Nightmare.¹⁹ The atrocious violations of Rohingyas human rights via way of means of the Myanmar navy consist of the following: villages had been burned down; complete families were killed; kids were orphaned and traumatized; girls and women were raped and abused (UNOCHA, n.d.). The Un Human Rights Council in their truth locating mission regain the throughout countrywide rights of Rohingyas via way of means of 1982 Citizenship Law.²⁰

The UN Security Council voiced its problem overstated human rights abuses and violations in opposition to civilians in Rakhine State, specially via way of means of the Myanmar safety forces. When military attacks specifically on Rohingyas, that the UN denounced the organized but the use of specific methods.²¹ The UN then warned the Myanmar authority that escalating those gross violations of human rights in opposition to Rohingya Muslims specifically, via systematically the use of violence in opposition to the contributors of this community, become worsening the authority's crimes in opposition to humanity. The Myanmar authorities additionally set landmines alongside the border location with Bangladesh, stressful that each one returnee provide "evidence of nationality" on the border, something the Rohingya couldn't do in any case, since 1962 they have been stripped in their complete political, civil and citizenship rights. The Chief of the UN Human Rights Council recognized Myanmar's navy crackdown in opposition to Rohingya Muslims as "textbook ethnic cleansing". Successive Myanmar governments have intentionally deprived the Rohingya of any political, economic and social citizenship rights. Already, the UN has confirmed that "acts of genocide" including 'ethnic cleansing' have occurred.²²

2.3. Right to Remain in Bangladesh: Question of Citizenship

One of the primary human rights of the Rohingyas that changed into taken away, and possibly the important thing one, changed into the right to citizenship under the Citizenship Law 1982, Rohingyas have been stripped of citizenship rights and in their legal identity. A man or woman is given a color-coded "Citizenship Security Card" thru grades of citizenship grade pink, blue and inexperienced separately. Full citizens are thinking about folks who healthy in with one of the country-described categories: "Kachin, Kayah (Karenni), Karen, Chin, Bman, Mon, Rakhianone, Shan, Kaman, or Zerbadee". Most are the ones whose are agreed to be the descendants of these

¹⁹ McConnell, Andrew, "100 days of the horror and hope: A Timeline of the Rohingya Crisis", pp, 15-16.

²⁰ General Assembly, "PLENARY SEVENTY-SECOND SESSION", <<https://www.un.org/press/en/2017/ga11997.doc.htm>> (Retrieved 10th October, 2022)

²¹ UN Security Council, "Statement by the President of the Council president", <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C8CD3-CF6E4FF96FF9%7D/s_prst_2017_22.pdf> (Retrieved 10th October, 2022)

²² OHCHR, "Current Development and Challenges in the Asia Pacific region Jakarta", <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22631&LangID=E>> (Retrieved 10th October, 2022)

settled in Myanmar earlier than 1823, whilst the British Kingdom in Arakan State changed into established. There is likewise the class of a companion citizen, for instances in which one grandparent, or one pre-1823 ancestor, changed into a countrywide of any other country.²³

UN asked Myanmar to simply accept Rohingya and completely put in force the Rakhine Advisory Commission's recommendations, through ex-UN Secretary-General Kofi Annan attempted to locate approaches to make sure peace and safety for extraordinary organizations concerned in Myanmar society, thru communicate among communities, freedom of movement, identical rights to employment, and consciousness of legal and citizenship repute of Muslim communities, especially (however now no longer only) the Rohingyas. The Myanmar government had been requested to simply accept unbiased observers who ought to determine the actual scenario interior Myanmar and the potentialities for go back within the longer-time period of as a minimum a number of the Rohingya now stuck in Bangladesh.²⁴ Rohingya keep to stand rampant and systemic human rights violations. The safety movements are exact in numerous reviews approximately the grave human rights abuses through country safety forces along Rohingya villagers, with precis massacres, rape and different sexual violence, torture and ill-treatment, subjective arrests, and burning.²⁵ All in all, the Rohingya have an entire right to return to and stay in Myanmar, but there have to be no urgency to return people to a system that resembles apartheid. The urgency of the scenario is recalled through the NGO Amnesty.²⁶

2.3.1. The skeleton of Non-refoulement in Rohingya Perspective

Bangladesh can't forcing Rohingya refugees to return to a country which they're liable to be subjective to persecution. Because we understood that- man and women of Rohingya feels secure and protected in his very own region but sometimes happens that when a person wants to leave his origin country for persecution. In the equal put, a refugee is someone who takes shelter in a foreign country for tension of persecution or attack to his/her life. Genocide happens to Rohingya Refugees and the disaster scenario is now one of the maximum mentioned subject in global community. As a result, ½ million Rohingyas fled to Bangladesh. Then those two countries given a joint announcement to convey return to their home, Myanmar military released an operation in Rakhaine

²³ Islam, M., "*Memories of Burmese Rohingya Refugees: Contested Identity and Belonging*". p, 10.

²⁴ UN News Centre, "*Conditions in Myanmar not yet suitable for Rohingya refugees to return safety-UN agency*", <<http://www.un.org/apps/news/story.asp?NewsID=58464#.WnWazfmmG1t>> (Retrieved 12th September, 2022)

²⁵ HRW, "*World Report 2017*", <https://www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf>(Retrieved 12th September, 2022)

²⁶ Amnesty International, "*Bangladesh: Returning Rohingya to Myanmar illegal and premature*", <<https://www.amnesty.org/en/latest/news/2018/01/bangladesh-returningrohingya-to-myanmar-illegal-and-premature/>>(Retrieved 13th September, 2022)

in opposition of Rohingyas on August 2017 due to one incident. United Nations has already recognized this operation as 'ethnic cleansing'.²⁷ As non-refoulement principle has an extensive function with inside the complete refugee law mainly Rohingya Refugee. The term non-refoulement affiliated with the safety of the refugees.

The principle of non-refoulement prescribes extensively that, no refugee should be returned to any us of a wherein she or he is in all likelihood to stand persecution or torture.²⁸ The idea of the non-refoulement changed into all started to broaden withinside the early-to mid-19th century while the idea of asylum and the principle of non-extradition of political offenders commenced to concretize. At that point the principle of non-extradition pondered famous sentiment that the ones fleeing far from their very own commonly despotic governments have been worth of safety.²⁹ United Kingdom's Aliens Act 1905 changed into an act created with the feel of the want to defend persecuted humans. In the United Nations the General Assembly followed decision at the query of refugees and said that, 'refugees or displaced persons' who've expressed 'valid objections' to returning to their country of a of origin ought to now no longer be coerced to do so.

In 1949, the Ad hoc committee on Refugees and stateless humans which change into appointed through the ECOSOC took a decision. After that, Ad hoc committee prepares a Convention Relating to the Status of Refugees which was adopted in 1951. This device gives a proper shape to satisfy the overall wishes of the refugees and set up guidelines to give protection them according- the international law.³⁰ But the principle of non-refoulement has been recounted through numerous different units the world over which includes in Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the United Nations Convention against Torture (UNCAT)).³¹ Article 7 of the ICCPR states that, 'No one shall be subjected to torture or to cruel, inhuman or degrading remedy or punishment.

Article II (3) of the OAU convention , 'No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article I' In Banjul Charter article 12 (3) state that, 'Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with laws of those countries and International conventions.' In European Convention the principle of non-refoulement is partially mentioned. A territory wherein they might be in risk of persecution for motives of race, religion, nationality, membership of a particular social group or political opinion.' The norms hat have been said withinside the non-refoulement are too fundamental and that's why each country has to just accept it as an international principle and exercise it.³² In 1977, the

²⁷ Michael Safi, "Myanmar treatment of Rohingyas looks like textbook ethnic cleansing", p, 22.

²⁸ Guy S. Goodwin-Gill, "The Refugee in International Law". p, 117.

²⁹ Ibid, p, 117-118.

³⁰ Stefania Barichello, "Exploring the Boundaries of Refugee Law: Current Protection Challenges" p, 17.

³¹ Seunghwan Kim, "Non-Refoulement and extraterritorial Jurisdiction", pp. 49, 69.

Executive Committee of UNHCR referred to that, the principle of the non-refoulement is commonly ordinary through states as additionally reaffirms, ‘The fundamental significance of the observance of the principle of non-refoulement each on the border and in the territory of a State of humans who can be subjected to persecution if returned to their origin no matter whether or not or now no longer they had been officially diagnosed as refugees.’ In an assertion followed on the ministerial assembly of state parties of 12th & 13th December, 2001 and sooner or later advocated through the General Assembly, the states party to the 1951 convention and/or 1967 protocol recounted ‘...the persevering with relevance and resilience of this international regime of rights and principles, which includes at its core the principle of non-refoulement, whose applicability is embedded in customary international law.’³³

Moreover, there's well known consensus amongst legal scholars that, non-refoulement has now ‘become binding as a matter of each treaty and customary law if now no longer additionally as a so known as peremptory norm or jus cogens.

2.3.2. Durable Resolution in Refugee Law: Rohingya situation in Bangladesh

The principle of non-refoulement is a step for the safety of the refugees and additionally guarantees remedy of them in humanitarian manner however whilst the priority is ready to resolve the hassle of refugee then answer is likewise wished due to the fact it's far the duty of the nation of beginning to take care and deliver sufficient safety to their citizen. In refugee law, this answer is referred to as via way of means of ‘Durable Solution’. Durable answer is a technique to get returned the everyday existence of refugees. Resettlement is a technique wherein refugees are resettling themselves in a 3rd state. According to UNHCR, Resettlement is a safety device for person refugees whose existence, liberty, safety, health or different essential rights are at danger withinside the country of asylum; a long lasting answer for large numbers or companies of refugees and a mechanism for burden and duty sharing amongst states.³⁴

States who've consecutively deliver donation and different monetary help to the United Nation High Commissioner for Refugees have additionally the proper to make the coverage and their help rules un-surmounted, this is the motive they emphasized or recommended the ‘voluntary repatriation’ in preference to resettlement to extract the refugee trouble.³⁵ Local integration is some other long lasting answer for the refugees which presents them nearby house withinside the state of asylum and additionally presents them possibilities to rehabilitate themselves in a brand new state. Government of the nation of asylum may want to item the technique of nearby integration due to the fact there are a few legitimate motives at the back of it. It cannot be disaffirm that,

³⁴ UNHCR report, “*An Introduction to International Protection*”, p,143.

³⁵ Barbara E. Harrell-Bond, “*Repatriation: under what conditions is it the most desirable solution for Refugees? An Agenda for Research*”, p, 41.

integration is related to assimilation and permanence.³⁶ The 1951 conference in a roundabout way deal with the voluntary repatriation via the cessation clauses. This includes the go back in and to situations of physical, legal, and cloth safety, with complete recuperation of countrywide safety because the stop result.³⁷ Organized and spontaneous repatriation those techniques are used to repatriate the refugees. Organized repatriation approach whilst the repatriate technique transferring ahead via settlement among state of beginning and state at asylum and assisted via way of means of the worldwide community. Spontaneous repatriation approach whilst refugees repatriate themselves to their state of beginning via way of means of very own approach.³⁸

The approach of prepared repatriation isn't in simple terms voluntary repatriation due to the fact this approach isn't relied on the consent of the refugees however the agreement among the two countries. However, it's far now normally identified that the spontaneous repatriation of refugees is frequently on a miles more scale than organized repatriation.³⁹

In Bangladesh, Refugee law for Rohingya situation- Before beginning this briefing, it need to be mentioned that Bangladesh isn't a signatory nation of the 1951 Convention Relating to the Status of Refugees and its 1967 protocol.⁴⁰ Rather this persecution has been constantly taking place for almost six many years withinside the past. Bangladesh cannot deny to taking them or send returned them to their state of foundation. According to UDHR and Convention towards torture (CAT).⁴¹ Apart from this, the commonplace fee and norm that is referred to as precept of non-refoulement additionally labored right here and due to this Bangladesh cannot send lower back refugees to their country of starting place without making sure the protection and safety.

In keeping with the principle of non-refoulement, Bangladesh authorities cannot coerce the Rohingya refugees to ship them lower back into that area wherein protection couldn't be ensured. The UNHCR says vital safeguards for humans to go back to the houses they fled so currently are absent. Another UN legitimate Ursula Mueller, UN's Assistant Secondary-General for Humanitarian Affairs, stated that, 'from what I've visible and heard from humans no get admission to- no get admission to fitness services, worries approximately safety, endured displacements – situations aren't conducive to go back. Initial repatriation of the refugees became now no longer voluntary in nature. Present dialogue of repatriation generally tend to factor this word that focusing

³⁶ Ibid, p,42.

³⁷ Ibid, p,139-140.

³⁸ United Nations High Commission for Refugees, "*Handbook Voluntary Repatriation: International Protection*". p, 45.

³⁹ John R. Rogge, "*When Refugees Go Home: African Experiences*". p, 33.

⁴⁰ Muhammad Nawshad Zamir, "*Is Bangladesh Violating International Law*", <<http://www.newagebd.net/print/article/5389>> (Retrieved 22th November, 2022).

⁴¹ Universal Declaration of Human Rights 1948, Article 14 provides: "(1) everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, Article 3 (1) provides: No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

into how plenty critical to go back safely. Forty five Therefore, Bangladesh has to create strain or wait until the scenario in Myanmar is appropriate for the repatriation of Rohingya refugees in any other case it'll be a contravention of the precept of non-refoulement. In this matter, felony pupil B.S.Chimni argues that one if the maximum essential principle at voluntary repatriation and non-refoulement is that, refugees cannot be back towards their will to a domestic state that during their subjective evaluation has now no longer extensively modified for the better. UNHCR insists that choice plenty be made primarily based totally on goal facts.

Now on this case, if Bangladesh and UNHCR took the approach which became taken earlier than at the 1992- 1993. Then the particular trouble can be the identical in subsequent future. Because without protection and insure security the Rohingyas should persecuted time and again and once more emerge as refugees.

2.4. Conclusion

The atrocious violations of Rohingyas human rights via way of means of the Myanmar navy consist of the following: villages had been burned down; complete families were killed; kids were orphaned and traumatized; girls and women were raped and abused.⁴² The Un Human Rights Council in their truth locating mission regain the throughout countrywide rights of Rohingyas via way of means of 1982 Citizenship Law. The UN Security Council voiced its problem overstated human rights abuses and violations in opposition to civilians in Rakhine State, specially via way of means of the Myanmar safety forces.

In this situation, Bangladesh government or authority should take assistance of United Nations and consults of other friendly nations to put pressure on Myanmar government so that, they create conditions which ensure the adequate security and proper rehabilitation for Rohingya refugees in Rakhaine state. After that if the situation in Myanmar well prepared for the voluntary repatriation then the Rohingya refugees will start to return in their country of origin but United Nations and UNHCR should keep their eyes open and also need a continuous monitoring and evaluation system to maintain the security and rehabilitation process subsistent.

⁴² UNOCHA, '*United Nations office for the Coordination of Humanitarian Affairs): Rohingya Refugee Crisis*', <<https://www.unocha.org/rohingya-refugee-crisis>> (Retrieved 20th july, 2022)

CHAPTER III

Human Development and Security: Freedom from both fear and willingness

3.1. Introduction

The Human Security and human development frameworks can assist to make feel of the right to remain and the right to return of Myanmar Rohingyas dwelling in Bangladesh. The valuable postulate of a human protection technique is “the right to stay in freedom and dignity, loose from poverty and despair... with an identical possibility to experience all their rights and absolutely expand their human potential”.⁴³

From a human protection perspective, the valuable awareness of interest is the individual. a lot wider scope of ways protection is defined, manner human protection consists of all factors of people’s lives, and isn't just like personal or classical understandings of protection, which might be in particular restricted to physical freedom from harm, and country wide protection issues. National protection arguments of this classical kind, may be used to justify nation violence interior their very own country through the nation protection forces withinside the face of insurgency, for example. It is simply as likely, now no longer assuming a benevolent nation, that merging nation electricity with protection issues round regulation and order, can suggest extra oppression of unpopular people and groups.

3.2. Human Security and Insecurity of the Rohingyas

When a nation’s legitimacy is in query due to the claims of an ethnic group, such needs can be considered as a safety danger to the nation.⁴⁴ They can't go back to Myanmar until they may be conventional as rightful residents in their ancestral region, Rakhine, and until their ethnic and non-secular identities are identified as a part of the Myanmar country wide whole. As lengthy as their identities as residents are violated through the Myanmar government, their human safety can't be assured and there's no foundation for them work out their proper to go back. It is relevant as collective concern to societies universally, in wealthy nations and poor. Human safety is intended “to protect the critical middle of all human lives in methods that beautify human freedoms and human fulfillment”.⁴⁵ States like Myanmar, wherein politicians and the army area national and border protection above the security of human beings just like the Rohingya civilians, will now no longer meet those human safety conditions. Which are- Economic security, health security, food

⁴³ UN General Assembly, 66th Session “*Follow up to paragraph 143 on human security of the 2005 World Summit Outcome*” p, 8.

⁴⁴ Thakur, R, “*The United Nations, Peace and Security*”, Cambridge: Cambridge University Press, pp.79-107.

⁴⁵ OCHA, “*Office for the Coordination of Humanitarian Affairs 2009*”, United Nations, <<http://ochaonline.un.org/humansecurity>>(Retrieved 14th November, 2022)

security, environmental security, personal, community security and political security.⁴⁶ Specially, Freedom from want and Freedom from fear.⁴⁷ Human safety is an essential detail of the Human rights system (Article 1, UDHR).⁴⁸ The Myanmar government has no intention, it seems, of making certain the human safety of the Rohingyas; neither their personal physical security nor their network safety and collective wellness in terms of resources. This covers Rohingya's bodily, monetary and each private and network safety of the seven key factors of human safety indexed above.

Firstly, the right to life (Art.3) is one of the maximum essential rights of UDHR (UDHR, Art.3), on the grounds that without all of it different rights grow to be irrelevant. Rohingyas' physical security is the maximum primary and comprehensible factor in their wider human safety. In different words, they have got confronted direct violence and threats of violence from state parties, specially the army. Their vulnerability and dependency makes them less complicated targets, and through the equal logic, the Rohingyas are seeking to generate their personal physical protection through sticking collectively carefully as a group, and turning inwards to the family.⁴⁹

3.3. State Violence: The Political Will to Exclude

Myanmar security forces have perpetrated large rape towards Rohingyas Muslims girls and women as a part of an operation of ethnic cleaning in Rakhine State. According to Human Rights Watch, protection forces grouped girls and women collectively in units after which gang raped or raped them.⁵⁰ The Burmese army's barbaric acts of violence have left infinite girls and women brutally harmed and traumatized".⁵¹ Cases of violence towards men had been additionally reported.⁵² Myanmar nation created a selected shape of identification of 'proper' Myanmar citizen in a society, primarily based totally on faith and ethnicity and Rohingyas are discriminated towards due to the fact the Burmese society has perceived them as a threat, in view that as a minimum 1972 and probably in advance than that. Their exclusion from Myanmar citizenship way that in the nation, the location of the Rohingyas is incredibly prone and that is strengthened through the destruction in their financial wellbeing and livelihoods of their former places wherein they lived. Since the

⁴⁶ HDR, "Human Development Report", p 15-16.

<http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf> (Retrieved 20th June, 2022)

⁴⁷ Ibid, p.22-24.

⁴⁸ Benedek, W. (ed), "Understanding Human Rights: Manual on Human Rights Education"

<http://hr.law.vnu.edu.vn/sites/default/files/3._manual_2012_final.pdf>(Retrieved 15th October, 2022).

⁴⁹ HDR, "Human Development Report 1994", p.31-32.

⁵⁰ Human Rights Watch (HRW), "All of my body was pain, Sexual violence against Rohingya women and girls in Burma" <<https://www.hrw.org/report/2017/11/16/all-my-body-was-pain/sexual-violence-against-rohingya-women-and-girls-burma>> (Retrieved 19th November, 2022)

⁵¹ Human Rights Watch (HRW), "Widespread Rape of Rohingya Women and Girls" p,23.

<<https://www.hrw.org/news/2017/11/16/burma-widespread-rape-rohingyawomen-girls>> (Retrieved 19th November, 2022)

⁵² Human Rights Watch (HRW), "The darkness of human: investigating mass rape in Burma" p, 18.

<<https://www.hrw.org/news/2017/11/16/darkness-humansinvestigating-mass-rape-burma>> (Retrieved 20th November,2022)

1990s, the Myanmar authorities militarized Rohingya social and monetary life, with the general end result that they face the possibilities of dwelling with deep trauma, for my part and throughout the entire.⁵³ Whether they are trying to advantage nation offerings or jobs with inside the market, they have got misplaced out over a long time and constantly have needed to combat for this sort of opportunities.⁵⁴ As an end result of huge atrocities through the Myanmar protection forces towards Rohingyas, 354 rural groups had been in part or completely destroyed over the last few years.⁵⁵ The Myanmar navy destroyed infrastructure which include schools, marketplaces and Mosques and that they attacked teachers, indigenous and religious leaders and different people who had been influential most of the Rohingya of their public and economic life.

3.4. Securitizing the Rohingya

Of course, as with many securitization situations, the threat is greater realistically the opposite manner across the Myanmar nation poses an existential danger to the Rohingyas. Security issues are regularly noted through governments who're seeking to justifying unique measures that contain curtailing the person's rights and civil liberties of these residing with inside the nation.⁵⁶ Over the beyond 50 years or so, the Myanmar authorities government have spread out the country of a to massive groups and overseas pursuits were capable of collect land. The Government of Myanmar, a ways from operating to prevent compelled labour, is deeply worried in selling it. Still these days good sized exploitation is affecting hundreds of thousands of people who're uncovered to the maximum risky types of exploitation, and regularly once they turn out to be ill, the shortage of hospital therapy or drug treatments can purpose them to lose their lives from curable diseases.⁵⁷ In the beyond, in Burma, Rohingya as non-Burmese have been amongst the ones maximum focused for force labor, and once more as with in search of to move, they might best keep away from force labour in the event that they paid big sums of cash or may want to request an exemption via their relationships with Buddhists. Excluded from analyzing for professions like medicine, economics and engineering, on account that 2012 the Rohingya have been avoided from enrolling with inside the best college of Rakhine nation, in Site, ostensibly on protection grounds.⁵⁸ In April 2017, Muslim colleges have been closed down through the nearby government, after Yangon police responded to demands of a violent mob of Buddhist excessive nationalists.⁵⁹ In September 2017,

⁵³ OCHA, "Office for the Coordination of Humanitarian Affairs", United Nations, <<http://ochaonline.un.org/humansecurity> > (Retrieved 15th October, 2022)

⁵⁴ HDR, "Human Development Report 1994", pp.31-32.

⁵⁵ The Guardian, "Rohingya Crisis: Amnesty Alleged Crimes Against Humanity in Myanmar", <<https://www.theguardian.com/world/2017/oct/18/amnesty-alleges-crimes-against-humanity-in-myanmar-against-rohingya>> (retrived 2nd December, 2022)

⁵⁶ Hintjens, H. and D. Zarkov, "Conflict, peace, security and development: theories and methodologies", p.1-14.

⁵⁷ Bolle, P., "Perspective: Supervising labour standards and human rights: The case of forced labour in Myanmar (Burma)", International Labour Review, Vol. 137, p.3.

⁵⁸ Human Rights Council, "Situation of human rights of Rohingya Muslim and other minorities in Myanmar", p. 9.

⁵⁹ Amnesty Internatinal, "Bangladesh: Returning Rohingya to Myanmar illegal and premature", p.23. <<https://www.amnesty.org/en/latest/news/2018/01/bangladesh-returning-rohingya-to-myanmar-illegal-and-premature/>> (Retrieved 10th December, 2022)

the Kayin State government issued an order that each one Muslims have been banned from travelling, until they first obtained the specific permission of the local government.⁶⁰

3.5. Conclusion

In northern Rakhine State, the Rohingya and have been deeply discriminatory, explicitly supposed to manipulate populace motion and styles of growth. Muslim couples ought to leap over steeply-priced administrative hurdles on the way to be capable of stable a wedding permit, and there have been barriers at the range of kids they may have, and then they might be pressured to apply contraception. All those problems specifically affected the Rohingyas as a stateless people, decreasing the best in their human improvement with regards to education, health, political and economic rights and undermining their feelings of security... They were persecuted and additionally humiliated with the aid of using the Myanmar state, which has been straightly violating Rohingyas' rights of fundamental as human rights, their human security and their human improvement all at once.

⁶⁰ Amnesty Internatinal, "*Bangladesh: Returning Rohingya to Myanmar illegal and premature*", p,24. <https://www.amnesty.org/en/latest/news/2018/01/bangladesh-returningrohingya-to-myanmar-illegal-and-premature/_> (Retrieved 10th December, 2022)

CHAPTER 4

Ensuring Right to Life in a sustainable manner by ensuring residence: Discussion on Future Prospective of Rohingya Refugee

4.1. Introduction

Since neither Bangladesh nor Myanmar appear to be eager to simply accept the Rohingya, and provide them the status of legal citizens, this complicates the alternatives of Rohingya considerably. Either entirely or in part, they're disadvantaged of different primary rights just like the right to education, the right to health and clinical care, the right to transport freely to be seeking for employment, and the right to improvement itself. For some of these rights, the country is the primary actors that determines the possibilities of accomplishing such rights, each via its experience of political obligations, or lacking it, and its commitment, or not, to secure the Rohingya have their primary rights guaranteed.

4.2. Right to Return: The Myanmar Government's Perspective

The Government of Myanmar argues that the Rohingyas problem must be solved thru stepped forward nearby and bilateral arrangements, and claims the Rohingya are current immigrants from Bangladesh who're a destabilizing pressure and a protection threats for the Myanmar nation-country. Rohingya and additionally different Muslims are regularly represented as a "risk to race and religion" inside Myanmar in which Buddhist nationalism is at the rise.⁶¹ As a stateless ethnicity, Rohingya as a result discover themselves disadvantaged of an exceptional sort of the maximum fundamental human rights and protections, maximum of that are to be had to complete Myanmar citizens. On 23 January 2018, Bangladesh and Myanmar reached an agreement (a MoU) to repatriate 156,000 Rohingyas over the following years. The Rohingyas fled Bangladesh due to the fact their lives had been below risk through the Myanmar protection forces and the country authorities, which undermined their capacity to experience their maximum essential economic, educational, health-associated and social rights with inside the first place. While hoping to return to their houses in Myanmar one day, while matters enhance there, the Rohingya refugees pressure that 'resettlement' is probably worse than being in a refugee camp.

In January 2018, Bangladesh indefinitely postponed the repatriation process,⁶² due to their situation that the Myanmar safety forces and officers who destroyed or seized Rohingyas houses and property, could now no longer offer any reimbursement for those seizures to the Rohingyas. According to at least one day by day paper, Myanmar Army Chief Min Aung Hlaing said: "Myanmar might be secure as lengthy as [Rohingya] live with inside the version villages constructed for them". "The Rohingyas will now no longer be capable of visit their houses without

⁶¹ Human Rights Council, "Situation of human rights of Rohingya Muslim and other minorities in Myanmar", p.7.

⁶² House of Commons, "Debate on petitions relating to Burma's Rohingya minority", <<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP2018-0086#fullreport>> (Retrieved 2nd December 2022)

delay and that they ought to live in Myanmar transit camps. Rohingyas have argued that: “the camps in Myanmar might be a way worse, due to the fact we can be restrained there and there might be a threat to our lives.” They say that with inside the new transit camps constructed through the Myanmar government close to Rakhine’s country capital, Sittwe “humans are residing like prisoners”.⁶³ One Buddhist nationalist politicians even recommended the group he became addressing to “kill and bury” as many Rohingya as possible, in a public assembly in Yangon town in May 2015.⁶⁴

In the name of protective Parliament and the Buddhist religion, extremist Myanmar nationalists have sharply accelerated anti-Muslim rhetoric, even encouraging using violence in opposition to Muslim minorities.⁶⁵ The key cause why the Rohingya fled to Bangladesh and to different state became pretty without a doubt that their right to life became below threat due to the violence recommended through the Myanmar country and Buddhist nationalists combined.

4.3. The Right to Remain: The Bangladesh Government’s Perspective

The Bangladesh government has obtained one of the maximum speedy cross-border actions of humans in history’s even earlier than that, Bangladesh hosted greater than its truthful proportion of the world’s refugees.⁶⁶ Bangladesh has exact right to name Rohingyas as a “forcibly displaced nationals from Myanmar” as opposed to refugees, in line with Foreign Secretary M. Shahidul Hauque.⁶⁷ This is in clean violation of Article 14(1) of UDHR which gives that, “Everyone has the right to seeking for and to experience asylum from persecution in different countries” (UDHR). If Bangladesh offers the Rohingyas who entered the state with inside the ultimate year’s refugee status, then they may later be much less probable to have the ability to signify that the Rohingyas ought to be repatriated to Myanmar later on. How might their fundamental needs be given for? These are simply a number of the various questions that shade now no longer best the Bangladesh authorities’ views at the modern-day disaster, however additionally the attitudes of the worldwide network approximately the Bangladesh authorities’ efforts below present conditions, to protected the rights of the refugees. Bangladesh has already controlled to assist prepare a huge-scale humanitarian reaction to the big Rohingya disaster of 2017-18. At the equal time, the Rohingyas who’re in camps in Bangladesh experience few rights or freedoms, and via way of means of

⁶³ The Reuters, “*Bangladesh agrees with Myanmar to complete Rohingya return in two years*”.
<<https://www.reuters.com/article/us-myanmar-rohingyabangladesh/bangladesh-agrees-with-myanmar-to-complete-rohingya-return-in-two-years idUSKBN1F50I2>> (Retrieved 15th December, 2022)

⁶⁴ Human Rights Council, “*Situation of human rights of Rohingya Muslim and other minorities in Myanmar*”

⁶⁵ Schonthal, B. and MJ. Walton, “*The (NEW) Buddhist Nationalisms? Symmetries and Specificities in Sri Lanka and Myanmar*”, Vol.12, No.1.p, 10.

⁶⁶ OXFAM, “*I still do not feel safe to go home: voice of Rohingya refugees*”,
<<https://www.oxfamnovib.nl/Files/rapporten/2017/20171218%20bp-voices-rohingyarefugees-181217-embargo-en.pdf> > (Retrieved 13th December,2022)

⁶⁷ The Daily Star, “*Rohingyas are Forcibly Displaced Myanmar Nationals not Refugees*”.
<<https://www.thedailystar.net/world/rohingyacrisis/rohingyas-are-forcibly-displacedmyanmar-nationals-not-refugees-1468999> > (Retrieved 25th march, 2022).

denying their refugee status, the authorities finally ends up controlling nearly each elements of the refugees' social and economic lives. Second, Rohingyas scared being pressured returned to Myanmar as opposed to voluntarily repatriation.⁶⁸ Similarly, the huge quantity of Rohingyas produces a trouble for the safety forces in Bangladesh due to unlawful human trafficking.⁶⁹ International organizations described Bhasan Char as a silt island, prone to cyclones, and a place that can't offer livelihoods for heaps of human beings.

The Bangladesh protection forces have attempted to forcefully relocate the Rohingya to this island, however as one nearby Rohingya chief insisted on Channel four news (27 March 2018), the refugees refuse to move there, fearing for his or her safety. International organizations had additionally criticized the pressured repatriation of Rohingyas among 1978 and 1992-ninety three and warned towards greater such forceful in place of voluntary returns. In July 1993, pressured repatriation got here to a halt after the refugees in closing camps resisted physically, main to violent clashes with the Bangladesh protection forces. At that point 12,000 refugees or greater, in Nayapura camp in Cox's Bazar, refused meals rations in protest on the pressured returns policy. Also, even though the Rohingya catastrophe did now no longer create an intercourse enterprise in Bangladesh, it has improved the vulnerability of refugee girls and women to trafficking for intercourse, and this has pressured the charge of prostitution down with inside the region of the camps, even as maintaining the enterprise as sturdy as ever.⁷⁰

The statelessness of the Rohingyas can't be resolved truly via repatriating them to Myanmar in future, without their being granted complete citizenship rights first. Not having now no longer ratified the 1951 Refugee Convention, Bangladesh has widely wide-spread that current worldwide rights Covenants and Conventions that practice within its constitutional framework accordingly the UN Charter oblige it to uphold the primary rights and responsibilities of non-citizens residing within its territory. One of the primary principle to which the authorities have to adhere is to now no longer forcefully return or repatriate refugees to their domestic state or relocate then somewhere else with inside the host country, if this will placed them in threat of human rights abuses or violence. According to the UN, "(t) he right to grant asylum remain a right of the State".⁷¹ A key principle of the UDHR is that: "Everyone is entitled to all of the rights and freedoms set forth on this Declaration, without difference of any kind, along with race, coloration, sex, language, religion, political or different opinion, countrywide or social origin, property, birth or other status" (UDHR, Art.2). Thus, below those specific provisions Rohingyas own the proper to remain in Bangladesh.

⁶⁸ OXFAM, "I still do not feel safe to go home: voice of Rohingya refugees", p.13.

<<https://www.oxfamnovib.nl/Files/rapporten/2017/20171218%20bp-voices-rohingyarefugees-181217-embargo-en.pdf>> (Retrieved 25th May 2022)

⁶⁹ Nemoto, K., "The Rohingya Issue: a thorny obstacle between Burma (Myanmar) and Bangladesh", The Institute of Developing Economies, Tokyo, Japan.p, 22.

⁷⁰ BBC, "The Rohingya children trafficked for sex", <<http://www.bbc.com/news/world-asia-43469043>>(Retrieved 22th June, 2022)

⁷¹ UN General Assembly, "Declaration on Territorial Asylum", <<http://www.refworld.org/docid/3b00f05a2c.html>> (19th June,2022)

CHAPTER 5

Conclusion

The Rohingya lived Myanmar as an ethnic group for greater than thousand years. Through converting the regulation, they have been systematically made into stateless humans through the authorities of Myanmar, and later have been persecuted politically and bodily in addition to legally. The 1982 Myanmar Citizenship regulation specifically brought new country wide identification policies, which eliminated Burmese nationality from the Rohingyas.

5.1. Findings

The National Census of 2014 then reconfirmed this reliable denial in their rights to a country wide ID card. This has finally led to statelessness and this has step by step stripped the Rohingyas of any essential rights, whether or not political and civil or financial, social and cultural. International groups which includes UN, Amnesty International, and Human Rights Watch all agreed that those army assaults at the Rohingya minority constituted a “crime in opposition to humanity”, and “a textbook instance of ethnic cleansing”.⁷² Despite the global consensus that critical and huge rights violations occurred in Rakhine in opposition to the Rohingya, the Government of Myanmar maintains to shield its army operations on safety grounds, to justify its movements in opposition to civilians. After Myanmar safety operations have been accompanied through the Rohingya inflow to Bangladesh, almost 688,000 humans fled Rakhine from August 2017 to January 2018.

5.2. Problems

As economic safety and economic improvement begin to upload to their insecurity, the right to life is the maximum fundamental right of the Rohingya whether or not they remain or return. However, the Myanmar safety forces and authorities have already validated their human rights and feature as a substitute perpetrated abuses mainly in opposition to the Rohingya minority group. Rohingyas right to return to Rakhine nation, Myanmar is one of the primary rights as inscribed in Article 13(2) of the UNDH. Only after ensures that steady their fundamental human rights, human safety and human improvement, will any Rohingyas be inclined to keep in mind exercise their right to return. The most important predicament for the Rohingya themselves is that neither Bangladesh nor Myanmar governments appear inclined to provide them legal citizenship. Indeed, this lies at the foundation of all of the Rohingya’s different problems, given that denying them citizenship additionally deprives them significantly or maybe completely in their maximum fundamental rights, such as education, health, freedom of movement, employment and the right to development.

⁷² OHCHR, “37th Session of the Human Rights Council”, <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22702&LangID=E>> (Retrieved 20th June 2022)

They have been now no longer granted citizenship rights and the camps in which they have been relocated have been defined through refugees as “residing like prisoners”.⁷³

The Rohingya refugee crisis raises the question of whether non-refoulement has acquired customary status in this region due to the low adoption of the 1951 refugee status convention and its 1967 protocol.⁷⁴ Although additional research is required to determine the answer, it is evident that the status of the principle of non-refoulement is in greater jeopardy when the organized repatriation process somehow encourages refoulement. In these circumstances, Bangladesh will face difficulties if world leaders request consideration of the other long-term solutions. Developed nations are not willing to accept refugees. As a result, negotiating the resettling of these refugees with developed nations could be difficult for Bangladesh, the host nation. According to the data, resettlement is uncommon worldwide, as it is seen that only 1% of all refugees worldwide are settled.⁷⁵ As a result, Bangladesh, the country of asylum, has only one option: voluntary repatriation. The majority of Rohingya refugees have a fervent desire to return home and will do so voluntarily when it is safe to do so. However, voluntary repatriation is clearly not an option for the Rohingya refugees because they do not have a country of origin and are truly stateless because of Myanmar. In light of this circumstance, the government or authority of Bangladesh ought to seek the assistance of the United Nations. And they also should consult with other friendly nations in order to exert pressure on the government of Myanmar to create conditions that guarantee the Rohingya refugees in Rakhaine state with adequate security and rehabilitation. In that case, it is also very important to keep friendly relationships with the Myanmar government in order to finish the process. Whether voluntary repatriation is sustainable or not is determined by the repatriation procedure.

5.3. Recommendations

Therefore, in today's global practice and legal framework, the path to re-establishing the Rohingya refugees' human rights in their own country is extremely challenging and a lengthy procedure. As previously stated, Bangladesh has neither signed nor ratified the 1951 refugee convention, nor does it have a domestic refugee law. Bangladesh has no proper guidelines for controlling or directing the refugees in this situation. Therefore, the host nation ought to take the necessary precautions for their own safety by enacting local laws and regulations to safeguard its citizens in the interim. On the other hand, they ought to make an effort to move the refugees into their own territory using the strategies that were just discussed. However, before they can do so, they ought to make sure that the Rohingyas who live in their territory have access to the basic necessities necessary for survival.

⁷³ The Reuters, “Bangladesh agrees with Myanmar to complete Rohingya return in two years”.
<<https://www.reuters.com/article/us-myanmar-rohingyabangladesh/bangladesh-agrees-with-myanmar-to-complete-rohingya-return-in-two-years idUSKBN1F50I2>> (Retrieved 15th December, 2022).

⁷⁴ Nikolas Feith Tan, ‘*The Rohingya and Refoulement in Southeast Asia*’
<<http://www.mei.edu/content/map/rohingya-and-refoulement-south-east-asia>> (Retrieved 12th October 2022)

⁷⁵ Annabel Mwangi, ‘*Only 1% of refugees are resettled – why are we so threatened by them?*’
<<https://www.theguardian.com/global-development-professionals-network/2017/feb/18/only-1-of-refugees-are-resettled-why-are-we-so-threatened-by-them>> (Retrieved 15th December, 2022).

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