

Joint Submission to the  
Human Rights Council

# Universal Periodic Review

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## BANGLADESH

Council of Minorities

Rohingya Human Rights Initiative

Free Rohingya Coalition

Namati

Nationality For All

The Global Campaign for Equal Nationality Rights

The Institute on Statelessness and Inclusion

5 April 2023



**Joint Submission**  
**to the Human Rights Council**  
at the 44<sup>th</sup> Session  
of the Universal Periodic Review.

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## Introduction

1. Council of Minorities (COM), Rohingya Human Rights Initiative (R4R), Free Rohingya Coalition (FRC), Namati, Nationality for All (NFA), the Global Campaign for Equal Nationality Rights (GCENR) and the Institute on Statelessness and Inclusion (ISI) make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Bangladesh.
2. This submission draws on the research, advocacy and engagement of the co-submitting organisations to focus on the following issues in Bangladesh:
  - I. Access to Nationality and Other Rights for the Urdu-Speaking Community;
  - II. Rohingya Refugees in Bangladesh;
  - III. Access to Birth Registration and Challenges of Digitalisation;
  - IV. Gender Discrimination in Nationality Law.
3. [Council of Minorities \(CoM\)](#) is a human rights organisation working towards helping different minority groups in Bangladesh to realise their human rights. CoM is dedicated to bring positive changes in the society to ensure social, cultural, political, constitutional and economic rights of minorities groups through partnership, networking, and advocacy with the Government. CoM promotes and fosters awareness on minority rights against stigma, discrimination and xenophobia by performing arts, drama, documentaries and enhances the capacity of minorities through trainings, seminars, workshops, summits and minority fellowships.<sup>1</sup>
4. [Rohingya Human Rights Initiative \(R4R\)](#) is a non-governmental and non-profit organisation formed by Rohingya activists in New Delhi, India. The main mission of R4R is to document, highlight, prevent and address the human rights violations against the Rohingya community. R4R carries out its activities in India and monitors the conditions of Rohingyas in India, Myanmar and Bangladesh.<sup>2</sup>
5. [Free Rohingya Coalition \(FRC\)](#) is a global network of Rohingya, Burmese and International activists and scholars working to end Myanmar's genocide sharing common concerns about the need for Rohingya survivors to play an active role in

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<sup>1</sup> For more information about CoM, see: <https://www.com-bd.org/>.

<sup>2</sup> For more information about R4R, see: <https://www.rohingya.org/>.

seeking a viable future for the community.<sup>3</sup>

6. [Namati](#) is dedicated to placing the power of law in the hands of people. Namati works in partnership with community paralegals in six countries. The paralegals support their communities to protect common lands, enforce environmental law, and secure full rights to healthcare and citizenship. Together with the communities we serve, we strive to translate lessons from this grassroots experience into positive, large-scale changes to laws and systems. Globally, Namati convenes the Legal Empowerment Network, made up of more than 3,300 groups from 170 countries.<sup>4</sup>
7. [Nationality For All \(NFA\)](#) was formed from the work undertaken by the Statelessness Network Asia Pacific (SNAP) to build a regional civil society movement on addressing statelessness in the region. With the vision of ensuring nationality for all, NFA works closely with stateless persons, persons affected by statelessness, grassroots organizations, activists, and national NGOs. NFA aspires to increase the proximity to power of persons with lived experience of statelessness through their meaningful participation in the statelessness ecosystem.<sup>5</sup>
8. [The Global Campaign for Equal Nationality Rights \(GCENR\)](#) mobilises international action for the removal of gender discriminatory provisions from all nationality laws through its coalition of national and international organisations and activists.<sup>6</sup>
9. [The Institute on Statelessness and Inclusion \(ISI\)](#) is the first and only human rights NGO dedicated to working on statelessness at the global level. ISI's mission is to promote inclusive societies by realising and protecting everyone's right to a nationality. The Institute has made over 90 country specific UPR submissions on the human rights of stateless persons. ISI has also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 43rd UPR Sessions.<sup>7</sup>

## Previous UPR of Bangladesh under the First, Second and Third Cycle

10. Bangladesh was previously reviewed during the 4<sup>th</sup> (First Cycle – 2009), 16<sup>th</sup> (Second Cycle – 2013) and 30<sup>th</sup> (Third Cycle – 2018) sessions of the UPR.<sup>8</sup>
11. In 2009, during the First Cycle, Bangladesh received two recommendations. Czechia recommended Bangladesh to amend its discriminatory nationality law regarding women's ability to transfer their citizenship onto their children born in mixed marriages. Italy issued a recommendation to improve birth and death registrations without delays. Both recommendations were accepted.<sup>9</sup>

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<sup>3</sup> For more information about FRC, see: <https://freerohingyacoalition.org/en/>.

<sup>4</sup> For more information about Namati, see: <https://namati.org/network/>.

<sup>5</sup> For more information about NFA, see: <https://www.nationalityforall.org/>.

<sup>6</sup> For more information about GCENR, see: <https://equalnationalityrights.org/>.

<sup>7</sup> For more information about ISI, see: <https://www.institutesi.org/>.

<sup>8</sup> For more information about Bangladesh under the Universal Periodic Review, see: <https://www.ohchr.org/en/hr-bodies/upr/bd-index>.

<sup>9</sup> UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review. Bangladesh', (5 October 2009), A/HRC/11/18, paras. 15 and 16.

12. In 2013, a total of four relevant recommendations were issued during the Second Cycle. Uruguay recommended Bangladesh to ensure valid birth certificates to all children, and Sierra Leone recommended ratifying statelessness convention. Both recommendations were accepted. Austria and Czechia made recommendations on ratifying statelessness conventions (Austria), and protecting, respecting and fulfilling Rohingyas' human rights (Czechia). Both recommendations were noted.<sup>10</sup>
13. During the Third Cycle, in 2018, three recommendations on statelessness and the right to a nationality were made to Bangladesh. Two recommendations on access to justice for stateless people, particularly women, girls and ethnic minorities (Iceland and Brazil) and on improving birth registration (Holy See). Only the latter recommendation was accepted.<sup>11</sup>

## Bangladesh's International Obligations

14. Bangladesh is not a signatory to either the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. However, Bangladesh has international obligations to protect the right to a nationality and protect the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include, among others:
  - International Covenant on Civil and Political Rights (see article 24.3);
  - International Covenant on Economic, Social and Cultural Rights (see articles 2.2 and article 3);
  - Convention of the Rights of the Child (see articles 2, 3, 7 and 8);
  - Convention on the Elimination of All Forms of Discrimination against Women (see article 9);
  - International Convention on the Elimination of All Forms of Racial Discrimination (see article 5(d)(iii));
  - Convention on the Rights of Persons with Disabilities (see article 18);
  - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (see article 29).
15. In addition to UPR, various UN Treaty Bodies made several recommendations on the promotion of the right to a nationality in Bangladesh.
16. Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women recognizes such laws as a form of discrimination and provides that women are to have equal rights with men. In its General Comment No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the CEDAW Committee confirmed that Article 9 extends an obligation to ensure equality between men and women in the ability to confer their nationality to their spouse.
17. In its 2016 response to the CEDAW Committee's List of Issues,<sup>12</sup> the Government reported that a draft had been prepared to amend the Citizenship Act in order to uphold

<sup>10</sup> UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review. Bangladesh', (8 July 2013), A/HRC/24/12, paras. 129.3, 129.95, 130.7 and 130.27.

<sup>11</sup> UN Human Rights Council, 'Report of the Working Group on the Universal Periodic Review. Bangladesh', (11 July 2018), A/HRC/39/12, paras. 147.149, 149.51 and 149.60.

<sup>12</sup> Committee on the Elimination of Discrimination against Women, 'List of issues and questions in relation to the eighth periodic report of Bangladesh. Addendum, Replies of Bangladesh', (12 July 2016), CEDAW/C/BGD/Q/8/Add.1, para. 45.

women's right to confer nationality on a foreign spouse. However, this proposed reform has yet to be realised over the past six years.

18. The persistence of gender discrimination in the 1978 Bangladesh Citizenship (Temporary Provisions) Rules results in violations of Bangladesh's obligations under international law and its own Constitution to uphold equality before the law and equality of opportunity.
19. Other UN Treaty Bodies expressed their concerns regarding statelessness in the country. In 2015, the Committee on the Rights of the Child (CRC) recommended Bangladesh to increase the birth registration rate as well as access to basic rights for all children, including the Rohingya.<sup>13</sup> In 2017, the Committee on Migrant Workers (CMW) recommended Bangladesh to register all children of migrant workers at birth, issue them personal identity documents and "*raise awareness of the importance of birth registration among migrant workers and their families*", grant Bangladeshi citizenship to children born prior to 31 December 2008 to a Bangladeshi mother and a non-citizen father and accede to both Statelessness Conventions.<sup>14</sup>

## Snapshot of Challenges relating to the Right to a Nationality and Statelessness in Bangladesh

20. According to UNHCR, there were more than 900,000 stateless persons, including forcibly displaced stateless people, in Bangladesh at the end of 2021.<sup>15</sup> There are no reliable statistics on the stateless population in Bangladesh put forward by the Bangladeshi government. Various communities- as described below- are subject to statelessness and the denial of their right to Bangladeshi nationality. The laws of Bangladesh provide for both *jus soli* and *jus sanguinis* citizenship. Under its written law, persons born in the territory will gain citizenship unless their father is a diplomat or an enemy alien.<sup>16</sup> However, in practice, the citizenship of a child is generally only recognised by the state if one or both parents are Bangladeshi citizens, shifting the application of the law towards *jus sanguinis*.<sup>17</sup> Additionally, the law requires that if the parent of the child is a citizen by descent, and the child is born abroad the birth must be registered for citizenship to be obtained.<sup>18</sup>
21. Stateless persons face wide-ranging human rights violations and hardships, including obstacles to accessing healthcare, social services, formal employment, property rights, inheritance, freedom of movement, and identity documentation. Stateless persons are also at a greater risk of human trafficking, arbitrary detention, and lack of access to justice.
22. The Urdu-speaking community is one of the populations that face major obstacles in enjoying the right to a nationality. Historically, the Urdu-speaking community was stateless with their status as Bangladeshi citizens denied due to perceived connections

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<sup>13</sup> Committee on the Rights of the Child, 'Concluding Observations on the Fifth Periodic Report of Bangladesh', (30 October 2015), CRC/C/BGD/CO/5, paras. 34 and 35.

<sup>14</sup> Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, 'Concluding Observations of the Initial Report of Bangladesh', (22 May 2017), CMW/C/BGD/CO/1, paras. 39 and 40.

<sup>15</sup> UNHCR, 'Global Trends: Forced Displacement in 2021', (June 2022), Annex, Table 5, [UNHCR - Global Trends Report 2021](#).

<sup>16</sup> The Citizenship Act (1951) Section 10.

<sup>17</sup> Ibid, Section 4 and Ridwanul Hoque, 'Report on Citizenship Law: Bangladesh', (December 2016), available at: [https://cadmus.eui.eu/bitstream/handle/1814/44545/EudoCit\\_2016\\_14Bangladesh.pdf](https://cadmus.eui.eu/bitstream/handle/1814/44545/EudoCit_2016_14Bangladesh.pdf).

<sup>18</sup> The Citizenship Act (1951) Section 5.

with Pakistan. Since the early 2000's, their citizenship status has been recognised and community members have progressively been granted citizenship.<sup>19</sup> In this sense, while the formal citizenship status of this population has been resolved, Urdu-speaking people continue to be impacted by the legacies of statelessness.<sup>20</sup>

23. The Rohingya community in Bangladesh encounters significant obstacles in accessing their nationality as well as other human rights. UN bodies, academics and NGOs, have given particular attention to the human rights violations of Rohingya subject to mass displacement in 2017.<sup>21</sup> Rohingya refugees in Bangladesh reside within refugee camps in Cox's Bazar, facing limited access to health and social services, education and living in precarious conditions condemned by residents, international organisations and NGOs.<sup>22</sup> The Government of Bangladesh has been relocating residents of Cox's Bazar to the remote island of Bhasan Char.<sup>23</sup> As of February 2022, an estimated number of 19,000 people had been relocated.<sup>24</sup>
24. Digitalisation of the birth registration process has further exacerbated the citizenship acquisition process in Bangladesh. The shift to the digital application system has made the process inaccessible for a large group of people and has increased costs making them reliant on intermediaries to help them with the process. Birth registration is already a concern in the country as a third of the children's births are not registered to prevent them from, for example, accessing formal education. More importantly, a birth certificate is an important document to be submitted during the citizenship acquisition process.
25. Further, while gender discriminatory provisions that prevent women from passing nationality to their children were removed through amendments to the Citizenship Act in 2009,<sup>25</sup> under existing law, women remain unable to confer nationality onto their foreign spouses on an equal basis with men.

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<sup>19</sup> US Department of State, '2021 Country Reports on Human Rights Practices: Bangladesh', (April 2022), p. 49, available at: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bangladesh>.

<sup>20</sup> Council of Minorities and Namati, 'Inhuman Camp Life of Bihari Urdu-speaking Linguistic Minority of Bangladesh', (2018), available at: <https://namati.org/resources/inhuman-camp-life-of-bihari-urdu-speaking-linguistic-minority-of-bangladesh/>; Khalid Hussain, 'The End of Bihari Statelessness', (2009), *Forced Migration Review* 30, p. 32, available at: <https://www.fmreview.org/statelessness/hussain>; Md Kamrul Hasan Arif, 'The Status of the Bihari Community in Bangladesh under Domestic and International Law', (2018,) 25 *International Journal on Minority and Group Rights* 664; Institute on Statelessness and Inclusion and Council of Minorities, 'Bangladesh: Together We Can' (August 2021), available at: [https://files.institutesi.org/BANGLADESH\\_Together\\_We\\_Can.pdf](https://files.institutesi.org/BANGLADESH_Together_We_Can.pdf); Katherine Southwick, 'The Urdu-speakers of Bangladesh: An Unfinished Story of Enforcing Rights' in Brad K Blitz and Maureen Lynch (eds) *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (Elgar, 2011).

<sup>21</sup> See further, Act for Peace, 'An Agenda for a Dignified and Sustainable Rohingya Refugee Response in Bangladesh', (May 2021); Nasir Uddin, 'The State, Vulnerability, and Transborder Movement: The Rohingya People in Myanmar and Bangladesh' in N Uddin and N Chowdrey (eds), *Deterritorialised Identity and Transborder Movement in South Asia* (2019); Christopher Faulkner and Samuel Schiffer, 'Unwelcomed? The Effects of Statelessness on Involuntary Refugee Repatriation in Bangladesh and Myanmar', (2019), 108(2) *The Round Table* 145; UNHCR, 'Bangladesh Operational Update: August 2021', (30 September 2021), available at: <https://reliefweb.int/report/bangladesh/unhcr-bangladesh-operational-update-august-2021>; Malang Faye, 'Forced Migration from Myanmar to Bangladesh and Beyond: Humanitarian Response to Rohingya Refugee Crisis' (2021) 6(13) *Journal of International Humanitarian Action* 1.

<sup>22</sup> Human Rights Watch, "'Are We Not Human' Denial of Education for Rohingya Refugee Children in Bangladesh' (December 2019), available at: <https://www.hrw.org/report/2019/12/03/are-we-not-human/denial-education-rohingya-refugee-children-bangladesh>; Kamil Ahmed, "'Like an Open Prison": A Million Rohingya Refugees Still in Bangladesh Camps Five Years After Crisis', *The Guardian* (23 August 2022), available at: <https://www.theguardian.com/global-development/2022/aug/23/five-years-rohingya-refugees-2017-bangladesh-myanmar-military-crackdown>.

<sup>23</sup> Human Rights Watch, "'An Island Jail in the Middle of the Sea" Bangladesh's Relocation of Rohingya refugees to Bhasan Char', (June 2021), available at: <https://www.hrw.org/report/2021/06/07/island-jail-middle-sea/bangladeshs-relocation-rohingya-refugees-bhasan-char>.

<sup>24</sup> Hanh Nguyen and Themba Lewis, 'Bhasan Char and Refugee 'Warehousing'', *The Diplomat*, (8 February 2022), available at: <https://thediplomat.com/2022/02/bhasan-char-and-refugee-warehousing/>.

<sup>25</sup> Ibid.

## Issue I – Access to Nationality and Other Rights for the Bihari Community

26. Most of the Biharis (also referred to as the Urdu Speaking Community) currently residing in Bangladesh were from Bihar in India, thus conferring to them the title of 'Bihari'. During the Partition of India in 1947, the Biharis migrated to what was then known as East Pakistan (present Bangladesh) with the purpose of inhabiting or settling there. After Bangladesh's independence in 1971, the Biharis were then considered to be stranded in Bangladesh after the war was over and were referred to as 'stranded Pakistanis' by the locals. Due to their controversial and alleged anti-Bangladesh role in the 1971 war, they were regarded as traitors and were not given the opportunity of citizenship in Bangladesh. This sequence of events triggered the Urdu-speaking community's struggle of statelessness and overall discrimination faced by them to obtain basic rights in the years to come.
27. While some of the Biharis have been able to successfully integrate themselves into mainstream society, most of them are still living in camps or settlements formed by the ICRC across Bangladesh. Currently an estimated 300,000 Biharis<sup>26</sup> reside in 116 'inhuman' camps and are identified under different names such as non-Bengalis, Biharis and Urdu-speaking.<sup>27</sup> The community has faced significant discrimination towards access to nationality and other fundamental human rights that, in practice, come with it.
28. In 2007, 11 petitioners filed a case in the High Court demanding equal citizenship and to be registered as voters in the Electoral Roll. The High Court Division ruled in their favour establishing an overall citizenship right for the Urdu-speaking community. Despite the judgement,<sup>28</sup> the Urdu speaking community continues to struggle with exercising basic rights to non-discrimination and right to Bangladeshi nationality. The denial to enjoy their right to Bangladeshi nationality for the Urdu speaking community on an equal basis with other citizens, results in limited access to housing, land rights, education, healthcare, and employment opportunities.<sup>29</sup>
29. The discrimination has been fuelled by a number of factors, including language, religion, and political affiliation and they continue to be marginalized through the denial of passports, physical isolation in refugee-like camps and denial of services even though

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<sup>26</sup> Geoffrey Macdonald, 'Bangladesh: Urdu-Speaking 'Biharis' Seek Recognition, Respect and Rights,' International Republican Institute, (4 February 2021), available at: <https://www.iri.org/resources/new-bangladesh-report-reveals-priorities-of-the-bihari-minority/>.

<sup>27</sup> Khalid Hussain, 'Situational Analysis of Mirpur-Urdu Speaking Camp eviction', (March 2021) (unpublished).

<sup>28</sup> Md. Sadaqat Khan (Fakku) and Others v. Chief Election Commissioner, Writ Petition No. 10129 of 2007, (18 May 2008).

<sup>29</sup> US Department of State, 'Bangladesh 2021 Human Rights Report', (April 2022), available at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bangladesh/>; Council of Minorities and Namati, 'Inhuman Camp Life of Bihari Urdu-speaking Linguistic Minority of Bangladesh', (May 2018), available at: <https://namati.org/resources/inhuman-camp-life-of-bihari-urdu-speaking-linguistic-minority-of-bangladesh/>; Khalid Hussain, 'The End of Bihari Statelessness' (2009) 32 *Forced Migration Review* 30; Md Kamrul Hasan Arif, 'The Status of the Bihari Community in Bangladesh under Domestic and International Law' (2018) 25 *International Journal on Minority and Group Rights* 664; Institute on Statelessness and Inclusion and Council of Minorities, 'Bangladesh: Together We Can' (August 2021). Available at: [https://files.institutesi.org/BANGLADESH\\_Together\\_We\\_Can.pdf](https://files.institutesi.org/BANGLADESH_Together_We_Can.pdf); Katherine Southwick, 'The Urdu-speakers of Bangladesh: An Unfinished Story of Enforcing Rights' in Brad K Blitz and Maureen Lynch (eds) *Statelessness and Citizenship: A Comparative Study on the Benefits of Nationality* (2011).



the current law recognizes them as citizens of Bangladesh.<sup>30</sup> The discrimination faced by the Urdu-speaking community has had significant consequences. Most of the community has been vulnerable to exploitation and abuse, with some being forced to work in dangerous and exploitative conditions.<sup>31</sup> The lack of equal access to documentation has also made it difficult for them to travel, as they may not have the necessary documents to cross borders or obtain visas.

30. Access to education is limited for the Bihari community as they face discrimination in the education system, and Bihari children are often excluded from mainstream education which limits their opportunities for economic and social mobility. Additionally, the Urdu-speaking community is often excluded from formal employment opportunities and are limited to low-paying jobs in the informal sector. The lack of access to formal employment opportunities perpetuates their poverty and limits their ability to access basic services and benefits.
31. One of the main challenges faced by the Biharis is the lack of access to basic human rights and services, such as housing and land rights. Most Biharis live in overcrowded refugee-like urban “camps” or slums, where they lack basic amenities such as clean water, sanitation, and healthcare. They also face limited job opportunities and restricted access to education, which makes it difficult for them to break out of such complicated cycle.
32. In terms of housing rights, the Bihari community is not eligible for housing programmes provided by the Government or non-governmental organisations. The lack of formal land ownership also makes it difficult for them to access credit and other financial services. They are often excluded from land allocation programmes and are denied access to land ownership.
33. Camp dwelling Urdu-speakers are also frequently at risk of eviction. The camp dwellers 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. In 1993, the National Housing Society sold the land of the Bihari camps in Mirpur, Dhaka, as plots 3 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.<sup>32</sup>
34. 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

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<sup>30</sup> US Department of State, '2021 Country Reports on Human Rights Practices: Bangladesh', (April 2022), p. 49, available at: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bangladesh>.

<sup>31</sup> Ibid.

<sup>32</sup> Council of Minorities, Free Rohingya Coalition and Institute on Statelessness and Inclusion, 'Joint Submission to the UN Special Rapporteur on the human rights', (23 January 2023), available at: [https://files.institutesi.org/Submission\\_SR\\_Human\\_Rights\\_Of\\_Migrants\\_Bangladesh.pdf](https://files.institutesi.org/Submission_SR_Human_Rights_Of_Migrants_Bangladesh.pdf).



rehabilitation of those who live in the camps and have a national identity card. Despite this High Court verdict, in 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. This exclusion from land rights makes it difficult for this community to access economic opportunities and engage in livelihood activities.<sup>33</sup>

35. Despite these challenges, there have been some efforts to address the discrimination faced by the Urdu Speaking community. In addition to the 2008 High Court judgement confirming Urdu-speakers as citizens, resulting from a petition driven by the community itself, other initiatives aim to improve the Bihari Community's access to education and healthcare. Some members of the community have also been able to obtain citizenship documents through support from community paralegals working under NGO initiatives, although for some documents such as passports this remains a slow and difficult process.<sup>34</sup>
36. The Bangladeshi Government has taken some steps to address the plight of the Urdu-speaking community, including providing identity cards and citizenship to some.<sup>35</sup> However, most members of the community still lack legal recognition and face significant barriers to accessing basic rights and services. For example, when using a national ID card, a camp-dwelling Urdu-speaker can be identified via their "camp" address, which can lead to other public and private service providers to deny services such as passports, bank accounts, and health cards otherwise availability to pregnant women and the elderly.
37. While there have been some efforts to address the issue, much more needs to be done to ensure that members of the community can access their rights and live free from discrimination and marginalisation. This will require a commitment from the Government, civil society organizations, and the wider population to address the root causes of structural discrimination and create a more inclusive society for all.

## Issue II – Rohingya Refugees in Bangladesh

38. The Rohingya community was stripped of its citizenship in Myanmar in the 1980s, subsequently persecuted in the country and neighbouring countries have failed to protect them as refugees and stateless persons. During the mass exodus of Rohingyas from Myanmar to Bangladesh in 2017, it was estimated that three quarters of a million fled the country.<sup>36</sup> Nowadays, Bangladesh hosts more than a million Rohingyas who reside in the refugee camps of Cox's Bazar and over 30,000 in Bhasan Char island.<sup>37</sup>
39. Since Bangladesh is not a party to the 1951 Refugee Convention nor the 1954 Statelessness Convention, Rohingyas are recognised as irregular migrants by the

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<sup>33</sup> Ibid.

<sup>34</sup> O. Shadman and R. Schönbauer, 'How a Bangladesh Court Ruling Changed the Lives of More than 300,000 Stateless People', (23 February 2015), available at: <https://www.unhcr.org/news/latest/2015/2/54ec22869/bangladesh-court-ruling-changed-lives-300000-stateless-people.html>.

<sup>35</sup> Geoffrey Macdonald, 'Bangladesh: Urdu-Speaking 'Biharis' Seek Recognition, Respect and Rights,' (4 February 2021), available at: <https://www.iri.org/resources/new-bangladesh-report-reveals-priorities-of-the-bihari-minority/>.

<sup>36</sup> UNHRC, 'Report of the independent international fact-finding mission on Myanmar', (September 2018), available at: [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/A\\_HRC\\_39\\_64.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_64.pdf).

<sup>37</sup> '963 more Rohingyas relocated to Bhasan Char', *The Daily Star*, (17 October 2022) available at: <https://www.thedailystar.net/rohingya-influx/news/963-more-rohingyas-relocated-bhasan-char-3145186>.

country. The only international protection they receive is through the joint UNHCR/Government of Bangladesh registration process where they are registered as “Forcibly Displaced Myanmar Nationals” and not as refugees which cannot be considered a durable solution to the protracted refugee situation. There are no pathways to Bangladeshi citizenship and the resettlement opportunities are scarce. They also have no access to the formal economic market and are restricted to enrol in Bangladeshi schools.

40. According to UNICEF, nearly half a million Rohingya children living in the world’s largest refugee camp are deprived of quality education, developmental opportunities and face disease outbreaks, malnutrition, risks related to neglect, exploitation and violence including gender-based violence, child marriage and child labour. Between 2016 and 2017, Bangladeshi authorities expelled more than 4,000 refugee children from schooling who were attending formal education outside the refugee camp.<sup>38</sup>
41. Insecurities continue to occur in refugee camps in Bangladesh. Rohingyas’ right to movement is restricted and livelihood opportunities are limited to underpaid NGO volunteering jobs. The refugee youths face risk of being manipulated by the non-state armed groups to engage in violent activities. Reportedly increased gun violence in the camps near the Bangladesh-Myanmar border, together with killings of community leaders and activists,<sup>39</sup> have added to the physical risks of the camp dwellers and have compelled them to take dangerous boat journeys refugees to other countries. UNHCR released new data in January 2023 stating some 3,545 Rohingya refugees undertook perilous sea voyages in 2022, to seek safety and new opportunities, a fivefold increase on 2021, when around 700 people made similar journeys. The report says, at least 348 individuals lost their lives or went missing at sea in 2022, making it one of the deadliest years since 2014.<sup>40</sup>
42. In February 2023, Bangladesh Defence Ministry reported that, between January 2021 and December 2022, there were 222 fire incidents in the Rohingya camps including 60 cases of arson. In March 2021, at least 15 people were killed and some 50,000 displaced after a huge fire tore through a camp in the settlement.<sup>41</sup> Two years on, more than 12,000 people lost their shelters in a devastating fire burning down 2,000 shelters and 90 facilities including health centre, learning centres and women's safe space, according to UNHCR.<sup>42</sup> Landslides during the last monsoon season have reportedly killed dozens of refugees including children and pregnant women, and displaced hundreds of families.<sup>43</sup>
43. In the 2022 Joint Response Plan for the Rohingya humanitarian crisis received less than half of the US\$881 million needed for the year, the UN warned that refugees risked serious shortages in food and other essentials. Experts warned that food shortages could

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<sup>38</sup> <https://www.unicef.org/appeals/bangladesh>

<sup>39</sup> Tanbirul Miraj Ripon, ‘Targeted Killings Spread Terror in Rohingya Refugee Camps’, *The Diplomat*, (15 November 2022) available at: <https://thediplomat.com/2022/11/targeted-killings-spread-terror-in-rohingya-refugee-camps/>.

<sup>40</sup> UNHCR, ‘UNHCR seeks comprehensive regional response to address rise in deadly South-East Asia sea journeys’, (17 January 2023) available at: <https://www.unhcr.org/en-au/news/briefing/2023/1/63c66c3c4/unhcr-seeks-comprehensive-regional-response-address-rise-deadly-south-east.html> and Council of Minorities, Rohingya Free Coalition and the Institute on Statelessness and Inclusion, ‘Joint Submission to the UN Special Rapporteur on the human rights of migrants in Bangladesh’, (29 January 2023), available at: [https://files.institutesi.org/Submission\\_SR\\_Human\\_Rights\\_Of\\_Migrants\\_Bangladesh.pdf](https://files.institutesi.org/Submission_SR_Human_Rights_Of_Migrants_Bangladesh.pdf).

<sup>41</sup> ‘Rohingya camp fire was ‘planned sabotage’ – investigators’, *BBC*, (13 March 2023), available at: <https://www.bbc.com/news/world-asia-64935831>.

<sup>42</sup> Rebecca Ratcliffe, ‘Huge fire at Rohingya refugee camp leaves thousands without shelter’, *The Guardian*, (6 March 2023), available at: <https://www.theguardian.com/world/2023/mar/06/rohingya-refugee-camp-fire-bangladesh-coxs-bazar>.

<sup>43</sup> UNHCR, ‘Flash Update #7 on Monsoon Response of 8 September 2022’, (15 September 2022), available at: <https://reliefweb.int/report/bangladesh/flash-update-7-monsoon-response-08-september-2022-coxs-bazar-bangladesh>.

lead to further violence and unrest in the camp, increase child labouring along with heightened risks of human trafficking.<sup>44</sup>

44. Moreover, health facilities in the refugee camps are limited to primary treatments. No medical treatment for secondary or tertiary medical conditions including surgeries and diseases. Many refugees are even suffering to diagnose their medical condition due to the lack of screening tools and equipment at the health centres available in the refugee camps.
45. There are no durable solutions to the protracted refugee situation. The human rights situation in Myanmar is not currently conducive to safe and voluntary repatriations. There is no legal framework in Bangladesh that enables them to regularise their legal status, work in the formal sector or enjoy other basic rights.

### **Issue III – Access to Birth Registration and Challenges to Digitalisation**

46. In Bangladesh, birth registration is a fundamental right that is guaranteed under the Constitution and the 2004 Registration of Births and Deaths Act.<sup>45</sup> Despite this, a significant proportion of children in Bangladesh are still not registered at birth, which can lead to increased risks of statelessness, and have serious consequences for their access health, education, and future prospects.
47. According to UNICEF, Bangladesh has made significant progress in increasing the rate of birth registration in recent years. In 2019, the rate of birth registration was 63%, up from 10% in 2000.<sup>46</sup> However, this still means that over one-third of children born in Bangladesh are not registered at birth, and the rate varies significantly across different regions and socio-economic groups. Children from disadvantaged households, rural areas, and minority communities are less likely to be registered at birth, which can lead to discrimination and exclusion from basic services such as healthcare, education, and social protection. According to UNICEF, as of 2021, only 43% of births in Bangladesh are registered within the first five years of life.<sup>47</sup> The main barriers to birth registration include lack of awareness, distance to registration centres, poverty, and cultural and social norms.
48. Birth registration in Bangladesh is a significant issue, particularly for the Urdu-speaking community. Structural discrimination and marginalisation, which can result in limited access to services, including birth registration. This is exacerbated by issues such as poverty, lack of documentation, and a lack of legal identity, which can make it difficult for families to access the registration process. The lack of awareness of the importance to register children at birth among the Urdu-speaking community results from language barriers. As a result, many families may not understand the importance of birth registration or how to go about registering their child. Another challenge faced by

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<sup>44</sup> <https://www.ohchr.org/en/press-releases/2023/02/bangladesh-un-experts-appeal-immediate-funding-avert-food-ration-cuts>

<sup>45</sup> Births and Death Registration Act, Bangladesh National Parliament, 2004, D A-1.

<sup>46</sup> Please note that according to the Bangladesh Bureau of Statistics (BBS), the birth registration rate in Bangladesh was 44.8% in 2019. Bangladesh Sample Vital Statistics 2019 (BGD-BBS-SVRS-2019-v01), (October 2019); and Bangladesh Bureau of Statistics (BBS), Statistics and Informatics Division (SID), Ministry of Planning.

<sup>47</sup> UNICEF, 'Country Office Annual Report 2021. Bangladesh', available at: <https://www.unicef.org/reports/country-regional-divisional-annual-reports-2021/Bangladesh>.

49. In order to obtain identity documentation in Bangladesh, an individual must be registered at birth. An online application process for birth certificates was introduced in 2018 and is now mandatory, with no manual or paper application option available. This shift follows the introduction of a “smart” ID card in 2016 with a similar online application service launched in 2020. Such digitalised process brings possible benefits in efficiency for some, but also risks for others. New barriers such as internet access and digital literacy are introduced into a process that many people in Bangladesh already struggle to access, evidenced by the birth registration statistics above. These barriers may disproportionately affect the most marginalised and vulnerable citizens in both urban and rural areas, including communities that have struggled with nationality.
50. In the Urdu-speaking community, for example, in which people have struggled with access to identification documents even after the 2008 High Court judgement that confirmed their nationality, the introduction of the digital birth certificate application has increased the complexity of acquiring a birth certificate. People within the community have become reliant on an intermediary who can assist with navigating the online application process. While some are assisted by a family member or trusted contact, others must approach brokers or private businesses like internet cafes for help. This dependence introduces opportunities for corruption and exploitation in terms of high charges and inaccurate information.
51. The possibilities for exclusion due to digital transitions in registration and identification systems as well as concerns about data privacy and protections have been recognised in other jurisdiction, including by courts in India, Jamaica, and Kenya, among others. For example, the High Court in Kenya recognised the risk of exclusion of segments of the population in the process of transitioning to a digital identification system. As a result, the Court ordered the Government to establish a comprehensive regulatory framework to address data protection and exclusion, with special emphasis on people without identity documents and people with poor biometrics.<sup>48</sup> These findings call attention to the need for robust governing frameworks and special measures for inclusion of people who face challenges of access to nationality and related documentation in countries considering digitalization of identification.

## **Issue IV – Gender Discrimination in Nationality Law**

52. Bangladeshi women are denied the ability to confer nationality on a non-citizen spouse on an equal basis with Bangladeshi men. According to Rule 4 (The Bangladesh Citizenship (Temporary Provisions) Rules, 1978, the female spouse of a Bangladeshi man may apply for citizenship after legally residing in country for a period of two years. The spouse of a Bangladeshi women does not have this same right and may only apply for citizenship under regular naturalization procedures. Further, in reference to men who naturalize as Bangladeshi citizens, the law states that their female spouse may apply for citizenship under the same provision outlined above, while again there is no reference to the spouse of a naturalized Bangladeshi woman having this equal right to apply for citizenship.

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<sup>48</sup> Nubian Rights Forum & 2 others v Attorney General & 6 others, High Court of Kenya, para 1045 and 1047.

53. Discriminatory nationality laws are based on stereotypes, which in turn reinforce stereotypical roles for both women and men, such as the idea that a woman, once married, would “naturally” follow the nationality of her spouse, with no ability for a women’s spouse to instead elect to acquire her nationality. As such, the law fails to respect women’s equal citizenship and their equality in the family. Gender discrimination in Bangladesh’s nationality law also undermines women’s ability to freely choose a spouse in practice. Gender discrimination in Bangladesh’s nationality law therefore contributes to the root cause of gender-based violence by perpetuating women’s equal status in society.
54. By denying women equal rights with men to confer nationality on their spouse, the nationality law additionally threatens family unity and the right of children with foreign fathers to know and be cared for by their father, as he may face obstacles to reside with his family in Bangladesh without citizenship. This discrimination can also perpetuate statelessness, when the spouse of a Bangladeshi woman is stateless or may lose his nationality due to prolonged absence from his country of origin.

## Recommendations

1. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Bangladesh:
  - I. Implement the provision on citizenship by birth stipulated in Section 4 of the 1951 Citizenship Act to ensure that persons born in the territory can acquire Bangladeshi nationality.
  - II. Issue an official directive to the city corporation and national housing authority to stop evictions of the Bihari Camps;
  - III. Develop a sustainable plan for dignified and quality housing, water and sanitation system in the Bihari Camps;
  - IV. Ensure that the judgments of the Bangladeshi Supreme Court for the Urdu-speaking community are implemented by the Government without any delay to ensure right to nationality and housing rights;
  - V. Ensure the Bangladesh Government continues to implement the 2008 judgement and that all members of the Urdu-speaking community receive legal recognition and can access to basic rights and services on an equal basis with all other Bangladeshi citizens;
  - VI. The international community to provide support for the rehabilitation of the Biharis in Bangladesh and establish a rehabilitation fund
  - VII. Recognise Rohingyas as refugees by issuing them with refugee cards and ensuring increased mobility of the Rohingyas in the country;
  - VIII. Provide access to formal education, accreditation, and development opportunities to enable Rohingyas to access decent work in and outside the camps and lift themselves out of the cycles of poverty and exploitation;

- IX. Increase access for Rohingyas to durable solutions such as resettlement, integration, and safe and voluntary repatriation;
- X. Promote access to civil registration for Rohingyas, including birth registration, in countries of refuge such as Bangladesh with a view to providing pathways to regularise legal status and citizenship for those experiencing intergenerational statelessness;
- XI. Ensure universal and free birth registration, particularly in remote areas and areas where minority communities live. Provide an alternate manual paper-based birth registration system for those who do not have access to digital registration and identification systems.
- XII. Reform the Nationality Code to uphold the right of Bangladeshi women to confer nationality on their non-citizen spouse on an equal basis with, and under the same conditions required of Bangladeshi men; and
- XIII. Accede to and fully implement the 1954 and 1961 Statelessness Conventions.