
CITIZENSHIP, STATELESSNESS AND LEGAL RECOGNITION: A COMPARATIVE STUDY OF BIHARI AND ROHINGYA COMMUNITIES IN BANGLADESH AND GLOBAL CONTEXTS

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ABSTRACT

Citizenship is a fundamental legal and political relationship between citizens and the state which affects their access to rights, protection and social inclusion. But it is difficult for displaced and marginalized communities to gain formal citizenship recognition due to complex historical, legal and institutional circumstances. This study examines the connections between citizenship, statelessness and legal recognition based on a comparative analysis of the Bihari and Rohingya communities in Bangladesh and experiences of displaced and stateless communities in a global context. This study uses a qualitative comparative legal methodology to examine the various routes towards citizenship recognition and exclusion in domestic citizenship frameworks, judicial rulings, government policies and international human rights standards. The research focuses on the Bihari community's journey from citizenship uncertainty to citizenship recognition, through the use of national legal mechanisms and judicial developments and how the Rohingya community continues to experience issues of nationality and identity. The study also analyzes the global examples of statelessness and citizenship recognition to discover wider trends in legal inclusion, documentation and protection of nationality. The result shows that institutional mechanisms, judicial processes and state recognition procedures have a significant impact on citizenship outcomes together with legal provisions. The Bihari case is one of pathways towards citizenship recognition while the Rohingya case is one of the difficulties in getting durable legal recognition without secure nationality status. The study recommends inclusive citizenship framework, documentation system and rights-based approaches to safeguard displaced and marginalized communities based on the experiences of Bangladesh and International experiences.

Keywords: Citizenship; Statelessness; Legal Recognition; Displaced Communities.

1. Introduction

Citizenship is a fundamental legal and political relationship between an individual and the state and it is the basis for accessing rights, protection and social inclusion. In addition to formal citizenship, citizenship also gives the basis for an individual's legal identity, participation in society and recognition before state institutions.¹ But, the displaced and marginalized communities face challenges in securing citizenship because of historical transformation, migration, contested citizenship and institutional problems. In this context, statelessness becomes a major concern which raising doubts about a person's nationality, legal identity and access to fundamental rights.² Statelessness continues as a major global problem affecting persons and communities whose relationship with a state is denied or unrecognized. International human rights law including article 15 of the Universal Declaration of Human Rights (UDHR) acknowledges that nationality is a basic right, but there are still challenges to legal recognition.³ Citizenship recognition is a key concern in modern human rights and governance debates, as lack of secure citizenship can limit access to education, healthcare, employment, mobility and social protection.⁴

The Bihari and Rohingya communities provide a good context in which to explore the link between citizenship, statelessness and legal recognition in Bangladesh. The Biharis went through a long period of confusion after the political change of 1971 about their citizenship. National legal changes and judicial proceedings over time helped establish citizenship rights to Urdu-speaking residents who had long-standing ties to Bangladesh. The *Bangladesh Legal Aid and Services Trust (BLAST) & Others v Bangladesh & Others* (2008) case illustrates how legal mechanisms and institutional recognition can help cover the way to citizenship inclusion⁵. In contrast, the Rohingya community represents an ongoing challenge of unresolved nationality and legal recognition. Myanmar's Citizenship Law 1982 has been identified as a major factor contributing to Rohingya nationality challenges, while Bangladesh's humanitarian response has focused primarily on protection, registration and refugee management rather than

¹ T. H. Marshall, *Citizenship and Social Class* (Cambridge Univ. Press 1950); Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Harvard Univ. Press 1992).

² Laura van Waas, *Nationality Matters: Statelessness Under International Law* (Intersentia 2008).

³ Universal Declaration of Human Rights art. 15 (1948); U.N. High Comm'r for Refugees, *Global Action Plan to End Statelessness: 2014–2024* (2014).

⁴ Brad K. Blitz & Maureen Lynch eds., *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Edward Elgar Publ'g 2011).

⁵ *Bangladesh Legal Aid and Services Trust (BLAST) & Others v. Bangladesh & Others*, Writ Petition No. 3831 of 2001 (H.C.D., Sup. Ct. Bangladesh 2008).

citizenship.⁶ The situation serves as an illustration of the complex link between humanitarian protection, citizenship status and durable legal identity.

This study aims to contribute to the lack of comparative knowledge about the impact of various legal and institutional processes on citizenship status in displaced communities. The research compares the Bihari and Rohingya situation with other situations of statelessness and citizenship recognition around the world to investigate how legal frameworks, recognition processes and institutional practices affect pathways to inclusion or ongoing uncertainty. The study makes a meaningful contribution to the wider discussion on citizenship, statelessness, refugee governance and legal recognition, highlighting lessons for more inclusive citizenship protection approaches.

2. Statement of the Problem

Citizenship is a legal relationship between citizens and the state that grants them access to rights, protection, and social participation. However, the citizenship status of displaced and marginalized communities is uncertain because of historical transitions, competing claims to citizenship and restrictions in legal and institutional frameworks. Statelessness can arise from such uncertainty, which can impede the enjoyment of basic rights by those without a recognized nationality. While international legal instruments acknowledge nationality as a fundamental right, there are still significant gaps between the formal legal principles and the reality of its recognition.⁷

The Biharis and Rohingyas in Bangladesh are the contradictory examples of citizenship uncertainty and legal recognition. The Biharis faced citizenship problems long after 1971 because of unresolved issues of national belonging. Nevertheless, the recognition of citizenship rights among Urdu-speaking residents with longstanding ties to Bangladesh is reflected in the judicial developments particularly the *Bangladesh Legal Aid and Services Trust (BLAST) & Others v Bangladesh & Others (2008)* decision that facilitated citizenship inclusion.⁸ The Rohingya community, on the other hand, is a persistent issue of statelessness and disputed nationality. Myanmar's Citizenship Law 1982 has been identified as a major reason why

⁶ Archana Parashar & Jobair Alam, The National Laws of Myanmar: Making of Statelessness for the Rohingya, 20(2) *Int'l J. Discrimination & L.* 111 (2019); A.F. Abu Faisal Md. Khaled, The Politics of Statelessness, Refugeehood, and Humanitarianism of the Rohingyas, 4 *Frontiers in Hum. Dynamics* 921461 (2022).

⁷ Universal Declaration of Human Rights art. 15 (1948); van Waas, *supra* note 2.

⁸ *BLAST*, Writ Petition No. 3831 of 2001.

Rohingyas face the issue of nationality.⁹ Bangladesh has given humanitarian protection, registered and provided administrative support to Rohingyas, but there is no pathway for formal recognition of Rohingya nationality.¹⁰ This is the case of Rohingya which has illustrated the difference between humanitarian protection and durable legal nationality.

Existing research has focused on the question of Bihari citizenship or Rohingya displacement or on statelessness in the world. But there is relatively few research that comparatively examines citizenship outcomes for displaced communities that are the result of various legal frameworks, judicial mechanisms and institutional practices. There is a particular lack of understanding of why some communities transition from citizenship uncertainty to legal citizenship and others continue to live in prolonged states of statelessness. For this reason, this study examines the citizenship experiences of the Bihari and Rohingya communities in Bangladesh and their citizenship experiences and outcomes in the wider global context by analyzing legal frameworks, citizenship recognition processes and institutional practices. The objective of the study is to contribute to debates on citizenship, statelessness and legal recognition by identifying pathways to enhance citizenship frameworks and protection mechanisms that are inclusive.

3. Research Objectives

The main objective of this study is to compare and contrast the citizenship, statelessness and legal recognition among the Bihari and Rohingya communities in Bangladesh and elsewhere in the world. Specific objectives are:

- a) To examine the legal and institutional barriers to citizenship and statelessness of Bihari and Rohingya communities.
- b) To analyze how citizenship frameworks, judicial processes and policy strategies influence legal recognition.
- c) To compare and contrast Bangladesh cases and global experiences of statelessness and citizenship recognition.

⁹ Parashar & Alam, *supra* note 6, at 111.

¹⁰ Khaled, *supra* note 6.

- d) To identify policy implications to strengthen inclusive citizenship frameworks and legal protection for displaced communities.

4. Research Questions

- a) What are the legal and institutional factors that affect citizenship status and statelessness of the Bihari and Rohingya communities?
- b) How do citizenship frameworks, judicial mechanisms and policy approaches influence processes of legal recognition?
- c) How do the Bihari and Rohingya issues compare with international experiences of statelessness and citizenship recognition?
- d) What policy measures can be strengthened to support inclusive citizenship and legal protections for displaced communities?

5. Conceptual Framework

This study develops a conceptual framework to look into the relation between citizenship, statelessness and legal recognition of displaced communities. The framework understands citizenship is a legal status, but it is also a process influenced by the legal framework, institutional practices and state recognition mechanisms.¹¹ The framework has three dimensions that are connected to each other.

First, citizenship frameworks are the legal media within which states determine nationality and membership: such as constitutional provisions, citizenship legislation, judicial rulings and policy frameworks.¹²

Second, legal recognition process explains how these frameworks operate through judicial interpretation, administrative mechanism and documentation practices that determine access to recognized citizenship status.¹³

Third, legal recognition processes shape citizenship outcomes, such as citizenship recognition,

¹¹ Marshall, *supra* note 1; Hannah Arendt, *The Origins of Totalitarianism* (Harcourt Brace 1951).

¹² Brubaker, *supra* note 1.

¹³ van Waas, *supra* note 2.

legal identity protection or continued statelessness and nationality uncertainty.¹⁴

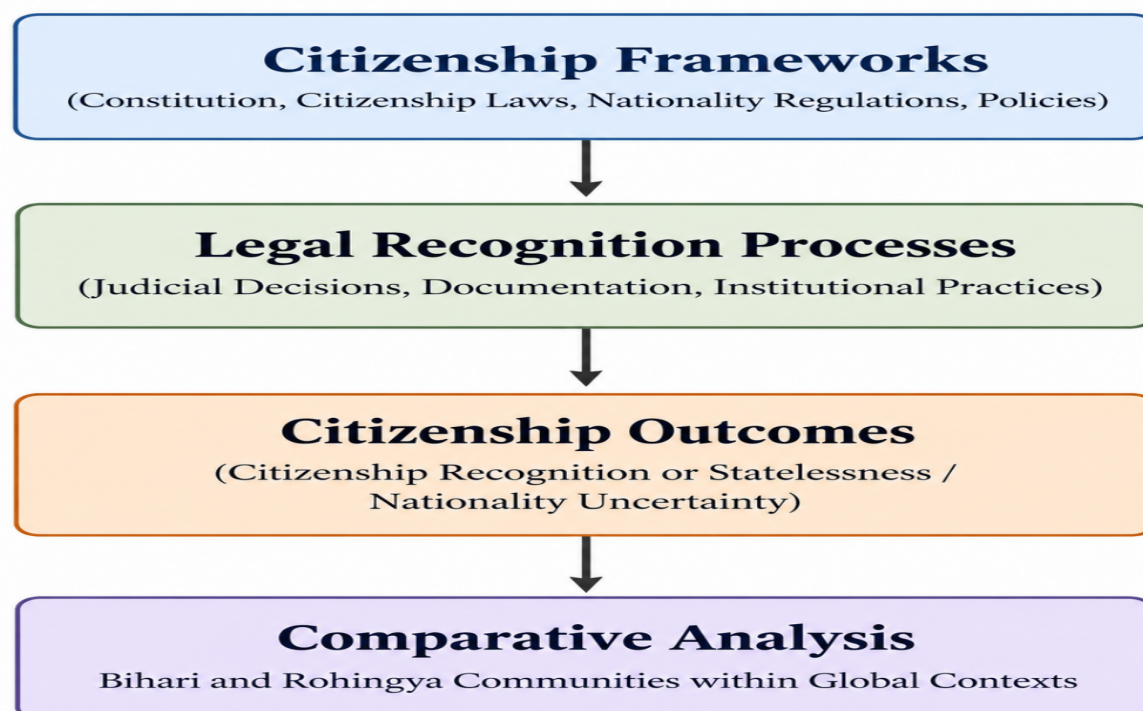


Figure 1: Conceptual Framework of Citizenship, Statelessness and Legal Recognition

The framework is applied to the Bihari and Rohingya cases and looks at two conflicting ways of citizenship outcomes. The Bihari experience highlights the potential of domestic legal mechanisms and judicial recognition to advance citizenship uncertainty to formal recognition. In contrast, the Rohingya experience illustrates how the absence of secure nationality recognition can result in prolonged statelessness despite humanitarian protection measures.¹⁵

6. Legal Framework

The study investigates citizenship, statelessness and legal recognition through a complex national-legal framework comprised of domestic citizenship laws, judicial developments and refugee governance mechanisms and international human rights standards.

¹⁴ Blitz & Lynch, *supra* note 4.

¹⁵ Parashar & Alam, *supra* note 6, at 111; Khaled, *supra* note 6.

6.1 Overview of Citizenship and Legal Recognition in Bangladesh

6.1.1 Constitution of Bangladesh, 1972

Right to citizenship is enshrined in Article 6 and rights of equality before law, right not to be discriminated against and right to protection of law in Articles 27,28 and 31.¹⁶ These provisions are essential to understanding citizenship recognition in light of specific marginalized communities such as the Bihari case where constitutional principles supported the transition from citizenship uncertainty toward legal recognition.

6.1.2 Bangladesh Citizenship Order, 1972 (President's Order No. 149 of 1972)

The main law governing post-independence citizenship is the Bangladesh Citizenship Order, 1972. It lays down guidelines regarding birth, domicile and links with Bangladesh.¹⁷ For the Bihari community, how this framework was interpreted determined whether citizenship ambiguity would be resolved and eligibility for legal validate them.

6.1.3 Citizenship Act, 1951

The Citizenship Act, 1951 sets out outlines for citizenship by birth, descent and migration.¹⁸ Although it was enacted prior to the independence of Bangladesh, it is important for analyzing the development of what constitutes nationality and the way one acquires citizenship in this region.

6.1.4 Birth and Death Registration Act, 2004

Birth registration and identity document in Bangladesh is governed primarily by the Birth and Death Registration Act, 2004.¹⁹ Although registration does not automatically confer citizenship, it serves as crucial evidence of legal identity and helps safeguard access to entitlements especially vulnerable and displaced communities.

¹⁶ *The Constitution of the People's Republic of Bangladesh* 1972, arts 6, 27, 28 and 31 (1972).

¹⁷ *Bangladesh Citizenship Order, 1972*, President's Order No. 149 of 1972.

¹⁸ *The Citizenship Act, 1951*, Act No II of 1951 (Bangl.)

¹⁹ *Birth and Death Registration Act*, Act No 29 of 2004 (Bangl.).

6.2 Judicial Recognition of Bihari Citizenship in Bangladesh

6.2.1 *Bangladesh Legal Aid and Services Trust (BLAST) & Others v Bangladesh & Others (2008)*

The *BLAST v Bangladesh (2008)* decision represents a significant judicial development regarding the citizenship rights of Urdu-speaking residents in Bangladesh. The Court recognized that individuals with established connections to Bangladesh could claim citizenship rights, regardless of linguistic or historical identity.²⁰ The case demonstrates how constitutional principles and judicial intervention can transform citizenship uncertainty into legal recognition.

6.2.2 *Abid Khan & Others v Government of Bangladesh & Others*

The *Abid Khan & Others v Government of Bangladesh & Others* litigation further contributed to judicial discussions on the citizenship rights of Urdu-speaking residents. It reinforced the principle that citizenship determination should consider legal connection, residence and constitutional protections rather than historical categorization alone.²¹ Together, these cases demonstrate the role of domestic legal institutions in facilitating citizenship inclusion.

6.3 Rohingya Framework of Citizenship and Statelessness under Myanmar Citizenship Law, 1982

The citizenship challenges of the Rohingya community are closely linked to Myanmar's Citizenship Law 1982 which established categories of citizenship including full, associate and naturalized citizenship.²² The nationality provisions in the law created major challenges for many Rohingya to access recognized nationality status.²³ Unlike the Bihari case, where many Rohingya have become citizens through domestic legal channels, the case of the Rohingya is of ongoing statelessness due to unresolved nationality recognition.

6.4 Bangladesh Policy Framework for Rohingya Refugee Protection

Bangladesh response to the Rohingya population has primarily developed through

²⁰ *BLAST*, Writ Petition No 3831 of 2001.

²¹ *Abid Khan & Others v Government of Bangladesh & Others*, 55 D.L.R.(H.C.D.) 318 (2003).

²² Myanmar Citizenship Law, ss 3–8 (1982).

²³ Parashar & Alam, *supra* note 6, at 111.

humanitarian and refugee management mechanisms rather than a citizenship framework.

64.1 Foreigners Act, 1946

The Foreigners Act, 1946 provides the legal basis for regulating the status and movement of non-citizens in Bangladesh. In absence of a dedicated refugee law, it has influenced the administrative management of displaced populations.²⁴

6.4.2 Refugee Relief and Repatriation Commissioner (RRRC)

The RRRC is responsible for the coordination of Rohingya refugees' administration, registration, camp management and coordination with humanitarian agencies. Although these mechanisms offer protection and support, they do not pave the way for citizenship recognition.²⁵

6.4.3 The National Strategy on Myanmar Refugees and FDMNs

Bangladesh has been hosting Rohingya refugees through the Forcibly Displaced Myanmar Nationals (FDMNs) approach with humanitarian assistance, protection and repatriation efforts. The Framework offers much-needed help while leaving the core concern of nationality recognition unaddressed.²⁶

6.5 International Framework on Citizenship and Statelessness

6.5.1 Universal Declaration of Human Rights (1948)

Article 15 recognizes the right to nationality and protection against arbitrary deprivation of nationality.²⁷

6.5.2 Convention of the Rights of the Child (1989)

Article 7 concerns children's rights to be registered at birth, to acquire a nationality and secure

²⁴ *Foreigners Act*, Act No. XXXI of 1946 (Bangl.).

²⁵ Refugee Relief and Repatriation Commissioner (RRRC), *Office Framework*, Government of Bangladesh.

²⁶ Government of Bangladesh, *National Strategy on Myanmar Refugees and Forcibly Displaced Myanmar Nationals (FDMNs)* (2019).

²⁷ Universal Declaration of Human Rights, art 15 (1948).

an identity and reinforces protection against childhood statelessness.²⁸

6.5.3 International Covenant on Civil and Political Rights (1966)

Article 24(3) acknowledges every child's right to obtain a nationality and strengthens safeguards against childhood statelessness.²⁹

6.5.4 Statelessness Conventions

The 1954 Convention Relating to the Status of Stateless Persons establishes standards for the protection of stateless persons and the 1961 Convention on the Reduction of Statelessness aims primarily at avoiding gaps in nationality.³⁰ In contrast, Bangladesh has not signed on to these covenants (or the 1951 Refugee Convention), drawing a distinction between humanitarian shelter and formal citizenship recognition.³¹

6.5.5 Sustainable Development Goal (SDG) 16.9

SDG 16.9 promotes birth registration as a means to ensure legal identity for all; recognizes documentation is key to avoiding exclusion from the identity process.³²

6.6 International Case Studies

In situating the Bangladesh cases in the global context debates on citizenship and statelessness, this study reviews a number of international examples on different forms of nationality recognition as well as legal identity and documentation and also opportunities towards inclusion into citizenship. These cases are useful comparative windows into how legal frameworks and institutional practices create unequal citizenship experiences.

6.6.1 *Yean and Bosico v Dominican Republic Inter-American Court of Human Rights (2005)*

The *Yean and Bosico v Dominican Republic* case concerned the denial of nationality and birth registration of children of Haitian descent in the Dominican Republic. The court held that

²⁸ Convention on the Rights of the Child, art 7, Nov. 20, 1989, U.N.T.S. 171.

²⁹ International Covenant on Civil and Political Rights, art 24(3) Dec. 16, 1966, 999 U.N.T.S. 171.

³⁰ Convention Relating to the Status of Stateless Persons, Sept. 28, 1954, 360 U.N.T.S. 117; Convention on the Reduction of Statelessness, Aug. 30, 1961, 989 U.N.T.S. 175.

³¹ UN Treaty Collection, Status of Treaties: Refugee and Statelessness Conventions.

³² United Nations, *Sustainable Development Goal 16.9: Legal Identity for All*.

arbitrary restrictions on nationality and barriers to birth registration could contribute to statelessness and violate fundamental rights.³³ The case highlights the importance of legal identity documentation and nationality recognition, particularly for analyzing identity challenges affecting vulnerable children, including Rohingya children.

6.6.2 *Nubian Community in Kenya v. Republic of Kenya*

The Nubian community in Kenya suffered for years, trying to obtain identity documents and recognition of citizenship status. Regional and domestic legal developments highlighted that discriminatory administrative practice in accessing documenting can be a barrier to equal access citizenship rights. This particular case illustrates the importance of documentation systems to support their inclusion in the citizenship recognition process and provides comparative relevance to displaced communities facing identity-related barriers.³⁴

6.6.3 *P. Ulaganathan v. Government of India & Others*

After independence, the Indian Tamil community was historically excluded from citizenship because of restrictive nationality laws in Sri Lanka. Later, through the legislative reforms and such approaches, people of this community gradually started getting citizenship recognition, along with reducing statelessness.³⁵ This case provides a comparative illustration of how legal reforms and institutional mechanisms can convert decades-long citizenship insecurity into formal recognition.

7. Comparative Analysis of Citizenship Recognition and Statelessness

The citizenship trajectories of the Bihari and Rohingya communities are given different settings determined by different legal frameworks and institutional responses.

The Bihari case reflects a transition from uncertainty toward legal recognition. Following 1971, prolonged ambiguity regarding the citizenship status of Urdu speaking residents was gradually addressed through constitutional principles, citizenship laws and judicial intervention. The *BLAST vs Bangladesh* (2008) decision represents a significant example of domestic legal

³³ *Yean & Bosico v. Dominican Republic*, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 130 (Sept. 8, 2005).

³⁴ *Nubian Community in Kenya v. Republic of Kenya*, Communication No. 317/2006, ¶ 171 (Afr. Comm'n Hum. & Peoples' Rts. Feb. 28, 2015).

³⁵ *P. Ulaganathan & Ors. v. Government of India & Ors.*, W.P. (MD) No. 5253 of 2009 (Madras H.C. June 17, 2019).

mechanism facilitating citizenship inclusion.³⁶

Figure 1 presents the estimated population comparison of the two communities:

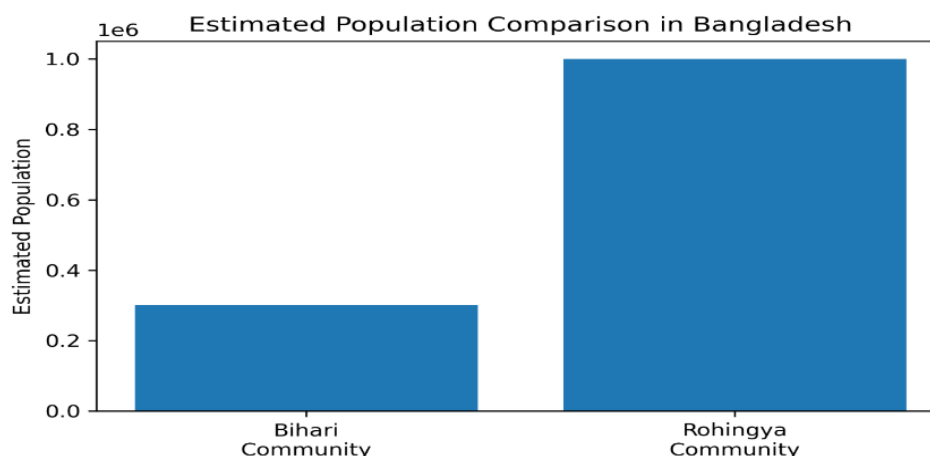


Figure 1: Estimated Population Comparison of Bihari and Rohingya Communities in Bangladesh.

The Bihari case demonstrates movement amid status ambiguity toward a more recognized legal position. After 1971, the FPSC was reminded by way of constitutional provisions, citizenship laws and judicial review on the question mark (which had lingered for a long time) about who was now an Urdu speaking Pakistani citizen. One notable instance was the case of *BLAST v Bangladesh* (2008) where domestic legal options have been leveraged for inclusion in citizenship.³⁷

Table 2 summarizes the comparative legal frameworks of the Bihari and Rohingya cases:

Dimension	Bihari Community (Bangladesh)	Rohingya Community (Bangladesh/Myanmar)
Historical Context	Citizenship uncertainty emerged after the independence of Bangladesh in 1971 due to unresolved questions of legal belonging.	Long-term nationality uncertainty developed due to exclusion from Myanmar's citizenship framework and displacement.
Primary Legal Issue	Recognition and confirmation of citizenship rights.	Lack of recognized nationality and continuing statelessness.

³⁶ *BLAST*, Writ Petition No. 3831 of 2001.

³⁷ U.N. High Comm'r for Refugees, *Bangladesh: Rohingya Refugee Response*.

Relevant Legal Framework	Constitution of Bangladesh, Citizenship Order 1972, citizenship laws, and judicial decisions.	Myanmar Citizenship Law 1982 and Bangladesh's refugee protection framework.
Recognition Mechanism	Domestic legal processes and judicial intervention facilitated citizenship recognition.	Humanitarian registration and protection mechanisms without citizenship recognition.
Role of Institutions	Courts and state institutions contributed to legal inclusion and citizenship determination.	RRRC, humanitarian agencies, and FDMNs framework focus on protection and administration.
Documentation Process	Documentation supported transition toward formal citizenship recognition.	Documentation mainly supports humanitarian assistance and service access.
Legal Outcome	Movement from citizenship uncertainty toward recognised citizenship status.	Continued challenges regarding nationality, legal identity, and long-term recognition.
Comparative Significance	Demonstrates how judicial mechanisms and inclusive legal interpretation can support citizenship recognition.	Highlights the limitations of humanitarian protection without a pathway toward nationality recognition.

Table 1: Comparative Legal Framework of Bihari and Rohingya Cases.

On the other hand, in Rohingya case it is a continuing matter of statelessness and unresolved nationality. The Rohingya entered Bangladesh after large-scale displacement from Myanmar, particularly since 2017, more than 700,000 entered in Bangladesh.³⁸ Although Bangladesh offering humanitarian protection, registration and administrative support under the framework of the FDMNs, citizenship recognition is not established by these mechanisms. The problems of the Rohingya nationality are closely connected with Myanmar's Citizenship Law 1982 which led to an effective impossibility for recognized nationality.³

This comparison shows citizenship outcomes are dependent not only on legal standards but also judicial arrangements, documentation systems, institutional practices and recognition processes.

³⁸ *Myanmar Citizenship Law* (1982); Parashar & Alam, *supra* note 6, at 111.

7. Literature Review

7.1 Marshall (1950)

Marshall explored citizenship in terms of civil, political and social rights as a relationship between an individual and the state. His goal was to clarify how citizenship produces social membership and how it allows people to participate equally in society. He developed a conceptualization of citizenship that not only bound it to the legal right to citizenship, but also to rights, protection, and social inclusion. But his analysis largely developed for the context of Western welfare states and paid little attention to the situation of displaced communities in a contested nationality or statelessness. This study builds on Marshall's framework by studying how citizenship is recognized among the displaced communities in which legal citizenship is not guaranteed.³⁹

7.2 Arendt (1951)

Arendt's analysis of the relationship between nationality and fundamental rights was done in the context of the consequences of the loss of political membership. Her aim was to interpret the sense of being excluded from legal protection and political belonging for stateless people. The idea of the “right to have rights” is still significant in the discussion of nationality and human rights. Her research, however, concentrated more on the philosophical and political aspects of statelessness, and not on any particular legal mechanisms by which statelessness can be resolved. This research draws on Arendt's work to investigate how the process of legal recognition affects citizenship pathways of the Biharis and Rohingya communities.⁴⁰

7.3 Van Waas (2008)

In an international legal perspective, Van Waas studied the role of nationality law, nationality practices and institutional failures in the development of stateless populations. The aim of this study was to discuss the connection between nationality regulation and protection of stateless persons. The study showed that statelessness also has a negative impact on both rights and state protection, not only as a nationality status. Still, it primarily explored statelessness as a state of exclusion, and made only a brief comparison between communities in different trajectories

³⁹ Marshall, *supra* note 1.

⁴⁰ Arendt, *supra* note 11.

from citizenship uncertainty to legal status. This study builds on Van Waas's approach by comparing Bihari citizenship recognition with Rohingya statelessness.⁴¹

7.4 Parashar and Alam (2019)

Parashar and Alam analyzed Myanmar's nationality system to gain understanding into the legal construction of statelessness among the Rohingya. Their aim was to examine the impact of the Citizenship Law of 1982 and other legal institutions in Myanmar on the ability of Rohingya to access recognized nationality. Through their research they showed the connection between nationality laws and the systematic exclusion from citizenship. This study primarily examines the domestic legal framework in Myanmar; however, it does not examine comparative citizenship outcomes of various displaced communities. This study builds on this analysis through a comparison of the statelessness of Rohingya and the Bihari pathway to legal recognition.⁴²

7.5 Khaled (2022)

Khaled studied the connection between statelessness, refugeehood and humanitarian governance in the Rohingya community. The aim of the research was to examine the nature of humanitarian action in relation to displacement without addressing the root causes of the situation, such as nationality issues. The study emphasized that humanitarian protection may be able to offer immediate protection, but cannot offer a substitute for formal citizenship recognition. It was however mostly on refugee governance and humanitarian responses rather than comparative legal processes of recognition. The present study responds to this gap by exploring the impact of legal contexts, judicial processes and institutional experience on the various citizenship outcomes of displaced communities.⁴³

7.6 Uddin (2024)

Nasir Uddin explored the themes of statelessness, state exclusion and marginality in relation to the Rohingya experiences. His aim was to explore the impact of long-term denial of political belonging and legal recognition on the daily lives of displaced communities. The study points out that statelessness is not just a legal state but also a process of social and political exclusion.

⁴¹ Van Waas, *supra* note 2.

⁴² Parashar & Alam, *supra* note 6, at 111.

⁴³ Khaled, *supra* note 6.

It is primarily an account of the lived experiences and marginalization of the Rohingya, however, not of comparative pathways of citizenship recognition. The present study builds on this debate by contrastively examining statelessness among Rohingya with citizenship recognition through legal and institutional processes for the Biharis.⁴⁴

8. Methodology of the Study

The present study adopts a qualitative comparative legal research methodology to explore citizenship, statelessness and legal recognition among the Bihari and Rohingya communities in Bangladesh within broader global context. Different citizenship recognition, legal inclusion and ongoing citizenship problems of these communities are analyzed using a comparative case study design.

The study relies on secondary qualitative data, such as constitutional texts, citizenship legislation, court rulings, government policies, international human rights instruments, academic work and reports of relevant international organizations. It investigates the relationship between citizenship outcomes and legal structures, institutional processes and policy strategies.

A comparative analysis of key themes is used, such as citizenship recognition, statelessness, documentation systems, judicial intervention and rights protection. To give comparative perspectives and context, selected cases of statelessness and citizenship recognition from around the world are included.

9. Findings of the Study

9.1 Citizenship Recognition Depends on Legal Interpretation and Institutional Implementation

The study identifies the constitutional and citizenship frameworks as the basis for citizenship recognition; it also highlights that citizenship recognition does not happen automatically because of the presence of legal provisions. The Bihari case shows that judicial intervention brought about the realization of the constitutional ideals of citizenship, equality and legal protection. *The BLAST v Bangladesh (2008)* case is an example how courts can help to turn citizenship uncertainty into formal recognition. While the constitution of Bangladesh grants

⁴⁴ Nasir Uddin, *Indigeneity, Marginality and the State: Homeless at Home* (Routledge 2024).

citizenship protection, there are still limited, but vague and unclear mechanisms to address complex citizenship claims of the displaced communities.

9.2 Difference Between Citizenship Recognition and Humanitarian Protection

The study finds a basic difference between the Bihari and Rohingya cases. The Bihari experience is a transition from contested citizenship to legal citizenship, via local judicial processes. The Rohingya situation, on the other hand, shows that protection, registration and refugee administration do not give rise to nationality rights. Humanitarian mechanisms for Rohingya protection have been put in place under the FDMN framework in Bangladesh but these mechanisms do not offer a sustainable solution to nationality uncertainty.

9.3 Documentation Gives Legal Identity, but not Establish Citizenship

The study finds that in both cases the documentation systems fulfill different functions. Documentation began to become connected to citizenship recognition for the Bihari community following judicial developments. Documentation for Rohingya refugees serves mainly for humanitarian assistance, for service delivery and administrative management. Existing approaches to documentation make a distinction between legal identity and citizenship, but do not provide a full framework to consider the impact of long-term legal identity documentation issues on future rights to nationality.

9.4 Domestic Legal Frameworks are Shaped by International Standards but Implementation is Limited

The study identifies several important principles in international instruments concerning nationality and legal identity, such as those found in the UDHR Article 15, the CRC Article 7 and ICCPR Article 24(3). But the outcomes of citizenship practice do rely much on domestic laws and institutional implementation. Bangladesh has ratified important human rights instruments, including CRC and ICCPR, but not the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, which means that there are fewer specialized mechanisms in place to address statelessness.

9.5 Need for Long-term solutions to statelessness beyond the humanitarian response

The comparative analysis demonstrates that humanitarian responses can respond to immediate protection needs, not replace nationality recognition. The Rohingya case points to the

weaknesses of the refugee management approach if the root problem is not addressed, namely citizenship. There is a gap between short-term humanitarian protection and long-term legal solutions for stateless populations.

10. Recommendations

10.1 Improve Citizenship Determination Procedures

Bangladesh needs to establish more straightforward administrative and legal mechanisms for dealing with complex citizenship issues. The Bihari experience shows how transparent legal processes and judicial supervision can help in achieving effective citizenship recognition.

10.2 Establish Stronger Legal Identity Protection Systems

Birth registration and nationality documentation should be strengthened to provide safeguards for future nationality uncertainty for vulnerable groups, especially children. This would be consistent with CRC Article 7 and SDG 16.9 legal identity.

10.3 Develop Long-term Solutions for Stateless Populations

The existing protection frameworks must be accompanied by more long-term legal solutions for nationality issues. Nationality issues need longer-term solutions to be implemented alongside humanitarian protection mechanisms. To achieve sustainable solutions, cooperation between Myanmar, Bangladesh and international actors is needed to address citizenship barriers for the Rohingya population.

10.4 Improve Alignment with International Statelessness Standards

Bangladesh should further enhance its legal framework through clear cooperation with international mechanisms for the protection of statelessness, such as the 1954 and 1961 Statelessness Conventions.

10.5 Encourage Inclusive Citizenship Practices

Citizenship policies should guarantee that legal recognition is based on a relation between the citizen and the state, such as birth, residence or legal ties and that citizenship is maintained in equality and non-discrimination as enshrined in constitutional protection.

11. Conclusion

This study explored the concepts of citizenship, statelessness and legal recognition by analyzing the Bihari and Rohingya communities in Bangladesh in a comparative manner. The results show that citizenship outcomes are not only influenced by legal policies but also by judicial processes, institutional approaches, documentation systems and state recognition procedures. The Bihari experience can be a case study on how constitutional principles, citizenship laws and judicial action can help to move from citizenship uncertainty to legal citizenship. The Rohingya case, in contrast, shows how humanitarian protection mechanisms can respond to short-term vulnerabilities, but not replace formal nationalities. Bangladesh is providing protection, registration and humanitarian assistance but the issue of secure nationality has not been solved. Moreover, the study highlights the importance of having legal identity documentation for protection and access to services, but does not automatically establish citizenship rights. In broader global contexts, these cases highlight how nationally laws, documentation and recognition systems shaped displaces communities' access to legal identity and state protection. Overall, this comparative analysis contributes to citizenship and statelessness scholarship by showing that legal recognition depends on the interaction between citizenship legislation, judicial mechanisms, institutional practices and state recognition processes. The contrasting experiences of the Bihari and Rohingya communities highlight how different legal frameworks can lead either towards citizenship inclusion and continued statelessness.