

## HUMAN RIGHT TO NATIONALITY OF THE ROHINGYA REFUGEES AND THE BANGALEES IN BANGLADESH

Sarfaraaj Mandal

 <https://orcid.org/0009-0004-3943-4030>

Bangabandhu Sheikh Mujibur Rahman Science and Technology University

Gopalganj, Bangladesh.

Correspondence: [jaymondol919@gmail.com](mailto:jaymondol919@gmail.com)

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### ABSTRACT

*The study contains the human rights condition of the Rohingya refugees in Bangladesh in general as well as their human right to nationality in the country in particular. It also contains, on a comparative approach, the human right to nationality of the Bangalees in Bangladesh. Data are collected from both primary and secondary sources and they are analysed systematically for reaching a solution to the problem of nationality of both the peoples, Rohingya and Bangalee. The study wants to create public opinion for the redress of the Rohingya refugees who were compelled to flee to Bangladesh from Myanmar by the government as well as the military of Myanmar. It shows that the right to nationality of the ethnic/cultural and linguistic majority 'Bangalee' people of Bangladesh was kept aloof from them for more than three decades. The study explores the governmental and foreign aids to help them sustain, transfer of many of them from Cox's Bazar to BhasanChar of Noakhali district, and geopolitical issues surrounding the Rohingyas in Myanmar and Bangladesh. It unveils the legal issue relating to nationality and citizenship of the Bangalees as well as the Rohingya refugees in Bangladesh, which is seldom addressed by lawyers and general readers. It shows the distinction between nationality and citizenship and makes some suggestions to overcome the problem of nationality and citizenship identities of the Bangalees and Rohingyas in Bangladesh as well as in Myanmar.*

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## 1 Introduction

### 1.1 Preliminary Statement

'Bangalee' is one of the leading peoples of the world. The ethnic/cultural and linguistic nation 'Bangalee' emerged as an independent state 'Bangladesh' through secession from Pakistan in 1971 on March 26. The architect of the country is the Father of the Nation Bangabandhu Sheikh Mujibur Rahman whose dedication for the Bangalee people and long struggle against twenty three year oppression of the Pakistani rulers that led to the deprivation of the Bangalee by the same authority resulted inevitably in the emergence of Bangladesh. Bangalee nationhood, constituted on the basis of Bangalee ethnicity/culture and Bangla language, worked as an atomic force for the protest against the said oppressions and deprivations as well as for the independence of the country. The fact was addressed well and recognized in the 1972 Constitution in Articles 6 and 9 under the keen attention of Bangabandhu Sheikh Mujib and tough thoughts and works of the constitution framers. 'Bangalee', therefore, became the constitutional and legal 'nationality'<sup>1</sup> as well as proper identity of the 98% people, Bangalee, of the country. Beside the Bangalee inhabitants of West Bengal province of India the Bangalees who constituted Bangladesh live in the country about 95% of the international landed border of which is with India and nearly 5% with Rakhaine State of Myanmar. Since early seventies of the

last century thousands of persecuted Rohingyas fled to Bangladesh and took shelter as refugees. Taking their refuge in the country, particularly in Cox's Bazar district, intensified in August 2017 and onwards when nearly 0.8 million Rohingyas came to Bangladesh as a result of ethnic and religious persecution upon them in their land by the military and the governmental forces of Myanmar. Measures for protecting the Rohingyas in respect of the basic necessities like food, clothing, education, medical care and shelter have been taken by the government of Bangladesh under the prudent leadership of the present Prime Minister Sheikh Hasina, foreign countries, international NGOs like the CARE, municipal NGOs and local groups and people etc. A considerable portion of the Rohingya refugees has been transferred from Cox's Bazar district to Bhasanchar of Noakhali district wherein they are being kept in almost a good condition in respect of the basic necessities. It is reported that the Citizenship Law of Myanmar of 1982<sup>2</sup> denied their citizenship that led to deprivation of their nationality. Similarly an unhappy event of denial of 'Bangalee' nationality for the extreme majority (98.2-99%)<sup>3</sup> 'Bangalee' of Bangladeshis reported. It was denied by the government by means of the repeal of nationality provision from the Constitution through the 5th amendment of the Constitution on April 6, 1979. Fortunately by the 15th amendment to the Constitution<sup>4</sup> the same was, however after a great struggle, inserted in the same articles 6 and 9 of the Constitution after thirty two years. Still the unhappy and crucial objection is that

<sup>1</sup>The definitions of nationality are available in R. C. Agarwal, *Political Theory (Principles of Political Science)*, S. Chand & Company Ltd, New Delhi, 2000, pp. 83-4. These are as follows: (1). Legal definition as quoted by Richard W. Flournoy in *Encyclopaedia of Social Science*, vols. XI- XII, p.249. : The nationality is 'the status of a person who is attached to a state by tie of allegiance.' (2). John Stuart Mill: A portion of mankind may be said to constitute a nationality if they are united among themselves by common sympathies..... which make them co-operate with each other more willingly than with other people, desire to be under the same government and desire that it should be a government

by themselves or a portion of themselves exclusively. (3). Lord Bryce: A nationality is a population held together by certain ties, as for example, language and literature, ideas, customs and traditions in such a way so as to feel itself a coherent unity distinct from other population similarly held together by like ties of their own. (4). Burgess: Nationality is a distinct socio-ethnic group within the state and ordinarily constituting minority of the total population.

<sup>2</sup> Enacted on October 15, 1982.

<sup>3</sup> For details: Bangladesh, <https://en.m.wikipedia.org>, visited on December 24, 2022.

<sup>4</sup> By Act No. 14 of 2011.

in many governmental and private papers and documents ‘nationality’ of people is mentioned and written as ‘Bangladeshi’, which is actually ‘citizenship’. The fundamental target of this investigation is to center the indistinguishable emergency of the Rohingya Muslim and their Human Rights which abused by Myanmar Juntas. For the reason the paper endeavors to take a gander at the accompanying issues: To dissect the historical backdrop of Rohingya Muslim, To discover the sacred revelation about Rohingya<sup>5</sup>.

### 1.2 Problem Statement

Identity crisis of any people of the world in respect of nationality generally and in connection to refugees particularly is an important legal concern in home and abroad. Nationality of the Rohingya refugees living in Bangladesh since 1974 and intensified in 2017 is a big legal concern. Identification and determination of nationality of the Bengalee people who constituted Bangladesh as an independent sovereign country in 1971 as well as of the non-Bengalee tribal/indigenous peoples like Chakma, Saontal, Garo etc.<sup>6</sup> is also in a great dilemma and confusion. The problem of national identity as well as citizenship identity of the Bengalees, the tribal or indigenous peoples and the Rohingyas living in Bangladesh is to see a good solution.

### 1.3 Necessity of the Study

Right to nationality is a human right according to Article 15 of the Universal Declaration of Human Rights (UDHR)<sup>7</sup> of 1948. Sub-article 1 of the instrument provides that *everyone has the right to nationality* and sub-article 2 provides that *no one shall be arbitrarily deprived of his nationality nor denied the right to*

*change his nationality*. The provision of the UDHR of 1948 is in line with Article 13(1)(b) of the UN Charter which empowers the General Assembly of the United Nations to initiate studies on human rights and fundamental freedoms for the realization thereof. The right to nationality of the people living in Bangladesh i.e. of the great majority Bengalees and the tribal or indigenous peoples (nearly 2%) and the Rohingyas (nearly 1.1 million) should be strictly identified and determined (Shamim, 2022). Such identification and determination of their nationality may help establish the human right to nationality in Bangladesh. Renowned Bangla poet Rangalaal Banerjee reflects the idea in his famous epic poem ‘*the Padmini Upakhyan*’ in the words ‘স্বাধীনতা হীনতায় কে বাঁচিতেচায় হে’ (‘who wants to lead a freedomless life, oh friends?’). As the nation Bangalee has formed an independent Bangla state ‘Bangladesh’ in 1971 the people belonging to the nationality should know themselves, should know their nationality credential, should know their value and should know their weight. Any endeavour to remove such national identity, be it governmental or political or personal, is unworthy of credit and should never be admired. Great Poet Madhusudan Dutta alarmed ‘যেজন বঙ্গতে জন্মে হিংসে বঙ্গবাপী// সে জন কাহার জন্ম নির্ণয় ন জানি’ (‘Birth identity of him is unknown// who, though born in Bangla, has malice to Bangla speech.’). Self-identity help people assess themselves, their strength, their number, their contribution and their utility in the world in respect of civil, political, economic, social and cultural rights and of duties that leads to uphold the human rights of not only of them but also of other people of the world.

<sup>5</sup> Arifuzzaman, Md.,-2021, *Identity of Rohingya Muslim and Citizen Rights: A Critical Analysis in Bangladesh Perspective*, ICRRD HIGH INDEX RESEARCH JOURNAL, ISSN Number: 2773-5958, Volume -2, Issue-2, May 2021

<sup>6</sup> There are a number of 75 non-Bangalee peoples in Bangladesh. For details: Reba Mondol, Empowerment of

Non-Muslim Women in Bangladesh with Special Reference to Inheritance: Human Rights Context, unpublished Ph. D. thesis, Islamic University, Kushtia Bangladesh, 2007.

<sup>7</sup> Adopted and proclaimed by General Assembly Resolution 217(III) of 10 December 1948. The instrument may be called ‘UDHR’ throughout the study.

#### **1.4 Rationale of the Study**

None should be kept deprived of his nationality. The Bengalees, tribal and/or indigenous peoples and the Rohingyas living in Bangladesh should also have the scope of getting their perfect identity in regard to nationality. The present study may help them be and keep conscious of and satisfied with the very human right to nationality.

#### **1.5 Hypothesis in the Study**

In accordance with the rule that any research study generally accommodates some hypotheses the present one tries to comply with it. Depending on the Problem Statement, Necessity and the Rationale of the Study the following hypotheses are addressed:

- a) The Bengalee people of Bangladesh might have been deprived of nationality for a couple of years in Bangladesh.
- b) The tribal or indigenous peoples, like the Chakma, Saontal, Garo, Mro, Tanchangya, total 75 in number in Bangladesh, might have been kept deprived of national identity.
- c) The Rohingya refugees coming from Myanmar to Bangladesh as well as living in Bangladesh might have lost their national identity as well as citizenship in Myanmar.
- d) All the Bangalee, tribal and/or indigenous and the Rohingya peoples living in Bangladesh might be keeping as a subject of infringement of the human right to nationality.

#### **1.6 Research Questions**

Some research questions following the hypotheses are found to arise in the study. On basis of the Problem Statement, Necessity, Rationale and Hypotheses of the study a number of research questions are addressed with the hope that a possible answer to each of them may help reach the solution to the problem of identification and determination of 'nationality' of the Bangalee, non-

Bangalee, tribal and/or indigenous and the Rohingya peoples, living in Bangladesh. They are as follows:

- i) Is the ethnic/cultural and linguistic majority Bangalee of Bangladesh suffering from national identity crisis?
- ii) Are the ethnic/cultural and/or linguistic minorities like Chakma, Saontal, Garo, Mro, Tanchangya etc. suffering from any nationality or citizenship crisis in Bangladesh?
- iii) What might be the result of addressing the question of nationality and citizenship of the peoples mentioned?
- iv) Should any administrative, legislative or judicial steps be taken by the government of Bangladesh for ameliorating the sufferings of the peoples mentioned in respect of their nationality or citizenship?
- v) Could Bangladesh government alone or in collaboration with the government of Myanmar adopt measures for redressing the sufferings of the peoples mentioned?

#### **1.7 Objectives of the Study**

A number of objectives are selected in view of the Problem Statement, Necessity, Rationale, Hypotheses and Research Questions of the study. The major objective of the study is to reach the solution to the question of nationality of the Bangalee, tribal and/or indigenous and the Rohingya refugee peoples living in Bangladesh in line with human rights norms. The allied objectives, however, are as follows:

- i) To reveal the actual position of the Bengalees, tribal and/or indigenous and the Rohingya refugees living in Bangladesh in respect of nationality and citizenship;
- ii) To make an analysis of the existing domestic laws of Bangladesh and Myanmar in respect of nationality and

- citizenship as well as of the international legal provisions relating thereto;
- iii) To explore whether the vulnerable peoples, the Bangalee, tribal or/and indigenous and the Rohingya refugees living in Bangladesh, have somehow been deprived of their right to nationality and citizenship;
  - iv) To address the condition of the said peoples in the light of domestic or international human rights and other acceptable norms; and
  - v) To make some recommendations for redressing the vulnerability of the Bangalee, tribal and/or indigenous and the Rohingya refugee peoples living in Bangladesh in connection with their nationality and citizenship.

## **2 Methodology of the Study**

Proper research methodology is tried to be followed in the research work so that real, as far as possible, picture of the vulnerability and protection of the Rohingya refugees in Bangladesh can be addressed. The problem of nationality and citizenship of the Bangalees of Bangladesh as well as of the Rohingyas in the country is tried to be covered by the methodological aspects.

### **2.1 Types and Sources of Data**

The proposed study accommodates both qualitative and quantitative data which are analyzed by following proper methodology applicable to social science research. Data are collected from both primary and secondary sources.

#### **2.1.1 Primary Data**

Primary data are collected from municipal and international legal instruments like the Constitution of Bangladesh etc. as well as some international declarations etc.

#### **a. Secondary Data**

Secondary data are collected from newspapers, articles, dissertations and publications in books, websites and the internet and so on.

### **2.2 Data Analysis, Processing and Presentation**

All the data collected from the primary and secondary sources are added to and compared with the present literature. Finally all the data are analyzed in a critical way keeping in view the objectives of the study.

### **2.3 Scope of the Study**

The vulnerability of the Bangalee, tribal, indigenous and the Rohingya refugee peoples living in Bangladesh in respect of their nationality and citizenship concepts are addressed by and accommodated in the present study. It also includes governmental and non-governmental official steps and documents affecting their identity concerned.

### **2.4 Limitations of the Study**

Vulnerability of no other peoples than the Bangalee, tribal and/or indigenous and the Rohingya refugee peoples living in Bangladesh are addressed and accommodated in the study. It means that peoples of the mentioned ethnicity/culture or language living outside Bangladesh are not addressed though such address could be better. This is due to time paucity and funding constraints. The issue of the protection of the Rohingya refugee people in respect of food, clothing, education, medical care or shelter is not elaborately covered by the present study.

## **3 Literature Review for the Study**

Some research works, Graduation to Ph. D. dissertations, books on relevant points etc. are gone through whereby necessary and appropriate information are collected. A number of books and research papers are undergone for the purpose of understanding the problem with 'nationality' and 'citizenship'. The review of literature is as follows:

(i) Harunur Rashid, says in his book 'International Law: Bangladesh Perspective' (Third Edition 2004),<sup>8</sup> that the word 'nationality' is used in his work in the sense of 'citizenship'.

(ii) Dr. Mizanur Rahman, mentions Mavrommatis Palestine Concession Case<sup>9</sup> in his book *International Law in a Changing World* (2003)<sup>10</sup> and tends to use the term *citizenship in the sense of nationality*.

(iii) J. G. Starke mentions nationality in his book 'Introduction to International Law' (Tenth Edition 1994)<sup>11</sup> but comes to mean *citizenship* by nationality. He refers to the observation of Gray, J. in *United States v. Wong Kim Ark* (1898)<sup>12</sup> who says that *the rules as to nationality are the sole concern of municipal law and that law along with respective constitution determines the persons who are to be entitled to citizenship*'.

(iv) Ian Brownlie says in his 'Principles of Public International Law' (Fifth Edition)<sup>13</sup> that sometimes *an illegal deprivation of nationality may become irreversible but* actually he wants to mean 'illegal deprivation of citizenship.'

(v) Wolf, Dr. Siegfried O. (2017) in his paper entitled "Genocide, exodus and exploitation for jihad: The urgent need to address the Rohingya crisis" shows Rohingya crisis as the largest mass forced migration in the South-East Asia region which was resulted from the long historical trajectories of conflict in

Myanmar which was mainly religious but driven by political and economic interest

(vi) Saharin Priya Shaoun try to expresses in her journal named 'Human Rights Issues Behind the Non-Repatriation of Rohingya, Focusing on Life Security and Access to Education: An Analysis of Challenges and Opportunities for Repatriation' two human rights aspects of the Rohingya population: education and security of life. It further evaluates a connection between the failure to ensure basic human rights of the Rohingya population in Myanmar and as a result, their current dire situation in the camps. This study suggests a theoretical framework that discusses the need for a shift in Myanmar government's policy for integrating the Rohingya politically, economically, and socio-culturally into the fabric of Myanmar society as citizens (Shaoun, 2019).

### 3.1 Condition of the Rohingyas in Bangladesh

There are around 1 million Rohingya refugees in Bangladesh who are living in two districts, Cox's Bazar and Noakhali, particularly Bhasan Char. The island of Bhasan Char is in the middle of the Bay of Bengal. It was not in existence before 2006. It is nearly 60 kilometers from the mainland and the only transport is shuttle arranged by the Government of Bangladesh. The authority wanted to transfer around 1,00,000 Rohingyas to Bhasan Char but only 14,000 could be so transferred. Though police and military keep on guard there some armed groups of the Rohingyas have engaged

<sup>8</sup> Anupam Gyan Bhandar, Dhaka, Bangladesh, p. 198.

<sup>9</sup> *Greece v. UK* PCIJ 1924.

<sup>10</sup> (*Parivartanshil Vishwe Antarjatik Aain*), Palal Prakashani, Dhaka, Bangladesh. p. 116.

<sup>11</sup> Aditya Books Butterworths, New Delhi, India, p. 340.

<sup>12</sup> 169 US 649 (1898) at 668.

<sup>13</sup> Oxford University Press, printed in Great Britain by Biddles Ltd., Guildford & King's Lynn, 1998, p. 410.

themselves in criminal activities like kidnapping, violence and extortion. Around 7,00,000 Rohingyas fled from Myanmar to Bangladesh in 2017 due to 'clearance operation' committed by the Myanmar army in Rakhaine state. The UNHRC named it 'textbook example of ethnic cleansing.' Bangladesh authority led by Prime Minister Sheikh Hasina extended generous hand to give them shelter though Bangladesh is not a signatory to the 1951 Refugee Convention. Sheikh Hasina stated: 'When we have ability to arrange food for 160 million people of the country, we can also arrange food for the 7,00,000 Rohingyas.'<sup>14</sup> Actually it needs a great help and aid from foreign donors to address their basic necessities like food, clothing, shelter, education and medical care. Though the Myanmar authority has signed two repatriation agreements in November 2018 and August 2019 it is not taking them back to Myanmar. Bangladesh has become the host of the world's largest persecuted ethnic minority who came from south western Myanmar.<sup>15</sup> The ethnic group Rohingya has been being persecuted ever since the independence of Myanmar from British rule in 1948 by the Myanmar authority with forced labour and denial of their citizenship. According to Center for Policy Dialogue (CPD), a Bangladeshi NGO, Bangladesh has to spend around 1.22 billion US Dollar each year for them. Increase of their number necessitates more financial and other assistance. Alongside with the government of Bangladesh and foreign donors the local people, donors and NGOs are providing food and non-food assistance to them. Giving them shelter has become an exemplary humanitarian act of Bangladesh.<sup>16</sup> The Rohingyas are Muslims by faith that has been a reason of soft feeling of assistance and tolerance of them by the Bangladeshi citizens about 90% of whom are Muslims. The

remembrance of being refugee of around 10 million Bangalee to India during the Liberation War of 1971, a way of emergence of Bangladesh as an independent state from Pakistan, has become another reason of their sympathy to the Rohingya refugees. The world community is found to pay less attention to the Rohingyas than the Syrian refugees in Turkey, Syrian and Iraqi refugees in Germany, the Afghan refugees in Pakistan and the Ukrainian refugees in Europe.

#### **4 Geopolitical Issues of the Rohingyas**

China, India and Russia are keeping silent in the issue of torture upon the Rohingyas. They didn't condemn Myanmar authority. Myanmar has several infrastructural projects and pipelines connected to the Bay of Bengal through Rakhaine state, the land of the Rohingyas believed to be full of natural resources and minerals. The oil and gas business of China and Myanmar runs at the border of Arakan where Rakhaine state is the starting point. In the meantime Myanmar has discovered gas (second gas column) in the Bay of Bengal located about 100 km far from Rakhaine state. So Myanmar has deployed military to protect gas pipelines and natural resources in the area. It is the root cause of instability and clash with ethnic groups including the Rohingyas. The Rohingyas claim to have come to northern Arakan with the first Muslim group in the 9<sup>th</sup> century but the Buddhist monks as well as the Myanmar government who is refusing their citizenship since the 1980s have subjected them to persecution. China is supporting its business and investment with Myanmar who is persecuting the Rohingyas. The countries want to maintain their Silk Road Plan which is through the Rakhaine state. Myanmar is the only ASEAN (Association of South East Asian Nations) countries who

<sup>14</sup><http://www.dhakatribune.com/Bangladesh/2017.09.12>

<sup>15</sup> Ibid

<sup>16</sup> Ibid

has border with India who wants to extend its land and sea-based transit to all ASEAN countries as well as access to southern China Sea that might expand its business with South East and East Asian countries. Myanmar has also a good market in India of agricultural crops and fish that brings it millions of dollars. While the Middle East and the Arab countries are keeping silent on the persecution of the Rakhaine state Rohingyas only Turkey has come forward since August 2017 with relief and medical support as well as presentation of the persecution as genocide before the United Nations.

### **5 Nationality Crisis of Bangalees and the Rohingya Refugees in Bangladesh**

Refugees are one of the vulnerable sections of the people worldwide. The Rohingya refugees fleeing to Bangladesh from Myanmar since the seventies of the last century is no exception to it. Many people were found to take refuge from Syria and Lebanon to Germany and other European countries in 2015. They did it even by endangering life while crossing the Mediterranean Sea. Similarly in 2017 around one million Rohingya people refuged to Bangladesh from Myanmar due to the torture and atrocity upon them in the Rakhaine state by the military as well as the government of Myanmar. They lost their citizenship in a 1982 law of Myanmar that began in 1800 through 1974's Burmese Constitution holding a socialist manifesto connected to *Taungmyintha*. They also began feeling insecure as to nationality through losing citizenship in the way. Presently nationality and citizenship are found to be determined in Article 6 of the Constitution of the People's Republic of Bangladesh, which was the same in the 1972 Constitution, but removed there from in 1979 by military ruler Ziaur Rahman and remained as such till its reincorporation through the 15<sup>th</sup> Amendment in 2011. Still the concepts of nationality and citizenship are being seen to be confused in official documents, public and private.

Though according to Article 6 of the Constitution the nationality of the people of Bangladesh is 'Bangalee' and the citizenship is 'Bangladeshi', official documents are using 'Bangladeshi' as nationality that is raising confusion and controversy among people of the country. Application forms for Bangladesh Civil Service (BCS) examinations or Bangladesh Judicial Service (BJS) examinations or any other service or competitive examinations arranged by the governmental, non-governmental or private authorities ask 'nationality' in prescribed software forms but set desired response there not as 'Bangalee' but as 'Bangladeshi' which is repugnant to the constitutional provisions of Articles 6 and 9, for 'Bangladeshi' is, in fact, 'citizenship' under Article 6.2. In such way the 'Bangalee' nationals of Bangladesh who are the ethnic/cultural and linguistic majority of the country (about 98%) are being deprived of their nationality, which is a gross infringement of articles 15.1 and 15.2 of the Universal Declaration of Human Rights of 10 December 1948, the biggest instrument on human rights in the present world that has been conceded to by almost all the countries of the world including Bangladesh. Under Articles 15.1 and 15.2 there is no scope to deprive anyone of nationality arbitrarily. Ethnic/cultural and linguistic minorities in Bangladesh are also suffering identity crisis in respect of nationality. Though they are by nation Chakma, Saontal, Garo, Mro, Thanchangya and so on of the plain land as well as the hilly areas of the country they are being compelled to write and say their nationality as 'Bangladeshi' by the said soft application forms or other official documents which is also a violation of the constitutional provisions of Article 6.2 of the



Constitution as well as articles 15.1 and 15.2 of the UDHR.<sup>17</sup>

## 6 Citizenship of the Rohingya Refugees in Bangladesh

As learnt earlier Myanmar authority made two agreements with Bangladesh in 2018 and 2019 to take the Rohingya refugees back to Myanmar but the agreements are in vain. The Myanmar authority does not recognize the Rohingyas either as any ethnic nation/group out of the 135 legally recognized ethnic groups. The authority does not recognize them even as citizens. It admits three categories of citizenship, (a) full citizens,<sup>18</sup> (b) associate citizens,<sup>19</sup> and (c) naturalized citizens.<sup>20</sup> The citizenship crisis of the Rohingya people is rooted in the British colonial era that consequently gained momentum through the political demarcation and marginalization of different ethnicity including Rohingya.<sup>21</sup>

During the World War II, the Rohingyas showed loyalty to the British. This is why the Rakhaine Buddhists as well as the Burma Independence Army targeted them. They killed 1,00,000 Rohingya and exiled 50,000 towards the border of East Bengal, present Bangladesh. Another cause of their bad luck is that some of them, in 1947, negotiated with West Pakistan about incorporating *Maungdaw* and

*Buthidaung* of the northern Arakan into East Pakistan, present Bangladesh, which failed due to objection from Aung San and Nehru.<sup>22</sup> The 1948 Constitution of Burma was in favour of the Buddhist beliefs and it repudiated integration of different ethnicities including Rohingya Muslims, as it was deeply associated with 'Burmese-ness'.<sup>23</sup> After the independence of Burma in 1948 the Constitution of the Union of Burma and the Union Citizenship Act provided, positively, some guidelines for Rohingya towards Burmese citizenship. Prime Minister U Nu declared them as one of the ethnic races and acknowledged nationality of Rohingya with *Kachin, Kayah, Karen, Mon, Rakhaine and Shan*.<sup>24</sup> After the coup d'état in 1962 every effort of Rohingyas' nationality and citizenship was denied. They were made stateless.<sup>25</sup> In the 1978 Burmese Constitution, all the ethnic groups lost their special recognition. In 1978 the first military campaign 'Dragon King' pushed about 2, 00,000 Rohingyas in Bangladesh and refuted them as citizens. The government of Burma, however, took them back in 1979 under pressure from the UNHCR and the Muslim countries. Finally, the 1982 Citizenship Law denied them all forms of citizenship, full, associate and naturalized, though they had existence in Burma before 1823.<sup>26</sup> The 2008 constitution of Myanmar denied them citizenship again. The 2013 campaign

<sup>17</sup>An important matter should not be ignored that a demand, though weak, is found to be raised in Bangladesh by the tribes, minor races, ethnic sects and communities to receive legal recognition as 'indigenous' instead of 'nation' which deserves to be addressed by the government. Under Article 23A of the Constitution of Bangladesh the government recognizes their right to culture.

<sup>18</sup> Descendants of residents who lived in Burma prior to 1823 or were born to parents who were citizens at the time of birth. For details: nationality in Myanmar constitution: <https://en.wikipedia.org> visited on June 29, 2024.

<sup>19</sup> Those who acquired citizenship through the 1948 Union Citizenship Law. For details: nationality in Myanmar constitution, *ibid*.

<sup>20</sup> Those who lived in Burma before 4 January 1948, the day of independence from the UK, and applied for citizenship after 1982. For details: nationality in Myanmar constitution, *ibid*.

<sup>21</sup> [Md. Khalid Rahman](#), Citizenship of the Rohingya in Myanmar: A historical account, For details: <https://www.thedailystar.net/law-our-rights/news/citizenship-the-rohingya-myanmar-historical-account-2159176>, Tue Aug 24, 2021.

<sup>22</sup> *Ibid*

<sup>23</sup> *Ibid*

<sup>24</sup> *Ibid*

<sup>25</sup> *Ibid*

<sup>26</sup> *Ibid*

of the Buddhist monks demanded anti-Muslim legislation. The in Sein government strongly addressed Rohingyas as ‘illegal migrants of Bangladesh’, a Muslim majority neighbouring country, and the SuuKyi government stood on the same footing. Now they are no citizens of Myanmar rather stateless persons. They are also no citizens of Bangladesh instead of the groundless claim of Myanmar that they are Bangladeshi citizens. Finally they were tortured brutally by the Myanmar army and the government and compelled to flee to Bangladesh and remain there as refugee.<sup>27</sup> The Rohingyas are now suffering from not only citizenship identity but also nationality identity. The provisions of Article 15.1 and 15.2 of the UDHR of 1948 are being infringed in such a case also.

## 7 Recommendations and Conclusion

The confusion or ambiguity regarding nationality and citizenship of the Bangaleepeople, the tribes, minor races, ethnic sects and communities of Bangladesh, and the Rohingya refugee people, who are residing in Cox’s Bazar and Bhasan Char of Noakhali district, should be removed. The following suggestions may be addressed in this respect:

- i. All official documents, public or private, in Bangladesh may ask nationality as ‘Bangalee’ and citizenship as ‘Bangladeshi’ in prescribed forms.
- ii. All the service applications uploaded in software should prescribe nationality as ‘Bangalee’ and citizenship as ‘Bangladeshi’.
- iii. Rohingyas should be given citizenship by the Myanmar government. Bangladesh may make a strong request

to Myanmar in this respect and may do the same through the United Nations too.

- iv. The tribes, minor races, ethnic sects and communities, 75 in number, may be given recognition as ‘non-Bangalee peoples’ by enacting a law of the parliament of Bangladesh.

The recommendations mentioned above are desired to remove the vulnerability of the Bangalee, tribes, minor races, ethnic sects and communities, and Rohingya refugee peoples living in Bangladesh in respect of the determination of their national identity. It may uphold and add to the enhancement of the human rights condition of the said people that is desired to represent Bangladesh as a human rights friendly country in the world community.

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<sup>27</sup> Ibid

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