



Inhuman Camp Life of Bihari Urdu-speaking Linguistic Minority of Bangladesh:

Patterns of inequality, discrimination, political and social marginalization of the Bihari Urdu-Speaking Bangladeshis

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Joint Submission By

Council of Minorities and NAMATI

Council of Minorities (CoM) (www.com-bd.org) is a platform for minority and indigenous communities in Bangladesh. It was established in 2012 and is based Dhaka. CoM's vision is "a peaceful, poverty-and-xenophobia-free world where people, especially minorities, indigenous peoples, the powerless, and marginalized will have equal opportunities to live with dignity and hope." Council of Minorities is trying to bring changes in Bangladesh society and to ensure the social, cultural, political, constitutional, and economic rights of minority and indigenous peoples. CoM is led by Khalid Hussain, a lawyer from the Urdu-speaking Bangladeshi community.

Khalid Hussain, Founder & Chief Executive, Council of Minorities
Former UN Minority Fellow-2008
Email: khalid.aygusc@gmail.com
Cell: +8801911479073

Namati (www.namati.org) is an international NGO dedicated to putting the power of law in the hands of people. Namati is building a global movement of community paralegals who give people the power to understand, use and shape the law. Namati takes on justice challenges like realizing effective citizenship rights and enforcing environmental law. Our paralegals track data on every case and use that information to advocate for systemic changes. Namati convenes the Global Legal Empowerment Network, which is made up of over 1000+ groups and 4,000+ individuals from 150 countries.

Laura Goodwin, Citizenship Program Director, Namati
Email: lauragoodwin@namati.org
Cell: +254772861388

Namati and Council of Minorities have partnered since 2013 to implement a community-based paralegal program focused on citizenship and related rights of the Urdu-speaking community in Bangladesh. Paralegals are recruited from and active in dozens of Urdu-speaking camps in 7 cities across the country empowering camp residents to acquire and use citizenship-related documents.

Summary of Key Issues and Rights Violations

1. Despite a 2008 High Court judgement that confirmed the Urdu-speaking community as Bangladeshi, basic rights to non-discrimination, documentation, employment, an adequate standard of living, adequate housing and security of land, and health remain elusive for hundreds of thousands of Urdu-speakers in Bangladesh. As a linguistic minority, few options exist for the community to fully enjoy and perpetuate its culture or the Urdu language, and constitutional provisions have restricted the ability of minority groups and indigenous peoples in Bangladesh to get full recognition of their identity. A current draft Citizenship Bill (2016) also increases the risk that Urdu-speakers could again become stateless through arbitrary measures. Below we explain in more detail the current situation of implementation of these rights for Urdu-speakers and offer recommendations to the Bangladesh government for better alignment with international human rights standards.

Introduction & Background

2. Approximately three hundred thousand Urdu-speaking Biharis, a linguistic minority, are living in 116 inhuman camps in Bangladesh. In Bangladesh they are identified in the local society by different nomenclatures, such as non-Bengalis, Biharis and Urdu-speaking, among others. In 2008 the honorable High Court of Bangladesh confirmed their citizenship and gave their name as Urdu Speaking Bangladeshi.
3. The history of the Urdu-speaking Bangladeshi community goes back to the partition of the Indian sub-continent. In 1947 the sub-continent experienced two historical events: the creation of India and Pakistan and the mass migration of Hindus, Muslims and Sikh communities. When India was divided the creation of Pakistan forced many Indian Muslims to migrate from their original homeland to East and West Pakistan. Most of immigrants from the Indian States of Bihar, Uttar Pradesh and West Bengal came to East Pakistan (which is now Bangladesh). The majority of them were Urdu-speaking. They were called as “Mohajirs” meaning refugee, and later they became known as Biharis and Stranded Pakistani in Bangladesh.
4. In December 1971, Bengalis in East Pakistan won independence after fighting the nine-month war of liberation with the Pakistan Army. During the war a section of the Urdu-speaking Bihari community opposed the creation of Bangladesh. For that, after the emergence of Bangladesh in 16 December 1971, the Biharis became victims of political violence. About one hundred thousand Biharis were killed by Bengali freedom fighters. They lost their properties, services, jobs, and became homeless and stateless.
5. During that time the Geneva-based International Community for Red Cross (ICRC) took the responsibility to provide the Urdu-speaking community with food and health care and built refugee-like Camps in urban centers in different districts in Bangladesh. Geneva Camp in Dhaka is one of the first camps.
6. Bihari camp dwellers are Bangladeshi citizens. However, they are not treated as a linguistic minority in Bangladesh. 46 years after the independence of Bangladesh the camp dwellers have now stayed over four decades in these settlements, which is a classic example of a subhuman lifestyle.

Equality and Non-Discrimination

7. In 2008, in the landmark decision of *Md. Sadaqat Khan and others v Chief Election Commissioner* (60 DLR), the High Court Division reaffirmed that all members of the Urdu-speaking community were nationals of Bangladesh in accordance with its laws. The court directed the Election Commission to enroll the petitioners and other Urdu-speaking people in the electoral rolls and give them National Identity Cards without any further delay.
8. The Election Commission very swiftly issued National Identity Cards to every member of the Urdu-speaking community who applied and who met the legal and administrative requirements. The Urdu-speaking community can no longer be viewed as stateless or refugees, as they are considered to be nationals of Bangladesh. As per Article 6 of the Constitution they are “Bangalis” or “Bangladeshis” not “Biharis” or “Stranded Pakistanis.” They are entitled to apply for administrative and judicial remedies in accordance with the laws of Bangladesh, in the same manner as any other Bangladeshi citizen.
9. The Bihari Urdu-speaking community is Bangladeshi according to the citizenship law as well as the Constitution of Bangladesh and several court verdicts. Despite this legal backing, however, the state perpetually violates the fundamental, citizenship and human rights of the community.

Passports

10. All the Bihari-Urdu Speaking Camp dwellers are citizens of Bangladesh and have National Identity Cards. However Biharis are citizens without full access to the related rights and benefits. In June 2013 Council of Minorities and NAMATI jointly started a community based paralegal project inside the Bihari Camps in several cities across Bangladesh. At the beginning of our project our paralegals helped the camp dwellers to apply for birth certificates, national identity cards, passports, and trade licenses. However, passport applications were rejected by the investigation officers due to the camp address, which is often how members of the Urdu-speaking community are identified. Verification officials also informed the paralegals that they have an internal written letter from the Home Ministry that Rohingya and Biharis are not able to get passports.
11. On 11 August 2014 we filed a Right to Information petition to the Home Ministry to ask what policies exist regarding issuing passports to the Bihari camp dwellers. After follow-up and the involvement of the Information Commission, we received a copy of a 2009 order from the Home Ministry that stated Bihari camp dwellers who have national identity cards can get passports. After receiving this order, paralegals again assisted community members in re-submitting the rejected passport applications. Investigation officials visited applicants inside the camp and said “you do not have any permanent address, gas, water and electricity bill so I am not going to write a positive report for you” then our paralegals showed him the Home Ministry order. As a result two clients residing in Market Camp (Dhaka) received passports.
12. However, around the same time a client from Geneva camp re-applied for a passport for the 2nd time and even after showing the Home Ministry order the investigation officer said “I am not going to issue passport to you because you are living inside the camp and you do not have any gas, water and electricity bill.” He also mentioned that he had not received this Home Ministry order directly so the order is not acceptable for him.

13. Then in 2015 we assisted this Geneva Camp client to re-apply for a passport an additional 5 times. Each time the investigation officer rejected the application due to the applicant's camp address and not having gas, water and electricity bills, which afflicts all camp residents. These rejections occurred despite showing the positive order from the Home Ministry. After that we have submitted a complaint to the National Human Rights Commission (NHRC) on 5th April 2015. Since April 2015 the NHRC has issued seven letters to the Home Ministry and copied Khalid Hussain of Council of Minorities. However, until now there is still no response from Home Ministry to resolve the passport issues. Camp residents have national ID cards and their names enlisted in the voter rolls, but they do not enjoy their fundamental rights in Bangladesh.

Birth Certificates

14. State practice in the issuance of other citizenship-related documentation, such as birth certificates, also varies and can be discriminatory. Paralegals have assisted several thousand camp dwellers apply for birth certificates since the program began. However, starting in late 2013, clients in the Mirpur area of Dhaka started facing rejection at the City Corporation office. Authorities cited several reasons for their decision – including internal instructions that prevent the issuance of birth certificates to “non-Bengalis” or the client's lack of proof of address. Others were encouraged to pay extra (a bribe) for urgent processing, since officials claimed “normal” processing may take up to six months. However, with the data and experience from other paralegal centers, we could show both that other Urdu-speaking camp dwellers were receiving birth certificates and that the average processing time was approximately 17 days. Using this data, the issues were brought to the attention of Mirpur authorities. Following several rounds of negotiations, the local officials agreed to process birth certificate applications according to the law – including for camp residents. While a negotiated solution was possible, this situation illustrates the vulnerability to discrimination and arbitrary state practice faced by the Urdu-speaking community.
15. Without equal access to or recognition of their documentation, Urdu-speakers cannot access their full citizenship rights and struggle to gain access to basic services, including financial services and education. A birth certificate, for example, is a pre-requisite for school enrollment.
16. Discrimination and a history of marginalized compounds the other rights issues outlined below.

Right to Work

17. The fundamental rights of the Constitution of the Peoples Republic of Bangladesh says, in part, *“There shall be equality of opportunity for all citizens in respect of employment or office in the service of the republic”*. For Biharis, this clause is not always a reality.
18. Equal access to employment was cited frequently as a right the community cannot access. Not only are Urdu-speakers typically denied all government positions but due to their camp address and undefined status, wider discrimination in the job market remains a prime concern. Indeed, those who do find formal employment often face wage discrimination and inequality of treatment. As a result the vast majority are pushed into the informal sector, working as rickshaw-pullers, drivers, butchers, barbers, and mechanics and craft workers, earning meager wages. Bihari camp dwellers are living under poverty line. Due to poverty and state discrimination they don't have any access to education, health care and economic development. They have large family

members and only one or two persons are source of earning so that it is very much difficult to getting education for their children. Poverty, discrimination, and lack of awareness of child labor is increasing among the Bihari community.

Right to an Adequate Standard of Living

Economic Status

19. Economic activities of the Urdu-speaking/Bihari community are very limited and tend to be based in their camps and living places. They are involved with a range of activities from day labor to small scale business. Among the popular economic activities of 'Bihari' communities are food vending, restaurants, handicrafts, sequin work, Jari, karchupi, etc. In the community most of the family members, including women and children, are involved in income generating activities such as in various handicrafts, Karchupi and selling homemade food items.
20. From a recent study [*Human Rights Situation of Urdu-speaking Community in Dhaka City, conducted by Islamic Relief Bangladesh (IRB), 2016, in which one of the present submitters, Khalid Hussain, was a lead researcher*] it was found that only .3% of the total respondents are found in government employment while 3.2% are doing job in private companies. The survey found only .1% having large/big business while others are somehow managing their lives with meagre income which show high level of poverty though they are living in urban city corporation.
21. The study found that that around 38% respondents' monthly income is between BDT 3001-6000 (US \$38 to \$76), 31% is between BDT 6001-10000. Around 90% respondents' income is between BDT 1000-10000 of them around 20% are very low income respondents. Only 3% respondents are living moderately with income above BDT 15000. Monthly family income of 53% is between BDT 50001-BDT 10,000 and 20% respondents' family income is between BDT 1000 -5000. It shows that around 70% respondents are living in very poor condition with family earning between BDT 1000-10,000. Only 3% respondents' family income is more than BDT 20,000. While the national average household income per family is BDT 11, 479, the monthly income of urban families is BDT 16,475 (HIES 2010, BBS). From the study data it is evident that the monthly family income of Urdu-speaking community is much less than both national and urban family income average, particularly as all camps are in urban centers.
22. In terms of expenditure, around 56% of families' monthly expenditure is between BDT 5001.-10,000, while 21% between BDT 1000-5000 and again 21% between BDT 10001-20000. The national level monthly expenditure per household is 16475 while it is BDT 15, 531 in urban areas (HIES 2010, BBS). In terms of monthly expenditure both national and urban average is much higher than that that of Urdu speaking community as because their income also less compare to national average. Again most of the respondent shared that their family income is not enough to meet their family expenditure. They have to take loan to meet the family expenditure. Neighbors, Samity, and grocery shops (buying products on credit) are their main sources of credit.
23. Saving rates are very poor among this community because they do not remain with anything to save after family expenditures and there is limited access for formal banks due to their camp identity. Only 5 respondents (1.3%) said they or their family members received a loan from a bank. The other 98.7% respondents said they or their family members did not have the opportunity to receive a bank loan. In many cases they have no access to commercial financial services or any kind of bank. The main reason behind this is lack of guarantor and lack of permanent address. They do not get any

help from the office of Ward Commissioner to provide an alternative proof of address, even when banks refuse to allow camp residents to open basic financial accounts.

24. The 'Bihari' community faces obstacles in getting Trade Licenses. The focus group discussion respondents in the IRB research shared that only 1.3% have valid Trade License. Due to their habitation in the camps, City Corporation often denies to issue trade license in favor of Bihari People. Without a trade license, business owners face difficulties accessing credit or expanding their businesses legally.

Housing and Land

25. The housing of 116 recognized Bihari Camps in Bangladesh are in dire situation. In general, houses in the camps are tiny, usually less than 8x10 feet, and host entire families. Residents raise their beds to make space for possessions underneath. Houses are separated by two-foot (61cm) wide passageways shared by residents, goats and chickens. Most of the houses consist of one room. Some of the inhabitants reside in two storied buildings. The staircases of these two storied buildings are so narrow that it is impossible for more than one person to climb at a time. It is found that three generations live under the same roof. When it rains, the camp floods, toilets included. In many of the Bihari camps in Dhaka, the floors are weak and prone to crumbling. Gaps in the walls and under the stairways expose rusted structural steel and rotting concrete. Electrical lines hang in webs above the hallways and are perilously frayed
26. Despite the increase in population through migration and high birth rates, the area of the camp lands has not increased, which has led to a situation of severe overcrowding. Residents have coped with the shortage of space by building upward (second and third stories) instead of outward. In addition, many have built space-saving devices, such as shelving for their belongings at ceiling level and skylights for ventilation, as there is little to no space between the houses to allow for standard windows.
27. Another major development in housing design after the initiation of the camps has been the renovation of kutcha dwellings into semipucca or fully pucca structures. A majority of the dwellings built in 1972 for the temporary housing of this community were kutcha structures made of bamboo, plywood, thatch, or corrugated iron sheets. They remained in a kutcha state for much of the past 46 years as many of the residents felt uncertain about their future in Bangladesh.
28. The camp dwellers are very anxious about the threat of camp eviction. They continue to feel insecurity about their land and housing situation, despite the efforts of camp leaders to try to negotiate with the government to stop evictions.
29. In 1993, the National Housing Society sold the land of the Bihari camps in Mirpur, Dhaka, as plots to people in the nearby area. There are thirty nine camps populated by seventy thousand people in Mirpur. The National Housing Society is now planning to demolish all structures in the camps. Not being able to stop the demolition order, the community leaders petitioned to the Supreme Court in 2001 to stop the demolition of their houses and other properties; the court issued an injunction order to the National Housing Society in the same year.
30. Similar trends are also noticeable in other places inhabited by this community. During the 2001 to 2012 period, nine petitions were filed on behalf of Biharis in different camps (Mirpur, Syedpur, Geneva, Mymensingh Patgudam, Adamjee Nagar, and seventy other camps) asking the court to stop any eviction in the camps before rehabilitation is done. After a long period of hearings, a bench of the High Court Division of Bangladesh Supreme Court issued a judgment on 29 March 2016 withdrawing all injunctions and

stay orders and instructing the concerned government authority to take steps for the rehabilitation of those who live in the camps and have a national identity card. Despite this High Court verdict, on May 2017 Dhaka North City Corporation evicted Kashmiri Mohallah Camp in Section-11 Mirpur and in August 2017 they evicted two more camps in Pallabi, Mirpur. Now the camp residents are living under the open sky.

Right to Health

31. Most Bihari camps are small with a large population. Every hut is 8 to 10 feet in camp and 8 to 10 family members are surviving within that hut. During the rainy session camps become flooded, which makes basic activities such as sleeping and cooking a challenge. There is no privacy between parents and other family members. Every day they are living with the threat of eviction and lack of adequate electricity supply or water facilities.
32. Lack of access to water and poor sanitation are common phenomenons in every camp across the country. For an example, Geneva camp, the largest camp among the 116 camps, is located in Dhaka with an area of 123000 square feet area populated by around 30000 people. The number of public toilets in Geneva Camp is 265 and most of them are dirty and have no doors. On average each toilet is used by 100 people, but nearly 50% are out of order, so the average number of people using each toilet is closer to 200. A growing trend in Geneva Camp is for families to build their own private toilets, but due to the cramped living conditions few have the space inside their homes.
33. Likewise, families prefer to have their own water pumps due to the long lines and overuse of public ones, yet because of the same space constraints few have had the ability to do so. As for the public water pumps, there is at least one in each sector of Geneva Camp with some of the larger sectors having two. The public pumps are not only used for water collection but also for bathing and clothes washing, which adds to congestion. Drinking water is carried from the pumps to individual homes in metal or plastic buckets and then stored in large drums near the stove or under the bed. The water gathered from the public taps in each sector is free of charge. Most of the camps in Dhaka do not have any gas connection, which makes the boiling of drinking water impractical, as the kerosene needed to boil water is expensive. Unclean water infects children with water-borne diseases; urinary tract infections affect women and girls. The lack of access to clean water makes it difficult for the people to maintain proper hygiene. Waste water created while cooking is typically dumped directly into the alleyways or into the infrequent above-ground drains, while solid-food waste is disposed of in intermittently available trash bins or in informal piles. All of these factors lead to poor levels of health within the Urdu-speaking community.

Right to Education

34. Although no formal restriction prevents access to government schools, camp addresses do cause problems for 'Bihari' children seeking admission. Although this appears to be changing, rules vary between institutions, and access is dependent on the attitudes of individuals in charge. More significantly, rampant discrimination within mainstream society as a whole, and continued bullying on the part of teachers and classmates alike continues to discourage attendance. Together with the lack of resources for school fees or materials, educational facilities thus remain inaccessible to the majority. There is no quota for the Bihari for education and public jobs like exist for other minorities and indigenous peoples in Bangladesh.

35. In addition, the Government of Bangladesh is increasingly requiring documentation as a pre-condition for access to services, including education. It is now compulsory to possess a birth certificate to enroll in school. These requirements are applied to everyone in the country, but disproportionately impact communities such as Urdu-speakers who have been marginalized and seen as non-Bangladeshi (or stateless) for several decades. In 2017, the government raised the fee for a birth certificate application from 10 Taka per year based on the age of the child to a rate of 600 Taka (US \$7.60), with the exception for those who apply for a birth certificate within 45 days of the birth of the child, in which case there is no charge (though the window is very short considering it is most often the mother who takes care of the birth certificate). The 600 Taka fee is out of reach of most Urdu-speaking camp residents and has led to a decrease in the rate of applications for birth certificates over the past few months. Without changes in these policies, ensuring that all Bangladeshis can easily access basic legal identity documentation, access to other services such as education will become more challenging in the future.

Minorities and Indigenous Peoples

Language and Culture

36. Urdu language and culture is forgotten in Bangladesh. There is no access to learn Urdu language. Children are bound to get education with Bangla language though their mother tongue is Urdu. Most Urdu poets are practicing their craft in Urdu language and trying to promote their unique culture but no access to publish their literature exists in Bangladesh.

Constitutional Provisions

37. On June 30, 2011 Bangladesh Parliament passed the 15th amendment of the national constitution. The amendments made some dramatic changes in the constitution. The eighth amendment to the Constitution, adopted under the military ruler, General Hossain Mohammad Ershad, in 1988, purported to make Islam as the state religion (Article 2A). This has been retained by the 15th Amendment.
38. This provision resulted in the Constitution moving away from one of its founding pillars of 'secularism' and becoming manifestly more discriminatory and communal in nature. It is a direct rejection of the full citizenship rights of the hundreds of thousands of people from diverse religions and beliefs who are Bangladeshis.
39. Also included in Article 6(2) is the provision "*The people of Bangladesh shall be known as Bangalees.*" This language undermines the ethnic identity of distinct groups of people like Bihari, Chakma, Garo, Khasia, Khumi, Marma, Murong, Mandi, Santal, Tanchangya, Tippera, Hajong, Rakhain, Dalit and many, many more.
40. All human beings belong to a single species and share a common origin. They are born equal in dignity and rights and all form an integral part of humanity. All peoples of the world possess equal faculties for attaining the highest level in intellectual, technical, social, economic, cultural and political development. The differences between the achievements of the different people are entirely attributable to geographical, historical, political, economic, social and cultural factors. Such differences can in no case serve as a pretext for any rank ordered classification of nations or peoples.

Risk of Statelessness

41. In February 2016 the Cabinet approved the Draft Citizenship Law 2016 and we understand that the matter is under the consideration of the Parliament. The draft law contains provisions that are of grave concern which may lead to a situation where some of the Urdu-speaking community or other current Bangladeshi citizens could become stateless. Section 3 of the draft citizenship bill says: "Prominence of the Act. Notwithstanding anything contained in any other Act, Legal Instrument, Judgment Decree etc., the provisions of this Act shall prevail". The concern is that this section may be able to override the 2008 judgment that confirmed the citizenship of the Urdu-speaking community. This provision is also contradictory to Article 102 of the constitution of Bangladesh. Other provisions of the draft bill, including those that would strip nationality from a Bangladeshi based on any action his/her parent or grandparent may have taken as "enemies of the state" also risk introducing arbitrary application of the law and unchecked discretion of officials involved in nationality-related matters.

Conclusions

42. Following the 2008 High Court judgement, the government did comply in issuing national identity cards to most camp residents. However, voter enrollment is still low and the government must do more to treat the Urdu-speaking community members as full Bangladeshi citizens and provide proper rehabilitation with decorum.
43. A tolerant attitude is one of the most important elements to reduce the discrimination against the Bihari community. We propose that the government of Bangladesh establish a rehabilitation trust fund to mobilize funding from international Islamic organizations, bilateral donors and other national and international donor agencies in order to ensure a safe and secure future for generations of Urdu-speakers in Bangladesh. Let's remove the racism; xenophobia and intolerant attitude which will be help full to make our country one of the most vibrant multi-lingual and multi-cultural country in the world.

Recommendations to the Government of Bangladesh

1. Revise the draft Citizenship Bill 2016 to protect the nationality rights of all Bangladeshis and prevent the risk of statelessness in Bangladesh
2. Ensure all the judgments of the Supreme Court are honored and implemented by the Government without delay.
3. Issue an official order to guide the issuance of passports, birth certificates, and other documentation to the Bihari camp dwellers on an equal basis with other Bangladeshis and without any hassle of investigation officials
4. The word "language" should be incorporated in Article 28 of the Constitution of the People's Republic of Bangladesh to give a sense of protection to the languages of the linguistic minorities in Bangladesh
5. Government should take some necessary action to rehabilitate the Bihari camp people with dignity.
6. The government of Bangladesh should stop evictions of Bihari Camps.
7. Provide the quota on education and public service to the Bihari/Urdu-speaking linguistic minority.
8. Amend the Constitution Article 6 (2) and confirm the constitutional reorganization of all minorities and indigenous communities of Bangladesh.