

Legal Empowerment Approach through Community Paralegal Project

Khalid Hussain

URDU-SPEAKING BIHARIS, a linguistic minority, are living in one hundred sixteen inhuman camps in Bangladesh. Numbering approximately 300,000, they are identified in the local community by different names, such as non-Bengalis, Biharis and Urdu-speaking. Prior to 2008, they were stateless.

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 what were known as 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 “Mohajir” meaning refugee, and later they became known as Biharis and Stranded Pakistanis in Bangladesh.

In December 1971, Bengalis in East Pakistan won independence after fighting the nine-month war of liberation against the Pakistan Army. During the war, a section of the Urdu-speaking Bihari community opposed the creation of Bangladesh. Because of this, the Biharis became victims of political violence after the emergence of Bangladesh in 16 December 1971. About 100,000 Biharis were killed by Bengali freedom fighters. They lost their properties, jobs, and became homeless and stateless.

During that time the Geneva-based International Committee of the Red Cross (ICRC) took the responsibility of providing 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 established.

Bihari camp dwellers are Bangladeshi citizens. However, they are not treated as a linguistic minority in Bangladesh. They remained camp dwellers for forty-six years after the independence of Bangladesh. They have stayed in subhuman conditions in the camps for over four decades.

In 2008, the High Court of Bangladesh confirmed the Bangladeshi citizenship of the Urdu-speaking camp dwellers. This landmark verdict raised a hope among the young Urdu-speakers on ending the decades-long struggle with statelessness. The landmark decision was the result of a writ petition filed by eleven camp residents on behalf of the whole community.¹ After this 2008 verdict, the Election Commission ordered to enroll camp dwellers in the national voter lists and issued national identity cards.

Issues

Due to lack of mass awareness of the landmark High Court verdict among the people in general and government officials, the camp dwellers failed to get the services and treatment they deserve as citizens depriving them not only of their civil and political rights but also their socioeconomic and cultural rights.

The Urdu-speaking camp dwellers are yet to enjoy their citizenship rights and have been facing difficulties to get their national identity card and passport, enroll in voter list, and access to basic services provided by government and non-governmental service providers.

Council of Minorities

The Council of Minorities (CoM) is a human rights organization with a special focus on the enforcement of the rights of minorities and indigenous peoples in Bangladesh. There are forty-five indigenous communities and religious, ethnic and linguistic minority communities in Bangladesh. With the majority of the Bangladeshis being Muslims, the indigenous, religious, ethnic and linguistic minority communities appear as pressure groups due to the difference in religion, language and culture.

Without proper government policy, it is not possible to ensure any positive changes in the overall enjoyment of minority/indigenous peoples rights in Bangladesh.

Through partnership, networking, advocacy and lobbying with the government, CoM has been trying to bring changes in the society to ensure that the minorities and indigenous peoples would enjoy their social, cultural, political, constitutional and economic rights. It promotes and fosters mass awareness on minority rights and duties, creates social awareness against social stigma, discrimination and xenophobia through the performing arts (including drama and documentary films) and enhances the capacity of minorities and indigenous peoples to organize their members through training, seminars, workshops, summits and minority fellowship program.

National Annual Minority Youth Leadership Summit

Since 2011, CoM has been organizing the National Urdu-speaking Youth Leadership Summit by inviting sixty Urdu-speaking youth from all the camps in Bangladesh. They attend three days of residential training on minority rights, leadership, community activism, personal skill development, and rights to housing, health and education. In March 2016, CoM hosted for the first time the three-day National Minority Youth Leadership Summit with the participation of seventy youth from different minority and indigenous groups.

Projects of CoM

CoM runs a live radio show and conducts research and advocacy projects.

Shomprity (Harmony) Live Radio Show

CoM has a live radio show on social awareness and civil documentation issue. The CoM radio show called *Shomprity* is aired on Ekattor 98.4 FM every first and third Sundays of the month. In every episode, CoM invites renowned speakers to talk about issues and their solutions. Broadcast media is a very strong instrument in promoting mass awareness on social issues and civil documentations.

Research

CoM is currently implementing a research project on minority profile mapping in twenty districts within the five divisions in Bangladesh. This project is supported by the Bangladesh Rural Advancement Committee-Human Rights and Legal Aid Services (BRAC-HRLS) department. Through

this research project, CoM maps the different types of minorities in the twenty districts and the issues related to access to justice.

Advocacy

CoM has an advocacy unit focusing on the different issues related to access to justice, citizenship and civil documentation. CoM has organized different strategic advocacy activities on the draft Bangladesh Citizenship Bill currently being considered at the Bangladesh Parliament. If passed by the Parliament, the Bangladesh Citizenship Bill will replace the 1951 Citizenship Act. The provisions in the Bill will create new situations of statelessness and perpetuate statelessness for some populations. CoM has organized a workshop, a roundtable, a press conference and a live radio show as advocacy strategies on the draft citizenship bill.

Empowering Linguistic Minority to Realize Citizenship Rights

Considering the deprivation and sufferings of the Biharis caused by lack of full access to citizenship rights, CoM has been running since June 2013 a paralegal project entitled “Empowering Linguistic Minority to Realize Citizenship Rights in Bangladesh” in partnership with Namati.² The project has the following objectives:

- To build an effective model in using legal empowerment approaches, specifically community-based paralegals, to facilitate the acquisition and use of identity documents to gain access to rights and opportunities as part of the core content of citizenship;
- To gather robust evidence on the relationship between identity documentation and statelessness, including the current discriminatory government practice that may contribute to an ongoing lack of effective exercise of citizenship, despite the possession of identity documents; and
- To encourage the use of this evidence in litigation and national or international advocacy efforts regarding access to effective citizenship rights by the Urdu-speaking Bangladeshis, if necessary.

What is the Work of the Paralegals?

Paralegals do every day door-to-door visit and organize community group meeting and community forum. At paralegal centers, paralegals provide in-

formation about the law, prepare application documents in the paralegal center, accompany the clients to the government office to apply and follow up on delays in processing, or denials, of the application.

Every day, paralegals are doing outreach activities inside the Camp. During the outreach activities, they disseminate the message of the 2008 High Court of Bangladesh judgment, and the importance and uses of the civil documentation like birth certificate, national identity card, passport, trade license and other services. Every day, the paralegals visit at least five houses in their rotational weekly plan. The paralegals interacted so far with 8,620 Camp dwellers through their daily outreach activities.

CoM has been providing paralegal support through six community-based paralegal centers in Dhaka (Mirpur and Mohammadpur), Mymensingh, Khulna, Chittagong and Syedpur. Camp dwellers and others who have questions on or need for legal support come to the paralegal centers. Fifteen youth are assigned as community-based paralegals to provide knowledge on law and government information to the community people and give skills training on negotiation, community education, organizing and advocacy to enable them to seek concrete solutions to instances of injustice. In addition, serving as dynamic “frontline” of justice service providers, paralegals focus on empowerment. They are not only working to resolve legal issues but also to build the people’s capacity to deal with problems related with access to justice in the future.

Legal Education

Paralegals organize community group meetings and community legal forums every month. They invite ten to fifteen women, men, boys and girls to attend the community group meeting where they learn about the 2008 High Court judgment and how it ended the statelessness of the Biharis. They discuss also the importance and uses of the civil documentations in their daily life.

Legal Empowerment for Women and Youth groups

The CoM established a pro bono legal empowerment women’s group in 2014 in the six centers. Forty women attend a monthly session to enhance their legal knowledge that they disseminate to their neighbors. They also help

the paralegals do outreach work, organizing community group meeting and community legal forum. In the same way, CoM has pro bono youth group in the six centers. They are helping the paralegals organize meeting and forum and also assisting the camp dwellers to obtain civil documentations like the paid paralegals. The establishment of these two pro bono groups is one way of making the paralegal project sustainable. When support from donors of the paralegal project ends, these pro bono women and youth will help the camp dwellers in the documentation needs.



Legal empowerment group meeting.

Paralegal Training and Refresher

At the beginning of the project in July 2013, CoM organized three basic paralegal training activities in Dhaka with ten youth as newly-appointed paralegals. The basic paralegal training program was designed by the Bangladesh Legal Aid Services Trust (BLAST). The basic paralegal training activity covers learning about the paralegal and her/his role and responsibilities, code of conduct of the paralegal, civil documentation rights covering birth certificate, Councilor Certificate, national identity card, passport and trade license. After the basic training, CoM organizes a two-day refresher paralegal training. Every year, all paralegals come together in Dhaka and share their experiences, success stories and challenges.



Paralegal training.



Presentation by paralegals during training.

Achievements in Civil Documentations

CoM has helped numerous camp dwellers over the years in obtaining birth certificate, Councilor Certificate, passport and Old Age Allowance. It also held a number of activities.

The birth certificate is one of the most requested documents in the Bihari camps. Without a birth certificate no one can be enrolled in school.

Councilor Certificate is needed to apply for passport, jobs, open bank account and obtain national identity card.

Urdu-speaking Camp dwellers, despite being Bangladeshi citizens, face discrimination in getting passports. Government authorities in different places have different practices in accepting and rejecting the passport applications of the Camp dwellers.

Poor men and women living in the camps receive Old Age Allowance, which helps them to survive.

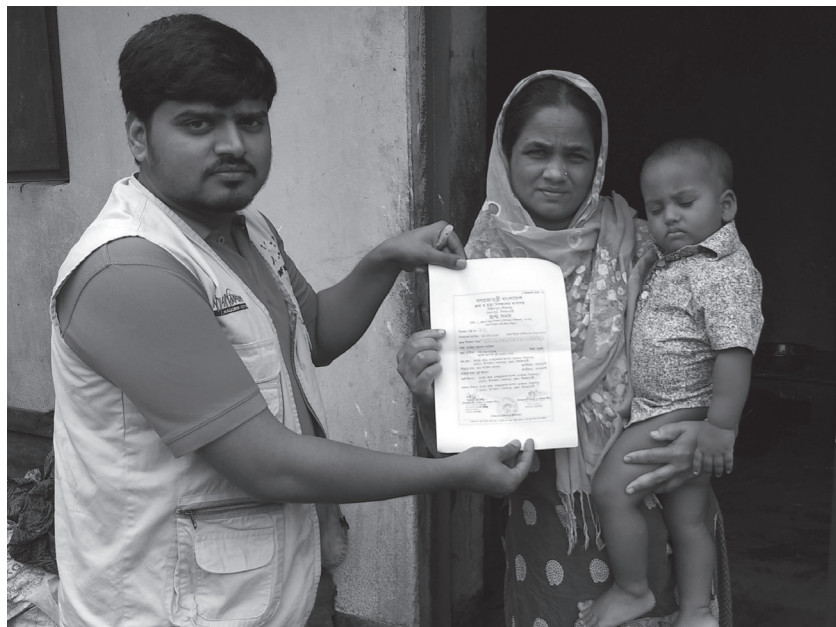
From June 2013 to December 2018 paralegals in six centers have helped camp dwellers obtain different types of civil documentation, as shown in the tables below.

Table 1. Summary of Activities (June - November 2018)

Center	Birth Certificate	Councilor Certificate	NID Card		Passport		Trade License		General Dairy	Bank Account	Death Certificate	Old age allowance	Disabled person Allowance	Total
			New	Renewal	New	Renewal	New	Renewal						
Chittagong	1,645	132	34	24	3	-	4	-	15	1	4	1	1	1,864
Khulna	589	293	47	5	24	-	15	5	11	53	5	-	-	1,047
Mdpur	2,982	53	11	28	21	3	3	1	24	9	-	177	34	3,346
Mirpur	2,032	47	104	66	50	7	3	-	136	18	1	1	-	2,465
Mym	499	244	42	70	3	1	6	8	23	2	2	-	-	900
Syedpur	1,508	37	-	5	7	-	1	-	57	19	1	-	-	1,635
Total	9,255	806	238	198	108	11	32	14	266	102	13	179	35	11,257

Table 2. Community Group Meetings (June 2013 - December 2018)

Center	No. of Meetings	Male	Female	Boy	Girl	Total
Chittagong	233	283	1,438	534	792	3,280
Khulna	148	422	778	300	370	2,018
Mdpur	230	287	1,492	394	858	3,261
Mirpur	231	322	1,523	378	919	3,373
Mymensingh	83	267	492	162	220	1,224
Syedpur	169	323	1,234	266	525	2,517
Total	1,094	1,904	6,957	2,034	3,684	15,673



Bihari resident receiving a birth certificate.

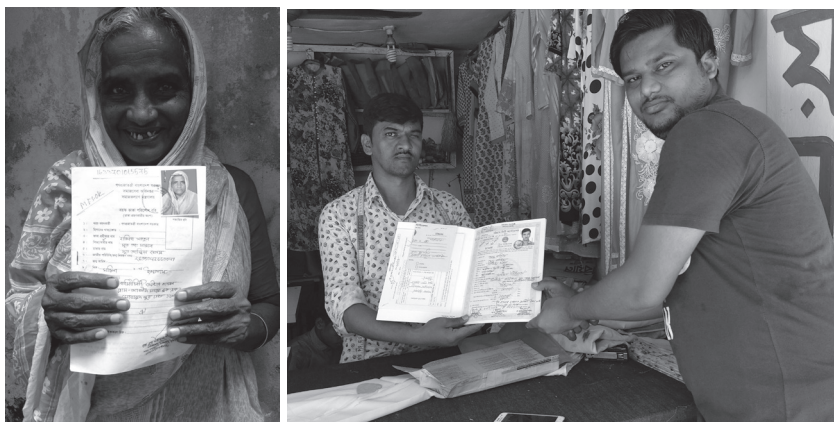
Table 3. Community Legal Forums (June 2017 to December 2018)

Center	No. of meetings	Female	Male	Boy	Girl	Total
Chittagong	19	52	465	118	186	840
Khulna	19	49	515	95	161	839
Mdpur	19	50	490	79	196	834
Mirpur	19	43	486	84	202	834
Mymensing	19	48	446	97	229	839
Syedpur	19	47	520	75	189	850
Total	114	289	2,922	548	1,163	5,036

Case Studies

Access to Passport

Masum Hussain is a 32-year old resident of Camp number 7, Khalishpur Khulna. He is a tailor master by profession. He was very eager to start a



(Left) An elderly Bihari with her old age allowance document. (Right) A Bihari camp dweller receiving his trade license from a paralegal.

business by importing fabric from India to improve his economic status. In August 2018, he went to apply for a passport. However, the passport authority rejected his application due to his Camp address and said that Bihari camp dwellers cannot get a passport. After some days, he met brokers in front of the passport office who offered to get him a passport but for double the cost. The amount asked was a big amount for him. He discussed the matter with his wife, who suggested that he visit the paralegal center to meet the paralegal.

His wife attended a community group meeting and learned about the 2008 High Court judgment and the Home Ministry order regarding the issuance of passport for the Bihari camp dwellers. When Masum heard about the order from the Home Ministry, he got the confidence to re-apply with the support of the paralegal.

According to his wife, with information about the paralegal support and home ministry order he visited the paralegal center and met Naz, a community paralegal in Khalishpur, Khulna, and briefly described his passport rejection issue. Paralegal Naz updated him about the 2008 High Court judgment and citizenship laws, paralegal activities and process of passport application. Two days after the paralegal completed all his paper work, Naz went to the passport office carrying a copy of the 2008 High Judgment and order from the Home Ministry. After the successful submission of passport application Masum got his passport within two months. Now he has learned the process of obtaining a passport and got the Indian visa to start his fabric business.

A bigger business for Nadim

Nadim Hossain stopped studying to support his family after his father suddenly became ill, while his elder brother is physically challenged. Nadim lives with his parents and three siblings in Camp No. 1 in Khalishpur area of Khulna district. He took a job at a medical store but struggled to provide for his family with the little salary he received. He tried to convince his employer to increase his salary but the employer did not agree. However, the owner advised him to open a medical store inside the camp if he wanted to earn more money. He took this advice and soon opened a small medical store inside the camp. He started doing good and the store became quite popular among the camp residents. He then wanted to expand his business which required a larger capital. He tried to get a loan from banks and non-governmental organizations (NGOs) but his application for loan was rejected because he did not have a trade license.

Nadim went to the city corporation and applied for a trade license. But his application was rejected because he was a member of the Urdu-speaking community living in the camp. Unable to get the trade license, Nadim visited the local paralegal center run by CoM to get help from the paralegals. He again submitted an application for trade license at the city corporation accompanied by a paralegal. When the application was again not accepted, the paralegal informed the officials of the city corporation about the citizenship status of the camp dwelling Urdu-speaking community. The paralegal presented a strong argument saying that since the camp dwellers carry national identity cards they have the right to get a trade license. His argument convinced the authorities and Nadim's application was successfully processed. Within a few days a received his trade license.

After obtaining a trade license, Nadim easily got a loan of 150,000 *takas* (1,800 US dollars) from a bank that he used to expand his store. Now his income has increased from just 6,000 *takas* (70 US dollars) per month to 15,000 *takas* (178 US dollars) per month. Not only is he now able to decently provide for his family, he is also able to save some money every month with an aim to further expand his business in the future.

Shabnam gets her job back

Shabnam Parvin is a resident of Wireless Line No. 9 in Chittagong. Her husband Mohammad Shamsad is unemployed. Shabnam used to work at a ready-made garment factory. She took leave from her work for three months

when she became pregnant. After her daughter was born she went back to work at the garment factory. But the officials in charge in the factory told her that in order to get her job back she will have to show them the birth certificate of her child. Like many other members of the Urdu-speaking community living in camps Shabnam was unaware of the importance of a birth certificate and also did not have any idea about how to obtain one. Her husband tried to get a birth certificate from the local ward councilor's office but failed. Getting back her job thus became very uncertain.

At this time, a CoM paralegal met Shabnam while doing outreach activities in the camp. Shabnam invited the paralegal to her house and told her about the difficulty she was facing in obtaining a birth certificate. After listening to her the paralegal helped Shabnam to fill up the birth certificate application form and took her to the city corporation office. With help from the paralegal Shabnam submitted her application for her daughter's birth certification and paid the fees at the office. Within a few days she received the birth certificate from the city corporation office. The paralegal also helped her to obtain a Commissioner's certificate from the local ward councilor.

Shabnam submitted copies of both the birth certificate and the Commissioner's certificate at the garment factory. She then got her job back. The factory authorities also paid her back some arrears which she was entitled to. Shabnam is now working at the factory very sincerely and also providing for her family.

Mostafa's passport

Mostafa works as a barber. He is also a singer. He lives with his parents in Geneva Camp in Mohammadpur area of Dhaka city. For a long time he has been yearning to visit Ajmer Sharif (a Sufi shrine) in India and pay his respect at the shrine. Mostafa did not have a passport and he heard about the difficulties other members of the Urdu-speaking community living in the camps faced while trying to get a passport.

Mostafa came to know from his neighbors about the paralegals of CoM in his area. He then went to the paralegal center and asked support from a paralegal to apply for a passport. A paralegal helped him fill up the passport application form and submit the application at the regional passport office on 30 May 2016. A week later an officer from the Special Branch of Police

(SB) came to verify the information Mostafa provided on the passport application. He asked for copies of utility bills but Mostafa informed him that camp residents did not get any utility bills. On this ground the passport office refused his application. With help from the paralegal, Mostafa submitted an application for passport twice (on 5 September 2016 and on 1 January 2017) and both applications were denied. They found out that the SB officer had written in his verification report that Mostafa was a stranded Pakistani, a cause for declining the application.

The paralegal took Mostafa to meet a higher official at the SB office. She explained to the official about the citizenship status of the camp dwelling Urdu-speaking community and assured him that Mostafa was a Bangladeshi citizen with a valid national identity card. The official asked them to present a copy of Mostafa's national identity card verified by the election commission office along with his application. Accordingly, Mostafa applied for passport for the fourth time on 2 July 2017 and submitted all required documents including a verified copy of his national identity card. This time his passport application was approved.

Mostafa finally received his passport on 30 July 2017 after more than a year of repeated applications. Mostafa planned to visit India with his father and pay respect at the Ajmer Sharif.

Mim gets a job

Mim Akhter lives with her parents, her brother and sister in a rented house in Mirpur area of Dhaka city. Her father is unemployed and her brother works as a driver. With the small income her brother makes, Mim's family barely managed to get by every month. Mim wanted to pursue her studies but could not continue as her family was unable to afford it. She then started to look for a suitable job. After searching for a job for some time she finally came across a job opportunity. But to apply for the job she was asked to submit a copy of her birth certificate along with her resume. Mim had no idea how or from where to get a birth certificate. She was at a loss and did not know what to do.

Mim talked to her neighbors and some people in her area to get suggestions about how to obtain a birth certificate. They advised her to talk to a paralegal from the CoM who worked in their neighborhood. They told her that the CoM paralegals help people to get birth certificate, passport, and

national identity card. Mim then went to meet the paralegal and informed her of her need for a birth certificate. The paralegal helped Mim fill up an application form and accompanied her to the city corporation office to submit her application form. The next day her birth certificate was ready and again the paralegal assisted Mim to receive it from the city corporation office.

As soon as she received her birth certificate Mim applied for the job and got it. She is very happy that she is now able to support her family. The money she earns from the job helps ease her family's financial constraints and allows them to have a better life.

Nazma registers her land

Nazma bought a piece of land but she could not get it registered on her name. Whenever she tried to get the land registered she was told by the authorities that she had to present a copy of her birth certificate. Nazma is a resident of Thirteen Heart Camp in Mirpur section 10 area of Dhaka city. She lives there with her husband and three sons. Like many members of the Urdu-speaking community living in camps Nazma did not have a birth certificate. She did not even know how or from where to obtain a birth certificate. As a result she was facing different problems such as not being able to register the land she had purchased.

One day Nazma saw a paralegal from CoM doing household visits in her community. She invited the paralegal to her house and asked her about her work. The paralegal told Nazma about the work CoM does including providing support in obtaining birth certificates, national identity cards, passports, etc. On hearing this, Nazma told the paralegal about the problem she was having with land registration due to lack of a birth certificate. The paralegal assured her that she would help Nazma obtain a birth certificate. Accordingly, the paralegal assisted Nazma file her application for a birth certificate at the city corporation office. The paralegal had to follow up three times with the city corporation officials to ensure that a birth certificate was issued for Nazma. Finally, after a few days Nazma's birth certificate was ready. The paralegal collected it and handed it over to Nazma.

After getting the birth certificate, Nazma was able to register the land in her name. This ensured her legal ownership of the land. And with a birth certificate, Nazma is able to get service from any government or private organization.

Challenges

All the Bihari-Urdu-speaking camp dwellers are citizens of Bangladesh and have national identity cards. However, Biharis are citizens without full access to related rights and benefits. At the beginning of the CoM paralegal project, the 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.

On 11 August 2014, CoM 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, CoM 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 the paralegals showed him the Home Ministry order. As a result two clients residing in Market Camp (Dhaka) received their passports.

However, around the same time a client from Geneva camp re-applied for a passport for the second time and showed the Home Ministry order but 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 was not acceptable for him.

In 2015, CoM assisted this Geneva Camp client in re-applying for a passport five more 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 afflict all camp residents. These rejections occurred despite showing the positive order from the Home Ministry. After that, CoM submitted a complaint to the National Human Rights Commission (NHRC) on 5 April 2015 about this case. Since April 2015 the NHRC has issued

seven letters to the Home Ministry with copy provided to Khalid Hussain of CoM. However, until now there is still no response from the Home Ministry to resolve the passport issue. Camp residents have national identity cards and their names are enlisted in the voter rolls, but they do not enjoy their fundamental rights in Bangladesh.

Conclusions

Following the 2008 High Court judgment, 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. 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 by securing funds 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. We need to remove racism, xenophobia and intolerant attitude to help make Bangladesh one of the most vibrant multi-lingual and multi-cultural countries in the world.

Endnotes

1 See Khalid Hussain, “Biharis: On Becoming Citizens of Bangladesh,” *FOCUS Asia-Pacific*, March 2016, volume 83, for more information on this issue. The article is available at www.hurights.or.jp/archives/focus/section3/2016/03/biharis-on-becoming-citizens-of-bangladesh.html.

2 For more information about Namati, visit <https://namati.org>.