

The State of Statelessness in Bangladesh

An Overview

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Introduction

Bangladesh emerged as an independent country in 1971. The Constitution endorses democracy, nationalism, secularism and socialism as the basic principles of the country. Based on these principles, Bangladesh pledges to establish an egalitarian society where every citizen can enjoy fundamental human rights and dignity. The Constitution prohibits any discrimination on the basis of race, religion, colour, origin, and other similar considerations. Despite this aspirational ethos, the country still falls short of these ideals, particularly in the treatment of its religious, ethnic and linguistic minority groups.

There are several issues related to the state of 'statelessness'¹ in Bangladesh. Bangladesh has no specific law on statelessness, and a stateless person in Bangladesh is effectively regarded as a foreigner.² However, recent developments suggest that there are both *de jure* and *de facto* situations of statelessness in Bangladesh. In this research, we will examine the status of a number of excluded groups from the perspective of statelessness. They include:

¹ *Statelessness* is a contested, multifaceted and complex issue in international law. The traditional definition categorises a person as stateless if he or she is a non-citizen everywhere. The experience of statelessness may vary enormously. It may refer an abject situation of poverty and exclusion not covered by the traditional definition of stateless. In this work, the term is used in a holistic sense where statelessness is viewed as both as a cause and symptom of marginalisation. For a more comprehensive picture, see Victoria Redclift, *Stateless and Citizenship: Camps and the Creation of Political Space* (Routledge, 2013).

² M Rafiqul Islam, 'The Nationality Law and Practice of Bangladesh' in Ko Swan Sik (ed.) *Nationality and International Law in Asian Perspective* (Martinus Nijhoff, London, 1990), 23.

- Urdu-speaking Biharis, a sizeable group uprooted since independence: for decades they lacked formal citizenship and continue to suffer various forms of discrimination to this day.
- Dalits, among the most excluded populations in the country: though recognised as nationals of Bangladesh, they in reality are often victims of *de facto* statelessness due to extreme marginalisation and limited access to basic rights.
- Rohingya, the world's largest stateless community: apart from the human rights challenges faced by its own citizens, Bangladesh is now a place of refuge for almost 1 million Rohingya³ displaced by violence from neighbouring Myanmar.

Enclave communities, situated in contested areas along the Bangladesh-India border, are also at a high risk of statelessness. While the profound difficulties experienced by these groups have lessened to some degree since the 2015 agreement brokered between the two countries, it remains to be seen how their newly attained status as residents of India or Bangladesh will be resolved. Their situation is not covered in detail here though.

This study develops a qualitative profile of statelessness among these three groups, drawing on a range of primary and secondary sources, including official reports, private testimony, published and unpublished research, seminar papers, articles, presentations, digital content on social media, and mainstream media outlets. It aims to identify to what extent each group is in a situation of statelessness, assess the scale of the challenges they face and offer a series of targeted recommendations to address these issues.

Urdu-Speaking Bangladeshis (Biharis)

Background

The Urdu-speaking community in Bangladesh comprise a linguistic minority, popularly known as 'Bihari', though not all Urdu-speaking individuals belong to this group. This community emigrated from Bihar and other parts of India during and after the partition of the Indian subcontinent in 1947

³ Committee Against Torture, *Initial report submitted by Bangladesh under article 19 of the Convention*, July 23, 2019, p. 16.

and suffered decades of exclusion following independence, due in part to their perceived support of Pakistan in 1971 during the junta's brutal military campaign against the Bengali population. In the aftermath of Bangladeshi independence, they were displaced *en masse* into camps across Bangladesh. Widely referred to as 'stranded Pakistanis', an estimated 163,000 had resettled in Pakistan by 1981.⁴ However, Pakistan eventually refused to welcome any further arrivals, leaving a population of approximately 300,000 Urdu-speakers stateless in 116 camps across Bangladesh until a Supreme Court order in 2008 granted citizenship to the Urdu-speaking Biharis who were born after the independence of Bangladesh. However, the legacy of discrimination continues to this day, reflected in their secondary social, economic and political status within the country.⁵

The Struggle for Citizenship

Since 1990, the post-independence generation of Urdu-speakers have advocated with the government and civil society organisations for their recognition as citizens of Bangladesh. In 2001, before the national election, they attempted to submit a memorandum to the Bangladesh Election Commission to include them in the voters' list but this was rejected. A writ petition was subsequently filed by 10 young Urdu-speakers seeking citizenship,⁶ and in May 2003 the Supreme Court delivered a judgment in their favour. Though this applied only to the applicants and not the wider community, the ruling represented a major milestone in their struggle for recognition.

This was followed by another breakthrough in 2008 when the Supreme Court again ruled in favour of a writ petition launched by members of the community. The judgment found that members of the Urdu-speaking community were nationals of Bangladesh, in accordance with its laws, and directed the Election Commission to register them as voters as well as provide the National Identity Card without any further delay.⁷

⁴ 'Biharis', World Directory of Minorities and Indigenous Peoples, Minority Rights Group International, <https://minorityrights.org/minorities/biharis>.

⁵ *Ibid.*

⁶ *Abid Khan and others v. Government of Bangladesh and others*, Writ Petition No. 3831 of 2001, Bangladesh: Supreme Court, 5 March 2003.

⁷ *Md. Sadaqat Khan (Fakku) and Others v. Chief Election Commissioner*,

The case law that broke the ice

In 2003, in the landmark writ petition of Abid Khan and Others vs. Government of Bangladesh and Others [20030 55 DLR (HCD) 318], the Supreme Court delivered a ground-breaking judgment for the Urdu-speaking community. Ruling in favour of the petitioners, a group of 10 Urdu-speaking people, eight of whom were born after independence, it ruled that the petitioners were Bangladeshi nationals under the Citizenship Act 1951 and the Bangladesh Citizenship (Temporary Provisions) Order of 1972. Directing the government to register them as voters, the Supreme Court further stated that residents of the camps and settlements had not 'attained any special status so as to be excluded from the operation of the laws of the land', and hence 'mere residence' in the camps could not be deemed as allegiance to another state.

Pursuant to existing domestic legislation, members of the Urdu-speaking community can now apply for a National Identity Card at any time, like any other Bangladeshi citizen. Failure to apply for a National Identity Card does not preclude the application of the Supreme Court ruling, nor entail the loss of citizenship or associated rights.

Continued Legal Barriers: The Citizenship Draft Law

In light of the May 2008 Supreme Court decision and subsequent implementing measures taken by the Bangladeshi government, the Urdu-speaking community can no longer be viewed as stateless, as they are considered to be nationals of Bangladesh. However, the recent draft Citizenship Bill has again put this community at risk of statelessness through a number of controversial provisions.

In February 2016, the Cabinet of the Government of Bangladesh approved the draft text of the Citizenship Bill 2016, with no public consultations around the content prior to its being placed before the Cabinet. One controversial provision, Section 3, runs as follows: 'Notwithstanding anything contained in any other Act, legal instrument, judgment, decree etc. the provisions of this Act will prevail.' Apart from potentially undermining the supremacy of the Constitution, this section could override the Supreme

Bangladesh Election Commission, Writ Petition No. 10129 of 2007, Bangladesh: Supreme Court, 18 May 2008.

Court judgment passed in 2008, conferring citizenship to the Urdu-speaking community.

Similarly, Section 28(2)(a) of the Bill states that ‘citizenship of persons who obtained Bangladeshi citizenship under the repealed Acts shall prevail, subject to consistency with the provisions of this Act’. Such a provision, seeking to override or negate a judgment or decree, appears inconsistent with the principles of constitutional democracy, where the Constitution is regarded as sovereign, and the judiciary is empowered to interpret and enforce the Constitution.

As a signatory to the Convention on the Rights of the Child (CRC), the Bangladeshi government is responsible for protecting the rights of every child, including the right to a nationality. The current version of the Bill violates these obligations in a number of its provisions: for example, by arbitrarily stripping individuals of constitutional protection (Section 4[2]b), punitively restricting a child’s right to nationality due to a lack of birth registration or certification (Section 5[2]), and even threatening to restrict the nationality of a child if their parents or grandparents are deemed to be hostile to the state (Section 11).⁸

The draft legislation even envisages the possibility that citizens could lose their right to nationality if one of their parents is an ‘alien enemy’, ‘denies the existence of Bangladesh’ or is ‘engaged in any activity against Bangladesh’—all ambiguous provisions that could be open to a broad margin of interpretation. Section 20 even grants the government the right to strip naturalised Bangladeshi citizens of their nationality if they express ‘lack of allegiance towards the sovereignty of Bangladesh or the Constitution of Bangladesh through any action or behaviour’—an equally vague stipulation that could enable arbitrary removal of citizenship.⁹ In a context of discrimination, Urdu-speakers are likely to be especially affected: there have been reports of citizenship applications being stalled due to lack of documentation such as electricity

⁸ Coalition of Individual Human Rights Defenders Bangladesh, *Bangladesh—Civil Society Report on the Implementation of the ICCPR (Replies to the List of Issues CCPR/C/BGD/Q/1)*, February 6, 2017, p.17.

⁹ *Ibid.*

bills, unavailable to most Bihari households, and internal memos encouraging officials not to issue paperwork to ‘non-Bengalis’.¹⁰

The Dalit Population

Background

Caste- and descent-based discrimination in Bangladesh is a complex, multifaceted issue as ‘it results from a variety of often overlapping factors, including caste, religion, place of birth or families/descendants’ place of birth and occupation.’¹¹ Though the reality of caste discrimination in Bangladesh is concealed by silence, even outright denial, the Dalit community experiences multiple forms of social, political and economic discrimination. Their predicament, enabled by the tacit acceptance of the government, is in violation of Bangladesh’s fundamental human rights obligations. Though they are recognised as citizens of the country, their continued stigmatisation on account of their caste and professional identity can leave them in a situation of *de facto* statelessness.

While relatively little research has been conducted on the community, studies suggest that there are between 5.5 and 6.5 million Dalits and members of similarly excluded groups in Bangladesh, amounting to between 3 and 4 per cent of the population. Unfortunately, while the 2011 Census could have been used to gather much more detailed information on their situation, these categories were not included. The absence of reliable and disaggregated data is a major factor in the continued barriers Dalits face in gaining political representation, accessing public services and securing employment. In many cases, their discrimination is underpinned by the fact that many belong to religious minorities: Dalits and other marginalised groups have been estimated to comprise as much as 70 per cent of the Hindu population in Bangladesh, for instance.¹²

10 Khalid Hussain, ‘Biharis: On becoming citizens of Bangladesh’, *FOCUS*, March 2016, volume 83, Asia-Pacific Human Rights Information Centre.

11 Mazharul Islam and Altaf Parvez, *Dalit Initiatives in Bangladesh*, IDSN, October 2013, p.12.

12 Ibid.

Untouchability

The persistence of ‘untouchability’ in Bangladesh affects Dalits in almost every aspect of their private and public lives due to which the majority lack access to education, health care and other basic amenities, as well as decent employment, property, land or political office. They are also often denied access to public places such as hotels, restaurants, hairdressers, temples and markets on account of their identity.

After a long struggle by Dalit and human rights organisations, the Law Commission of Bangladesh drafted the 2015 Anti-Discrimination Bill and submitted it to the Ministry of Law. However, the government has been slow to respond and after three years they returned it to the National Human Rights Commission for revisions in 2018. In April 2019, NHRC resubmitted a revised version to the Ministry but has yet to receive a response.

Land and Housing: Dalits on the Margins

In 2016, two young Dalit men from a family of tea labourers in Maulavibzar district of Bangladesh were selected for the position of police constables. During verification of their citizenship, however, the investigator reported that because they had no permanent residence they were not eligible for a government job and so were disqualified from the final list. It was a frustrating experience for the duo since they were deprived of the opportunity of public employment, despite being citizens of Bangladesh. Their treatment illustrates how Dalits, while not formally stateless, can still experience many of the same challenges due to discrimination. Tea labourers in Bangladesh mainly live at the mercy of the tea companies that employ them. Everything—their employment, education, health care, housing—is taken care of by the companies and the state plays virtually no role. As the largest community in Bangladesh without land titles, they are especially dependent on their employers and are not able to access services such as bank loans.

Dalits experience similar challenges of invisibility and exclusion in urban areas, where they are frequently responsible for sweeping roads, maintaining drainage and other difficult, poorly paid work regarded as lowly or unclean. Pushed to the margins of the cities,

Dalit settlements have regularly been uprooted by redevelopment programmes and resettled in remote locations elsewhere. Urban Dalits have reported that on average they have been evicted at least twice from their colonies.¹³ ‘Sometimes we don’t know if we are human beings. The government drives us away from our homes whenever they feel like it. This sort of thing does not happen even to the Bihari camps or Rohingya. We are citizens of this country but are forced to flee from one colony to another,’ said one Dalit woman, describing her experiences of eviction.¹⁴

The housing situation of Dalits has become even more precarious due to the loss of their traditional employment with government agencies, municipalities, hospitals and other institutions, typically as cleaners, and accommodation provided by these employers. Increasingly, such employment is being offered to contracted employees and larger numbers of other Bangladeshis have also begun working as cleaners or sweepers, meaning that many colonies are now occupied by a growing share of non-Dalits. In this context, some Dalits have been forced to look for housing outside their colonies, where they have struggled to find rooms due to their limited resources and caste barriers.

Their plight is illustrated by the residents of Ganaktuly City Colony, the biggest Dalit colony of Dhaka, which was demolished for reconstruction in June 2019. Many displaced families struggled to rent houses in slums or settlements nearby, with some families forced to take shelter in the colony’s community centre.¹⁵ Furthermore, those who are not employees of the Dhaka South City Corporation fear that they will not be able to access housing in the newly constructed colony once it is completed. What will happen to them then, is impossible to predict.

¹³ Interview, Bhempalli David Raju, an activist of Bangladesh Dalit Human Rights (BDHR) organization.

¹⁴ Women of Ganaktuli Colony during a meeting with Dalit women in October 2019.

¹⁵ Interview, Moni Rani Das, President, Bangladesh Dalit and Excluded Rights Movement (BDERM).

The Rohingya

Background

The Rohingya community, the largest stateless group in the world, has fled from their native country, Myanmar, in the face of systematic persecution and abuse. For more than five decades, they have migrated to neighbouring countries such as Bangladesh, India, Thailand and Malaysia to escape discrimination in every area of their lives. Bangladesh now houses around a million Rohingya,¹⁶ including more than 742,000 forcibly displaced from Myanmar's Rakhine state since August 2017,¹⁷ when the military initiated a new wave of violence against the community. The UN has stated that these crimes amount to genocide and launched genocide proceedings against Myanmar.

The Road to Statelessness

The term 'Rohingya' was originally derived from 'Rohang', the ancient name of the territory that is now Rakhine state, with their presence dating back to the 8th century. Their numbers expanded further due to labour migration from Bengal before and during the British colonial era. The majority of the Rohingya are Muslim.

The community in Rakhine state was subjected to targeted violence by Rakhine Buddhists in 1942, during World War Two, when Japanese troops invaded Myanmar. Following independence, the government enacted the Residents of Burma Registration Act in 1951, issuing a National Registration Card (NRC) to every resident as a proof of nationality. However, after the military junta came to power in 1962, they ruled that this certificate alone would not be conclusive proof of citizenship. From 1970, the military regime did not issue any further NRC cards to Rohingya, and in 1974 they seized the remaining NRCs from Rohingya without any legal justification.¹⁸ This was the

¹⁶ Committee Against Torture, *Initial report submitted by Bangladesh under article 19 of the Convention*, July 23, 2019, p. 16.

¹⁷ 'Rohingya Emergency,' *UNHCR*, accessed October 23, 2019, <https://www.unhcr.org/rohingya-emergency.html>.

¹⁸ Equal Rights Trust and The Institute of Human Rights and Peace Studies, *Equal only in name- The Human Rights of Stateless Rohingya in Malaysia* (London, Stroma Ltd., 2014), accessed October 24, 2019, <https://www.equalrightstrust.org>.

beginning of a lengthy state-led process of denationalisation that culminated in mass statelessness.

In 1982, a new citizenship law enacted by the military government classified citizens as ‘full’, ‘associate’ and ‘naturalised’: the first group included some 135 national races, with the Rohingya systematically excluded. In 2014, the government introduced the Citizen Verification (National Verification Card—NVC) in Rakhine State, based on the 1982 Citizenship Law, requiring Rohingya to self-identify as Bengali to apply. Most of the Rohingya people rejected the NVC, knowing that the intention of the government was to quarantine and deport anyone who refused to participate or failed to provide the required documentation. In 2015, the right of Rohingya to vote was taken away by withdrawing their Temporary Resident Card (TRC).

The Legal Status of the Rohingya in Bangladesh

International Law

While it is widely accepted that the Rohingya are stateless, the current focus of the national and international response to the crisis has been emergency relief and rehabilitation rather than resolving their citizenship rights. Yet this is likely to have a major bearing on their future wellbeing, particularly for children born in the camps who may find themselves deprived of rights in both Myanmar and Bangladesh.

While Bangladesh has not ratified the 1951 Convention Relating to the Status of Refugees, it is party to a host of major UN treaties, convention and customary international laws. In light of these commitments, Bangladesh has an obligation to provide security and assistance to the Rohingya displaced within its borders. Customary international law implies an obligation to all states to protect all persons in their territory and subject to their jurisdiction, regardless of whether they are citizens, stateless persons, asylum-seekers or refugees.¹⁹ Thus, Bangladesh has to

org/ertdocumentbank/Equal%20Only%20in%20Name%20-%20Malaysia%20-%20Full%20Report.pdf.

¹⁹ ‘Customary International Law,’ Legal Information Institute, Cornell Law School, accessed January 24, 2020, law.cornell.edu/wex/customary_international_law.

recognise the status of stateless Rohingya people and ensure their protection, regardless of their legal status. Besides international customary laws, there are some core international human rights obligations which are relevant to the situation and treatment of the Rohingya, giving rise to obligations which apply to Bangladesh.

Relevant International Legislation for the Protection of Stateless Rohingya

The human rights instrument supported by Bangladesh* with provisions to protect the rights of refugee and stateless persons are:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW)
- Convention on the Rights of Persons with Disabilities (CRPD)

* Bangladesh has placed several reservations and declarations against these instruments. Bangladesh has not ratified the Optional Protocols to the ICCPR, the ICESCR or the CAT. It has, however, ratified the Optional Protocols to the CEDAW, the CRPD and two of the Optional Protocols to the CRC

Along with international customary laws and UN treaties, Bangladesh's constitution, laws and policies also have provisions that may be applicable to supporting the stateless Rohingya population. Article 25 of the Constitution of Bangladesh affirms respect for the principles of international law: 'The State shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter.'²⁰

²⁰ Government of the People's Republic of Bangladesh, *The Constitution of the People's Republic of Bangladesh*, 1972, Article 25.

National Law and Citizenship

Bangladesh has largely followed the *jus sanguinis* principle when determining citizenship, meaning that citizenship is contingent on descent. Based on this, the country's citizenship law has rendered generations of Rohingya living in Bangladesh effectively stateless.

Nationality or citizenship in Bangladesh is mainly regulated by the Citizenship Act of 1951, and the Rules of 1952, the 1972 Citizenship Order and Rules of 1978; Naturalization Act of 1926 and the Rules of 1961. These laws were regularised when Bangladesh was still ruled by Pakistan. Following independence, the Citizenship (Temporary Provisions) Order of 15 December 1972 was passed, granting anyone living in the country at the time of independence *ipso facto* citizenship of Bangladesh. The government is currently in the process of enacting a new citizenship law which would repeal the 1951 Act and 1972 Order. The draft law was approved by the Cabinet in February 2016,²¹ and though the government has not yet made the law public, jurists and rights activists are in agreement that the new law would result in increased statelessness, among other negative consequences.²²

Bangladesh has not ratified the 1951 Refugee Convention or its 1967 Protocol, and there is no specific domestic law or national policy governing the protection of refugees in Bangladesh. In most of the cases, refugees are considered foreigners and governed by the provisions of the Foreigners Act of 1946. Some other similar legislation may also be applicable in this regard, such as the Registration of Foreigners Act 1939, the Passport Act 1920, the Bangladesh Citizenship (Temporary Provision) Order 1972, the Extradition Act 1974 and the Naturalisation Act 1926.²³

In the absence of any legal or specialised statutory framework for the protection of refugees, Bangladesh relies on these acts to govern the entry, stay and exit of foreigners in Bangladesh. Section

21 Ridwanul Hoque, *Report on Citizenship Law: Bangladesh*, (Italy: European University Institute, 2016).

22 'New citizenship bill creates second-class citizens,' *Dhaka Tribune*, February 14, 2017, accessed November 1, 2019, <https://www.dhakatribune.com/bangladesh/law-rights/2017/02/05/new-citizenship-bill-creates-second-class-citizens/>.

23 Ashraf Azad, 'Foreigners Act and the freedom of movement of the Rohingyas in Bangladesh', *Griffith Journal of Law and Human Dignity*, 5, no. 2, (2017): 189.

2(a) of the Foreigner Act defines a foreigner as a person who is not a citizen of Bangladesh, thus covering all refugees within its territory as well. Section 3 of the Foreigner Act 1946 empowers the Government to enact rules regarding the prohibition or control of the entry, stay and departure of foreigners in Bangladesh. Under the Act, the government may also require a foreigner to reside in a particular place, impose restrictions on their movement and prohibit them from engaging in specific activities. The Foreigners Act also authorises a police officer to take such steps and use such force as may in his opinion, be reasonably necessary for securing compliance with the provisions of the Act.

The only Rohingya in Bangladesh who have secured official recognition are those living in the official camps. Registered refugees living in the camps typically prove their legal residency through UNHCR photo-identity cards, though these cards do not guarantee immunity from detention or enable the cardholders to move freely. In addition to those living in the camps, there are large numbers of unregistered Rohingya living in villages and towns across Bangladesh who do not have any legal status. The government typically categorises such persons as ‘illegal foreigners’, ‘illegal Burmese’, ‘undocumented Myanmar nationals (UMN)’, and ‘economic migrants’.²⁴

While the government has overlooked the presence of many unregistered Rohingya for their ‘illegal entry’ into Bangladesh, some people have been arrested and sentenced under the Foreigners Act.²⁵ Moreover, some have not been released after having served the full five-year term, as they are required to be transferred to the authorities of their country of nationality. As Myanmar refuses to acknowledge any Rohingya as its citizens, Rohingya may remain in detention long after the expiry of their sentence. This practice amounts to arbitrary detention. Further, individuals prosecuted under Article 3 of the Foreigners Act are often immediately rearrested after their release or for the same offence.²⁶

For Rohingya children born in Bangladesh, the risk of statelessness remains high. Bangladesh, as a signatory of the

²⁴ Ibid, pp.189-190.

²⁵ Ibid, pp.192-195.

²⁶ Ibid, p.191.

Convention on the Rights of the Child (CRC), is obliged to register all births—a duty affirmed in the Births and Deaths Registration Act 2004 which is applicable to everyone including ‘any foreigner living in Bangladesh and also any refugee taking shelter in Bangladesh’.²⁷ While all Rohingya children born in Bangladesh therefore have the legal right to a birth certificate, for the children of unregistered Rohingya living outside the camps, this is still not possible. This is in clear violation of Bangladesh’s responsibilities in international law, including the provisions of the CRC (Article 7) and ICCPR (Article 24). The exclusion of many Rohingya children from formal registration has been in evidence for many years and has played a major role in the crisis of statelessness that Rohingya in Bangladesh face today.²⁸

Human Rights and Security

Unsurprisingly, Bangladesh has struggled to cope with the scale of the crisis that has unfolded since 2017 and the influx of large numbers of Rohingya refugees into the country. Consequently, hundreds of thousands of Rohingya continue to face acute humanitarian and protection needs. Reports of illicit or unauthorised activities within and outside the camps have also resulted in a heavy-handed and at times indiscriminate security response from authorities, with frequent reports of extrajudicial killings by human rights groups.²⁹

Registered Rohingya living in recognised camps are also not permitted to move freely. Local authorities have enforced tight restrictions on Rohingya movement in Teknar, Ukhiya and other areas of Cox’s Bazaar, to the extent that even Bangladeshi citizens have to carry national identity cards in these areas. These restrictions impact heavily on economic livelihoods and even, for unregistered refugees, the ability to access relief assistance. Rohingya working illegally face the constant threat of

²⁷ Bangladesh National Government, *The Births and Deaths Registration Act, 2004*, Act No. 29 of 2004, Chapter 2(1n).

²⁸ Amal de Chickera, ‘Statelessness and identity in the Rohingya refugee crisis’, Humanitarian Practice Network, October 2018.

²⁹ For example, see Amnesty International, ‘Stop extrajudicial executions of Rohingya refugees and end restrictions to their freedom of movement’, November 4, 2019.

arrest, leaving them vulnerable to exploitation by employers and harassment.³⁰

The situation has worsened since the government's failed attempts in August 2019 to repatriate some Rohingya to Myanmar. Authorities responded to protests by Rohingya with a crackdown on NGO activity and the imposition of further restrictions on mobile phone services within the camp,³¹ accompanied by plans to create a barbed wire security fence to curb free movement.³²

Conclusion

This discussion on the situation of statelessness in Bangladesh raises a plethora of questions. First of all, it should be mentioned that, with the exception of a few case studies, no comprehensive study on the situation of the stateless and at-risk populations has been undertaken to date in Bangladesh. This chapter therefore carries some obvious limitations. Nevertheless, the different stories and histories of the country's most marginalised groups suggest that a systematic process of discrimination and legal subordination has led many to the verge of statelessness.

One of the main communities that this work has focused on is the cause of the linguistic minority—the Urdu-speakers of Bangladesh (Biharis). Community members are still confined in camps across the country and remain isolated from mainstream society. The newly proposed citizenship law could set back much of the tentative progress achieved since 2008, when their citizenship was finally recognised. Their situation shows how the acquisition of citizenship may be used as an instrument of exclusion, and the difficulties of drawing a clear line between

30 Tarek Mahmud, 'A number of Rohingyas leave camps, work illegally across Bangladesh,' *Dhaka Tribune*, January 9, 2018, accessed December 1, 2019, <https://www.dhakatribune.com/bangladesh/2018/01/09/number-rohingyas-leave-camps-work-illegally-across-bangladesh>.

31 'Bangladesh should end restrictions on movement, internet access of Rohingyas: HRW,' *The Daily Star*, September 07, 2019, <https://www.thedailystar.net/rohingya-crisis/news/bangladesh-should-end-restrictions-rohingyas-hrw-1796878>.

32 'Barbed wire fences around Rohingya camps soon,' *The Daily Star*, September 26, 2019, accessed October 25, 2019, <https://www.thedailystar.net/rohingya-crisis/barbed-wire-fences-be-erected-around-rohingya-camps-soon-1805665>.

stateliness and citizenship when the barriers of social segregation are still in place.

For Bangladesh's Dalits, too, while they do not fall within the *de jure* definition of statelessness, many face *de facto* symptoms of statelessness due to the persistence of untouchability. The continued stigma around caste and descent serves to undermine their ability to access many basic rights and needs, such as housing, let alone well-paid employment.

For the large Rohingya population, statelessness is an important but often unacknowledged dimension of their plight. Their situation extends beyond the remit of Bangladesh alone and requires a concerted international response. In the meantime, with a return to Myanmar seemingly inconceivable in the immediate term, every effort must be made to regularise their situation and afford displaced community members the security and dignity of recognition.

Recommendations

Regarding Urdu-Speaking Bangladeshis (Biharis):

- The government should remove all legal and other barriers to allow linguistic minorities to access all services of the state as citizens and based on principle of equity.
- Ensure that the draft Citizenship Bill 2016 will not make the linguistic minorities stateless again by eliminating those articles which might affect their rights as citizens.
- Effective implementation of the Supreme Court's orders with regard to their rights as citizens should be ensured. Remove obstacles in getting official documents like passport, trade licence, birth certificate, national identity card, etc.

Regarding Dalits:

- Dalits should be given recognition as a special community. Disaggregated data of the Dalit population should be collected in the upcoming census of 2021. This will help identify their special needs and provision of necessary support can be ensured.
- The government should pass Anti-Discrimination Bill to address untouchability and discrimination-based work. It

should also take initiatives for effective implementation of the 'Convention on Elimination of All forms of Racial Discrimination'.

- The government should concentrate on housing and land issues of Dalits. The temporary or permanent removal of Dalits from their ancestral land or colonies without the provision of proper rehabilitation should be ended. Land owned by the government should be distributed among Dalits on the basis of priority. Those living as tea plantation workers should be provided with ownership of land where they have lived for generations.

Regarding Rohingyas:

- The government should acknowledge the refugee status of the Rohingya by ratifying the 1951 Refugee Convention and sign its 1967 Protocol. It will open up some avenue for the Rohingya to enjoy their rights as refugee and stateless persons.
- The UN and international aid agencies should focus on a political solution to end the Rohingyas' statelessness.
- The government should allow the Rohingya population to avail of the rights as enshrined in international treaties supported by the state as well as national laws and the constitution.
- The government should take steps to ensure that all the Rohingya living in Bangladesh illegally are registered and not detained or prosecuted under the Foreigners Act.
- The government should enable movement of the Rohingya people beyond the camps and withdraw restriction on cell phone communication inside camps.