

7. The Urdu-speakers of Bangladesh: an unfinished story of enforcing citizenship rights

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Figure 7.1 Overcrowding plagues every camp. Living conditions are cramped and pose safety and health problems as families, some as large as 15, live in 8 x 10 feet living spaces. In a room decorated with old newspapers glued to the walls, a family of seven lives and works in Kurmi Tola Camp in Dhaka.

Members of the Urdu-speaking minority in Bangladesh have always had a right to citizenship under national law, but the challenge has come from enforcing that right and the benefits that attach to it. Bangladeshi courts have recognized Urdu-speakers as citizens in successive cases

over the years. However, since the country gained independence from Pakistan in 1971, the state has failed to acknowledge them as citizens on a broad political and administrative level. This protracted disconnect between law and policy has made the group's status uncertain, effectively stateless.

For nearly four decades, the unwillingness of either government, Bangladeshi or Pakistani, to formally recognize this community as citizens has rendered an estimated 160 000–500 000 people vulnerable to extreme poverty and without equal access to education, health services and livelihoods.

Time, however, as well as the accretion of case law, has confirmed this group's citizenship. Since the most recent 2008 High Court decision ordering government agencies to register individuals to vote and to issue national identification cards, perceptions have shifted to the point where few can credibly deny that most of the Urdu-speakers (also known as Biharis and stranded Pakistanis) are Bangladeshi citizens. Time has healed some scars from the violent war for independence, during which both Bengalis and Urdu-speakers committed atrocities against each other. Time has also allowed a new generation of Urdu-speakers to grow up with limited ties to Pakistan and a natural affinity for Bangladesh. A whole generation of young people in Bangladesh has no personal memory of the liberation war. Yet progress for this community may ultimately arise not by ignoring the role of Pakistan nor by repressing memories but by collectively acknowledging the victims on all sides.

Some Urdu-speakers appear to have taken advantage of such progress by pursuing higher education and obtaining jobs. Others report that discrimination continues, particularly regarding access to public schools, government jobs and passports. Individuals are most affected who report addresses in slum-like settlements in urban areas where around half of the community has lived since the early 1970s. Poverty, resulting in part from years of effective statelessness, has also created barriers to opportunities and upward mobility.

Community leaders acknowledge the progress that has been made yet vacillate between accepting that change will not occur overnight and feeling frustrated that vindication of their clearly established rights continues to take so long. Based on the momentum for citizenship rights generated by recent court decisions, more can be done to integrate this minority into the country's social fabric and economic development. Bangladesh is a poor country with massive challenges, but the Urdu-speaking minority has seen progress. There is the potential for genuine success in ending statelessness and ensuring the right to a nationality.

ORIGINS OF THE URDU-SPEAKING MINORITY

Most Urdu-speakers of Bangladesh are descendants of Muslim minority groups originating in the Indian state of Bihar, close to Bangladesh. Accordingly, the Urdu-speakers are sometimes referred to as 'Biharis', a term which is problematic in part because not all Urdu-speakers can trace their background to Bihar. Some of their forbearers also came from other states, such as Uttar Pradesh, West Bengal and what is now Jharkhand.¹ As the term 'Urdu-speaking minority' suggests, this group is primarily united by language rather than by ethnicity or geographic origin.²

Some members of this community were civil servants in the British colonial administration, through which they were posted to East Bengal (now Bangladesh) to serve in the railways, police and other civil services.³ Thousands of railway workers brought their families to live near stations such as Syedpur, Parbatipur, Rangpur, Shantahar, Khulna, Jessore and Chittagong.⁴

In the years leading up to the Partition of India and Pakistan in 1947, the region was plagued by communal riots between Hindus and Muslims in several states, including Bihar. Communal tensions resulted in part from decades of debate over whether Hindus and Muslims could or should coexist in one united state of India or whether the country should be split apart along religious lines. Ahmed Ilias, former journalist and Executive Director of Al Falah,⁵ a non-governmental organization working in the Urdu-speakers' settlements in Dhaka, writes:

[t]he Bihar riots generated immense feelings of Islamic brotherhood among the Muslims of other provinces . . . Bengali Muslims contributed generously in cash and kind to help the affected Bihari Muslims. Sheikh Mujibur Rahman, then a student leader [who would later lead the call for Bangladesh's independence from Pakistan in 1971], toured the affected villages in Bihar with his relief team. He was so moved and excited by the scene of the refugee camps that he urged the Bihari refugees to come to East Bengal for their shelter and settlement.⁶

At the time of India's independence and Partition of the country in 1947, communal violence between Hindus and Muslims intensified. Tensions in Kashmir prompted revenge attacks against both Hindus and Muslims in several parts of India. Until the 1960s, millions of Muslims poured into East Pakistan (previously East Bengal, and by this time part of post-Partition Pakistan) as refugees, and Muslims in that state in turn committed violence against Hindus, forcing as many as four million across the border into India. Ilias notes that '[t]he local Bengali community was

also very sympathetic towards [the Muslim] refugees [from India], whom they absorbed as workers and executives in their business and commercial set-ups'.⁷

Many also came in search of economic opportunities and because of cultural ties.⁸ Some invested in industries such as jute, sugar and paper, owning their own factories and businesses. The Adamjee Jute Mill, built 20 kilometres south of Dhaka in Narayanganj in 1951 by the Adamjee Group of West Pakistan, was at one point the largest in Asia. Before closing in 2002, it reportedly employed thousands of Urdu-speakers.⁹ In addition to finding jobs in the railway department or police forces, Ilias recounts:

Unlike the other refugee groups, Biharis were small businessmen, petty traders, and shopkeepers. Most of them . . . belonged to the working class and only a handful emerged as factory owners [T]hey penetrated into mills and factories as laborers, supervisors, and administrators of commercial firms and factories.¹⁰

Culturally and linguistically distinct from the majority Bengali Muslim population, the Urdu-speaking minority did not systematically learn Bangla (or Bengali), the predominant language favoured by political elites from East Pakistan. They settled in their own urban enclaves, such as in Mohammedpur and Mirpur in the Dhaka area. Ilias chided his own group during this period, stating that 'they only thought about their economical interests disregarding the social and economic aspirations and hopes of the forty-two million Bengali Muslims and sufferings and agony of the Bengali Hindus'.¹¹

THE WAR OF INDEPENDENCE

Beyond political and economic favouritism West Pakistani elites shared with the Urdu-speaking minority in East Pakistan, Bengalis were also stung by Pakistani Governor-General Muhammad Ali Jinnah's declaration in 1948 that the national language of Pakistan, East and West, would be Urdu. Pakistan's obstinacy on this issue stoked protests within the Bengali-speaking majority of East Pakistan, leading to the creation of the Language Movement, which advocated that Bengali be taught in schools and used in government relations. Following a series of mass protests in which several people were killed or beaten by police, the Bengali language was granted official status along with Urdu in 1956.

The Language Movement helped form the basis for the Bengali nationalist Awami League's call for greater autonomy. Other factors contributed to Bengali frustration with being part of Pakistan. Although East Pakistan

contained a slight majority of the population, government spending disproportionately favoured West Pakistan. The limited response of West Pakistan to a cyclone that hit East Pakistan in November 1970, killing 300 000 to 500 000 people, was widely criticized. Bengalis were underrepresented in the military, and political power was concentrated in the president and the military. Any elected prime minister from East Pakistan was promptly deposed by the predominantly West Pakistani political-military establishment.

In 1970, the Awami League, East Pakistan's largest political party and led by Sheikh Mujibur Rahman, won a majority of seats in the National Assembly. Zulfikar Ali Bhutto, leader of the Pakistan Peoples' Party, refused to allow Rahman to become prime minister of Pakistan and proposed having two prime ministers, one from the West and one from the East. Talks failed in March 1971, prompting Rahman to call for a nationwide strike and to declare independence.

The Pakistan Army's plan to quell Bengali nationalism, Operation Searchlight, was promptly put into action. Some members of the Urdu-speaking minority, along with Islamist groups and Bengalis opposed to independence, formed paramilitary forces to support West Pakistan. Targeting students, the intelligentsia, Hindus and anyone thought to be supportive of the Awami League, the operation led to large-scale destruction of property, rape and murder. Death toll estimates range from 300 000 to 3 000 000. Over one third of the population was displaced, with eight to ten million refugees fleeing across the border to India. In the course of conflict, the Urdu-speaking minority also experienced brutal revenge attacks 'as they were seen as symbols of Pakistani domination'.¹² Anthony Mascarenhas, a South Asian journalist, then writing in the *Sunday Times*, recounted:

Thousands of families of unfortunate Muslims, many of them refugees from Bihar who chose Pakistan at the time of the partition riots in 1947, were mercilessly wiped out. Women were raped, or had their breasts torn out with specially fashioned knives. Children did not escape the horror: the lucky ones were killed with their parents; but many thousands of others must go through what life remains for them with eyes gouged out and limbs amputated. More than 20,000 bodies of non-Bengalis have been found in the main towns, such as Chittagong, Khulna, and Jessore. The real toll, I was told everywhere in East Bengal, may have been as high as 100,000, for thousands of non-Bengalis have vanished without a trace.¹³

Responding to Indian support of Bengali resistance fighters, the Pakistan Air Force launched a pre-emptive strike against India, prompting India to invade East Pakistan. Out of concern that growing Indian influence in the

region would upset Cold War power balances, the Nixon Administration in the USA provided military supplies to Pakistan. A few months later, in December, Pakistan surrendered, and conflict with India formally ended under the July 1972 Simla Agreement.

POST-INDEPENDENCE: DISPLACEMENT AND REPATRIATION

The Liberation War, as it is known in Bangladesh, gave birth to an independent country,¹⁴ which swiftly established a parliamentary democracy. Amidst these developments, the situation of the Urdu-speaking minority took a dramatic turn for the worse.

As the Pakistani military and civilians evacuated from Bangladesh, the Urdu-speaking minority found themselves unwanted by both countries. Pakistan was reportedly concerned that a mass influx of people would create tensions within culturally mixed populations, particularly in the Sindh region.¹⁵ Bangladesh, on the other hand, rejected the community for having supported the enemy. Revenge attacks continued. As Ninette Kelley explains, 'Witnesses reported summary executions by firing squads, mass decapitations, rape and mutilation. Although the government estimated that 15,000 were killed, most estimates place the number of deaths of Urdu-speakers at between 70,000–100,000 people in a matter of months'.¹⁶

Hundreds of thousands of internally displaced members of the Urdu-speaking minority sought refuge in some 166 camps quickly constructed by the International Committee of the Red Cross (ICRC). These camps were situated mostly on public land in or near urban areas such as Dhaka, Rajshahi, Khulna and Chittagong divisions.¹⁷ Some of the camps in Dhaka were established in areas in which Urdu-speakers had long been settled, such as Mohammedpur and Mirpur. As the population crowded into the ICRC camps, many members of the group were purged from government posts and their property confiscated under presidential orders.¹⁸ Property was seized on grounds that it was deemed abandoned or that it belonged to enemy aliens.¹⁹

On 15 December 1972, a presidential order on citizenship, the *Bangladesh Citizenship (Temporary Provisions) Order, 1972*,²⁰ was promulgated. In this same period, Pakistan, India and Bangladesh sought to address the status of displaced persons. Under the *New Delhi Agreement* of August 1973, Pakistan and India, with the concurrence of Bangladesh (which Pakistan had not yet recognized), set out to solve 'the humanitarian problems resulting from the conflict of 1971'.²¹ Pressure on the Pakistan government mounted from the Urdu-speaking population in the Sindh

province of Pakistan who insisted that members of the group be admitted from Bangladesh, and from the Bangladeshi government who conditioned the establishment of diplomatic relations on resolution of the humanitarian situation.²² The parties agreed to the simultaneous repatriation of all Bengalis in Pakistan and all Pakistanis in Bangladesh.²³ In particular:

the Government of Pakistan, guided by considerations of humanity, agrees, initially, to receive a substantial number of such non-Bengalis from Bangladesh. It is further agreed that the Prime Minister of Bangladesh and Pakistan or their designated representatives will thereafter meet to decide what additional number of persons who may wish to migrate to Pakistan may be permitted to do so.²⁴

The *New Delhi Agreement* provided that India would work out a time schedule for the completion of repatriation in consultation with Pakistan and Bangladesh. Pakistan, India and Bangladesh further stated that in carrying out logistical arrangements for repatriation of individuals from and to their respective countries, they 'may seek the assistance of international humanitarian organizations and others'.²⁵ They were 'confident that the completion of repatriation . . . would make a signal contribution to the promotion of reconciliation in the sub-continent'.²⁶

On 19 September 1973, three weeks after the *New Delhi Agreement* was signed, repatriation processes commenced.²⁷ In February 1974, Pakistan recognized Bangladesh as a sovereign state. In the April 1974 *Tripartite Agreement* between Bangladesh, Pakistan and India, the three governments reviewed progress and made new commitments regarding repatriation. Regarding 'non-Bengalis in Bangladesh':

the Pakistan side stated that the Government of Pakistan had already issued clearances for movement of Pakistanis in favor of those non-Bengalis who were either domiciled in former West Pakistan, were employees of the Central Government and their families or were members of the divided families, irrespective of their original domicile. The issuance of clearances to 25,000 persons who constitute hardship cases were also in progress.

The Pakistan side reiterated that all those who fall under the first three categories would be received by Pakistan without any limit to numbers. With respect to persons whose applications had been rejected, the government of Pakistan would, upon request, provide reasons why any particular case was rejected. Any aggrieved applicant could at any time seek a review of his application provided he was able to supply new facts or further information. The claims of such persons would not be time-barred. In the event of the decision of review of a case being adverse, the governments of Pakistan and Bangladesh might seek to resolve it by mutual consultation.²⁸

Under the *New Delhi* and *Tripartite Agreements*, about 500 000 'stranded Pakistanis' registered with the ICRC for repatriation to Pakistan, but only about 108 000 people were repatriated.²⁹ The majority of the population was refused citizenship, and thousands of families still suffer from decades of separation. Despite Bangladesh's calls for continuing repatriation processes, Pakistan resisted.

In the years that followed, several thousand more Urdu-speakers reportedly moved to Pakistan illegally.³⁰ Thousands remaining in Bangladesh continued to subsist in the government-managed camps (the ICRC departed in 1973)³¹ which evolved into squalid, overcrowded slum-like settlements where entire families live in rooms no larger than eight feet by ten feet. Most are denied access to social services, including public education and health care, and as a result of poverty and discrimination, find their livelihoods in the informal sector as barbers, mechanics or rickshaw drivers. Some, including children, engage in traditional weaving and the embroidery of saris, techniques known as *Benarasi* and *Karchupi*. Although these products are prized for their luxurious quality, the artisans are paid less than one tenth of the retail price.³² While most settlements have electricity, sanitary conditions are grave. The few toilets and washing facilities, combined with poor drainage and nearly non-existent garbage disposal, have resulted in high levels of dysentery, particularly among children, and the risk of water-borne diseases such as cholera is high.

During the 1970s, as living conditions deteriorated and as Pakistan faced political pressure to honour its agreements regarding repatriation, the Stranded Pakistanis General Repatriation Committee (SPGRC) was formed. It vigorously continued advocacy for repatriation. In 1985, Pakistan President Zia-ul Haq offered to accept the remaining Urdu-speakers in Bangladesh on humanitarian grounds, offering international assistance. Millions of dollars were raised, and the Saudi charity, Rabita al-Alam al-Islami (World Muslim League) created the Rabita Trust for Repatriation of Stranded Pakistanis from Bangladesh in 1988 to facilitate the repatriations. The World Muslim League and the Pakistan High Commission in Bangladesh reportedly carried out a population survey of the camps in Bangladesh.³³

Some small progress was made in 1993, when under a Joint Declaration between Bangladesh and Pakistan, 50–60 families out of an anticipated 3000 were repatriated from the Adamjee camp in Narayanganj.³⁴ By 1994, the Rabita Trust reportedly had constructed 1000 housing units (out of an anticipated 41 500 throughout Punjab) in the Mian Channu district.³⁵ Repatriation was controversial within Pakistan, as non-Urdu-speakers in the Sindh region raised concerns that they would become a minority in their ancestral land and that the Urdu-speakers would join paramilitary groups.³⁶



Source: © Greg Constantine 2010.

Figure 7.2 Most Bihari camps in Bangladesh are comprised of people born after 1971. Young Bihari consider Bangladesh their home and feel it is essential to their cultural identity that they are provided with the rights granted to all Bangladeshi citizens. Bihari youth gather at a rally in Dhaka in 2006.

With a change in government in Pakistan, the issue became a low priority. In early 2006, a Pakistan government representative told Refugees International (RI), a humanitarian advocacy organization that has published several reports on the Urdu-speakers, that 'we see this as a humanitarian issue'.³⁷ When asked about movement toward resolution, the representative responded, 'we are not aware of any steps at this time'.³⁸ On an August 2008 visit to Bangladesh, RI could not reach the Pakistan High Commission in Dhaka for comments.

Left with few belongings, limited opportunities and perhaps permanent separation from their families, some Urdu-speakers, particularly those who consider themselves 'stranded Pakistanis', vacillate between despair and a dogged resolution to continue advocacy for repatriation. The SPGRC continued its call for repatriation and reunification of 3000 families during the organization's November 2009 summit.³⁹ Despite feelings of resentment, some, particularly the elderly, continue their desire to go to Pakistan.

THE NEXT GENERATION

Since the 1970s, another generation of Urdu-speakers, fluent also in Bengali, has grown up in Bangladesh. With no first-hand memory of the Liberation War and with a limited affinity for the idea of 'Pakistan', many members of this generation identify with Bangladesh and have developed a desire to be recognized as Bangladeshi citizens. Some members of the older generation, either pragmatically acknowledging that repatriation was unlikely or feeling more at home in Bangladesh having spent their lives there, also shared this inclination.

These perceptions coincided with worsening conditions in the camps, which became more overcrowded and uninhabitable. Today, about 160 000 of around 300 000 Urdu-speakers in Bangladesh live in 116 camps and settlements.⁴⁰

In Geneva camp, one of the largest (named for the city of the ICRC headquarters), only 250 public latrines are available for 25 000 people.⁴¹ Young couples limit the number of children they have simply because there is no space in which to raise them.⁴² A settlement address is often construed as barring access to public education, jobs and passports⁴³ because such a residence denotes that the individual is a 'Bihari' or 'stranded Pakistani' and therefore not entitled to the full benefits of citizenship.⁴⁴ To avoid such outcomes, Urdu-speakers 'often give non-settlement addresses in order to obtain the required services'.⁴⁵ Because few Urdu-speakers can afford to send their children to private school, 'only 10 per cent of primary school aged children and 2 per cent of secondary school aged children attend school'.⁴⁶ Paulsen notes that 'their freedom of movement is not restricted, and they are free to live in or outside the settlements, and travel anywhere in the country'.⁴⁷ While this statement may be true in principle, poverty, due in part to discrimination, prevents many in the camps from exercising this freedom.

Some Urdu-speakers living outside the camps have managed to obtain a relatively middle-class or higher economic status and have integrated into society. Some groups have raised funds to support education, micro-finance projects or sanitation services.⁴⁸ Others, as will be discussed later, have assisted with litigation on behalf of the minority group's rights. Overall, however, the relationship between those living outside the camps and the camp-dwellers, is unclear. Paulsen claims that for those living outside the camps, 'their origin is neither a bar nor an issue' and that this particular 'class has evolved away from those living in the settlements'.⁴⁹

Over time, some individuals, especially those living in the camps, perceived that their separation from mainstream society had led to uncertain citizenship status, which in turn led to discrimination, poverty and lack of

opportunities. They determined that the first step toward genuine progress would require clarification of their right to citizenship under national law.

REALIZING THE RIGHT TO CITIZENSHIP

The laws of Bangladesh establish that most Urdu-speakers in Bangladesh qualify as citizens, yet a number of factors – social, political and even legal – have confused the group's status over the decades.

The *Constitution of the People's Republic of Bangladesh*, adopted in 1972, provides that 'the citizenship of Bangladesh shall be determined and regulated by law'.⁵⁰ The *Adaptation of Existing Bangladesh Laws Order* of 1972 kept in force all laws from before independence, subject to any necessary changes.⁵¹ Accordingly, the primary laws governing citizenship include the *Pakistan Citizenship Act* of 1951 and the *Bangladesh Citizenship (Temporary Provisions) Order (Citizenship Order)* of 1972. As the Appellate Division stated in *Bangladesh v. Professor Golam Azam*, 'the provisions of the Act and the Order are to be read together to get a complete picture of the law of citizenship in Bangladesh'.⁵²

Under the *Citizenship Act*, every person born in the territory after 1951 is a citizen by birth.⁵³ An individual can claim citizenship by descent if she is born after 1951 and her father is a citizen at the time of the individual's birth.⁵⁴ Citizenship may be revoked if the individual obtained certificates of domicile or naturalization through concealment of material facts, expressed disloyalty to the Constitution through actions or speech, or engaged with or illegally traded with an enemy during a war.⁵⁵

Under Article 2 of the *Citizenship Order* of 1972, every person shall be deemed to be a citizen of Bangladesh:

1. who or whose father or grandfather was born in the territories now comprised in Bangladesh and who was a permanent resident of such territories on the 25th day of March, 1971, and continues to be so resident; or
2. who was a permanent resident of the territories now comprised in Bangladesh on the 25th day of March, 1971, and continues to be so resident and is not otherwise disqualified for being a citizen by any other law. . .⁵⁶

Under Article 2 (b), a person cannot qualify for citizenship if he 'owes, affirms or acknowledges, expressly or by conduct, allegiance to a foreign state'.⁵⁷ According to Article 3 of the Order, 'in case of doubt as to whether a person is qualified to be deemed to be a citizen of Bangladesh under

Article 2 . . . the question shall be decided by the government, which decision shall be final'.⁵⁸

The repatriation policies articulated in the 1973 *New Delhi Agreement* and the 1974 *Tripartite Agreement*, the displacement of so many Urdu-speakers to ICRC-administered camps, the conflation of support for Pakistan during the war of independence with the concept of 'enemy alien' under the abandoned property laws, and the explicit desire on the part of some Urdu-speakers to go to Pakistan helped confuse the status of the community within Bangladesh, at least in a practical sense if not a legal one.

The *New Delhi Agreement* spoke of repatriation of 'all Pakistanis in Bangladesh', the Pakistan government's willingness to 'receive a substantial number of such non-Bengalis from Bangladesh', and referred to 'non-Bengalis who are stated to have 'opted for repatriation to Pakistan'' as 'Pakistanis'.⁵⁹ In the 1974 *Tripartite Agreement*, Pakistan is said to have 'issued clearances for movement of Pakistanis in favor of those non-Bengalis' who fell into the three categories described earlier.⁶⁰ Such interchangeable usage of 'Pakistani' and 'non-Bengali' reflects a perception that non-Bengalis in Bangladesh, particularly those wishing to repatriate, are actually Pakistani citizens. Urdu-speakers displaced to ICRC camps were all presumed to have filed applications for repatriation to Pakistan. The expropriation of Urdu-speakers' property under the abandoned property orders suggests that many were deemed to have been enemy aliens, as opposed to citizens who opposed the creation of Bangladesh.⁶¹ Neither Pakistan nor Bangladesh clearly articulated terms for citizenship for those who did not wish to repatriate to Pakistan or for those who did not qualify for repatriation. The absence of clear citizenship policies, particularly for minorities with ties to more than one country, is a pitfall in the course of state succession.⁶²

CASE LAW

Some cases clarified whether support for Pakistan during the Liberation War, or if expressing or acting on a desire to live in Pakistan after independence, constituted expressions of disloyalty or allegiance to another state or created any other grounds for losing Bangladeshi citizenship. For example, in *Mukhtar Ahmed v. Government*, the court found that 'the mere fact that the petitioner filed an application for going over to Pakistan cannot take away his citizenship He could voluntarily renounce it or he could be deprived of it if he . . . incurred any disqualification He filed an affidavit affirming his allegiance to Bangladesh in 1972. The

petitioner having not acquired the citizenship of any other country, his citizenship of Bangladesh, which he acquired long before, cannot evaporate and he continues to be a citizen of this country.⁶³

The case of *Bangladesh v. Professor Golam Azam* was especially important in clarifying the limits of the exceptions to citizenship. Golam Azam was president of the Jamaat-e-Islami Party of the former East Pakistan and was known to have supported Pakistan before and during the Liberation War. In August 1971, the party's paper quoted him as saying, 'but God forbid, if Pakistan does not exist, then Bengali Muslims will have to face the death of dishonor'.⁶⁴ He claimed that pro-liberation forces were enemies of Pakistan and addressed paramilitary groups responsible for atrocities against Bengalis. He went to Pakistan in 1971 and returned to Bangladesh in 1978, after years of trying to obtain an exit visa from Pakistan. He no longer carried a Pakistani passport and had applied for restoration of Bangladeshi citizenship. In seeking to deport him back to Pakistan, the government contended that Azam could not be deemed a citizen of Bangladesh under Article 3 of the *Citizenship Order*.

The Appellate Division determined that Article 3 could be invoked 'only when a "doubt" arises as to whether a person fulfills all or any of the conditions "deeming citizenship" under Article 2'.⁶⁵ Since Azam was a permanent resident on 26 March 1971, he was a citizen on grounds of permanent residence under the *Citizenship Order*. He was not a Pakistani citizen because 'one cannot continue to be a citizen of Pakistan merely by his choice to stay in Pakistan unless the State of Pakistan accepted him as such'.⁶⁶ Moreover, 'law cannot be interpreted according to the respondent's alleged contemplation or notion about Pakistan's sway over his mind. Even a diehard pro-Pakistani, born in this country, is entitled to be a citizen of Bangladesh if he fulfills the requirements under Article 2 and is not disqualified under clause 1 of Article 2(b)'.⁶⁷ The court went on to underscore that deprivation of nationality could not be used as punishment for holding certain political opinions. It stated that:

Even if the [criminal] allegations are correct, our citizenship law does not deny citizenship to those who opposed the creation of Bangladesh and even killed freedom fighters and were engaged in murder, rape, and so on There were many Muslims (and Hindus as well) who opposed the creation of Pakistan Yet, the Pakistan Citizenship Law did not deny them citizenship. They were deemed to be citizens of Pakistan if they had permanent residence in the territory of Pakistan and did not leave the same. Bangladesh also followed the same principle In Bangladesh, collaborators and Razakars (paramilitaries) were prosecuted under the Collaboration Order, President's Order No. 8 of 1972, but they were not denied the citizenship of Bangladesh.⁶⁸

Further regarding permanent residence, 'the domicile of origin is not lost by abandonment nor is it extinguished by mere removal Overwhelming evidence is required to rebut the presumption in favor of its continuance.'⁶⁹ More generally, the court articulated the resilient quality of citizenship rights, stating that 'Citizenship, though not mentioned as a fundamental right in our Constitution, is to be considered as the right of all rights as on it depends one's right to fundamental rights expressly provided for a citizen in Part III of the Constitution and his right to seek a Court's protection of those rights.'⁷⁰ In addition, 'it can be safely said that citizenship involves a determination of a very vital issue concerning an individual by which his fundamental, political and civil rights are affected'.⁷¹

Perhaps because the Urdu-speakers' identity still seemed so bound up in the idea of Pakistan, at least on a social and political level, the implications of the Mukhtar Ahmed and Azam decisions had limited effect on altering perceptions of the citizenship status of the Urdu-speaking community as a whole. The 2003 High Court decision in *Abid Khan and others v. Government of Bangladesh* managed to touch more broadly on Urdu-speaking persons' right to citizenship. In that case, ten Urdu-speakers filed a petition requesting the court to direct the Election Commission to register them as voters. The Commission had asserted that because the petitioners lived in Geneva camp in Mohammedpur, they were not entitled to voter registration. The court found that those petitioners born before independence were citizens by permanent residence under the 1972 *Citizenship Order*. Being only two and four years old at the time of independence, and with no claims to the contrary by the respondent, the petitioners did not fall into the exception of having expressed allegiance to a foreign state.⁷²

Regarding whether residence in Geneva camp raised any special concerns, the court took judicial notice of 'the fact of liberation struggle of Bangladesh and subsequent connection of the Urdu-speaking persons in this camp . . . after the liberation of Bangladesh for security reasons'.⁷³ The court did not find that 'only because of the concentration of Urdu-speaking people, who were citizens of erstwhile East Pakistan, the so-called Geneva Camp has attained any special status so as to be excluded from the operation of the laws of the land So mere residence of the first group of petitioners at the Geneva Camp cannot be termed as allegiance to another state by conduct.'⁷⁴ Referring to *Mukhtar Ahmed v. Government of Bangladesh* and *Abdul Khaleque v. The Court of Settlement*, the court noted that petitioners at issue were 'in a much better footing [because] they did not even apply for citizenship of another country nor did they apply for repatriation to Pakistan'.⁷⁵ The court determined that the petitioners born after independence were citizens under the 1951

Citizenship Act. No exceptions applied. Accordingly, the court directed the Election Commission to register the petitioners to vote. The government did not appeal the decision.

Nonetheless, Paulsen observes that the citizenship status of Urdu-speakers remained unclear despite the Abid Khan decision, primarily because the government had not clarified its policies or acted unequivocally following the order.⁷⁶ The UNHCR has also noted that ‘the effect of the 2003 decision was limited to the ten petitioners’.⁷⁷ Whether that effect was limited in a legal or policy sense is unclear. However, as with any other precedent, the same reasoning presumably applies to all others so as to prevent requiring each individual to seek a court’s confirmation of his or her citizenship.

Sadakat Khan and Others v. The Chief Election Commissioner, May 2008

The landmark 2008 decision, *Sadakat Khan and Others v. The Chief Election Commissioner*, as well as certain government actions that followed, addressed the citizenship rights of Urdu-speakers as a group more explicitly than in previous cases. A political crisis created an opportunity. In 2006, the Bangladesh National Party (BNP) gave power temporarily to a non-elected caretaker government, provided for in the Constitution to ensure that new elections take place freely and fairly. The opposition Awami League led nationwide protests demanding electoral reforms, prompting the caretaker government to declare a state of emergency and to extend its term to make the reforms.

The Election Commission was tasked with preparing new voter registration lists, which would be used for issuing national identity cards to all citizens for the first time. The Chief Election Commissioner wrote to the Chief Advisor (head of the caretaker government) on 7 June 2007, requesting clarification as to whether the Urdu-speakers living in the ICRC-created camps were citizens and should therefore be registered to vote. The Election Commission did not question whether Urdu-speakers living outside the camps were citizens, and those individuals were enlisted in the electoral rolls.⁷⁸ As the High Court stated, ‘till [May 2008] the Chief Advisor could not find time to give any policy guidance’.⁷⁹ Irrespective of whether the Chief Advisor responded or not, this kind of constitutional question, in part because it affected a whole community, could only be decided through a writ petition.⁸⁰

Sadakat Khan, leader of the Urdu-Speaking Peoples’ Youth Rehabilitation Movement (USPYRM), and ten others filed a petition, requesting that they be enrolled as voters. Most of the petitioners resided in camps in Mirpur, north Dhaka. The Election Commission did not

appear in the case. The Chief Election Commissioner, as conveyed in his letter to the Chief Advisor, only sought clarification of the law and had no reason to oppose the petitioners. The Commissioner 'solicited an urgent decision on the matter of citizenship of the people'. He reasoned that after introduction of a national identity card as a condition for delivery of a number of services, 'these people may lose access to many services they currently enjoy. Even renewal of a rickshaw license would require presentation of an ID card and no ID card will be issued to a person who is not a citizen of Bangladesh'.⁸¹ Moreover, the Commissioner reportedly stated that the Commission 'was of the view that the time has come to look at the issue objectively and with compassion. The case of the Urdu-speaking people needs to be separated from 'stranded Pakistanis' and a decision on their citizenship may be taken expeditiously. It also desired the Chief Advisor may consider holding an inter-ministerial meeting with all relevant government agencies'.⁸²

Having reviewed the law, including the Abid Khan and Mukhtar Ahmed decisions, the court concluded that 'members of the Urdu-speaking people, wherever they live in Bangladesh . . . have already acquired the citizenship of Bangladesh by operation of law' if they meet the requirements under the 1951 *Citizenship Act* or the 1972 *Citizenship Order*.⁸³ '[N]o intervention of the government is necessary . . . and the Election Commission is under constitutional obligation to enroll [those who wish to enroll] in the electoral roll as voters. No functionary of the Republic can deny such rights of the Urdu-speaking people who want to be enrolled as voters'.⁸⁴ The court found the petitioners to be citizens of Bangladesh and entitled to voter registration. The court also directed the Election Commission to 'enroll the petitioners and other Urdu-speaking people who want to be enrolled in the electoral rolls accordingly', and to 'give them National Identity Card[s] without any further delay'.⁸⁵

Underscoring the importance of the constitutional right to citizenship, the court also stated:

Miseries and sufferings of such people due to statelessness were time to time reported in the national media, electronic and print . . . [T]hey are constantly denied the constitutional rights to job, education, accommodation, health, and a decent life like other citizens . . . By keeping the question of citizenship unresolved on wrong assumptions over the decades, this nation has not gained anything rather was deprived of the contribution they could have made in nation building. The sooner the Urdu-speaking people are brought to the mainstream of the nation the better.⁸⁶

Under the Sadakat Khan decision, the Urdu-speakers' right to citizenship was unequivocal. A number of factors were at play in the result,

such as the earlier decisions that set important precedent in interpreting Bangladesh's citizenship laws,⁸⁷ the pressure felt by the Election Commission to carry out sweeping electoral reform, the Chief Election Commissioner's integrity in seeking 'to look at the issue objectively and with compassion,' and the willingness of petitioners and their attorneys to pursue the case, no matter the risks. Rafiqul Islam Miah, the attorney in the Sadakat Khan case, is Bengali and essentially took the case pro bono. Having seen the 'inhumane conditions' in the camps, he felt that the camp-dwellers, especially those born after the Liberation War, were 'still suffering' due to no fault of their own. 'These Biharis are very hard-working; they are not thieves or terrorists,' he stated. The denial of rights was clear to him. M.I. Farooqui, an Urdu-speaking attorney who had brought earlier cases, including the Abid Khan case, acknowledged that 'we took some risk in bringing these cases'.⁸⁸ In deciding whether to litigate, 'we not only read the law; we read the judges'.

Other factors that contributed to this success included 'advocacy on the part of local organizations, such as the USPYRM, Al-Falah, and RMMRU (Dhaka University's Refugee and Migratory Movements Research Unit), as well as international advocates who encouraged interest in the issue; UNHCR's studies of the situation and discrete advocacy with the government; and the government's restraint in declining to appeal the decision, either because of benign neglect or 'in tacit recognition that a solution had been delayed for far too long'.⁸⁹

Three months later, the Election Commission began its drive to register eligible voters throughout the camps. As recounted by Refugees International, 'Over several long days and through weekend hours, Election Commission "enumerators" took forms door to door, registering hundreds of people each day . . . After a person was registered for voting, he or she was instructed on where and when to report for national ID registration'.⁹⁰ During this author's August 2008 visits to some of the camps during voter registration, the atmosphere was enthusiastic and hopeful. One enumerator, a high school teacher, found the work 'very satisfying because everyone is so cooperative'.⁹¹ Family members gathered around individuals in their homes as they worked with the enumerators to fill out the forms. Reams of completed forms were proudly bound and stacked for delivery to the Election Commission.

Around 80 per cent of eligible Urdu-speakers, men and women of all ages, registered to vote and obtained identity cards.⁹² The cards enable an individual to access numerous rights and services, such as 'getting a passport, opening a bank account or securing a loan, getting utility connections, registration for public examinations, applying for public services, marriage registration, applying for government subsidies, selling and



Source: © Greg Constantine 2010.

Figure 7.3 While stateless, most Bihari could not work in the private sector and were not given government jobs. Most work petty jobs that cater to others living in the Bihari camps. A man runs a small printing press out of the one room his family occupies.

buying land and vehicles, admissions to schools and lodging petitions and appeals in court'.⁹³ Reactions to the process were positive to uncertain. Several parents believed the ID cards would enable their children to go to schools, find jobs and avoid harassment when travelling in rural areas. Others had heard rumours that obtaining a national ID card could lead to eviction from the camps.⁹⁴ One pragmatic woman stated, 'We will just have to wait and see if [the ID card] brings us any benefit.'⁹⁵

CURRENT SITUATION AND INTERVIEWS

Fifteen months after the voter registration drive and issuance of national IDs (November 2009), interviews of individuals living in camps in Mohammedpur, Mirpur and Narayanganj (outside Dhaka) were carried out. People were selected at random for interviews based on availability and willingness to speak. Interviewees ranged in age from 18 to 70, male and female. Assessments of the current situation were mixed. Some

individuals reported that their ID cards gave them a sense of national belonging and identity, that they had opened doors to education and jobs, while others felt that discrimination continued or that nothing had changed because their poverty was simply insurmountable.

Some individuals were positive to ambivalent about having citizenship and a national ID card. For instance, Ali⁹⁶ is 22 years old with a Master's degree in management. He voted for the first time last year. He sought an ID card to show that 'I am a national of this country,' and felt that an ID card brought tangible benefits, such as the opportunity to attend government schools and obtain jobs in public service. Still, Ali is not totally confident that having a national ID card makes him or others immune to discrimination. He stated that he provided a non-camp address when he applied to go to school because 'if they knew you were a stranded Pakistani, you didn't get access'.⁹⁷ Even now, he claims that individuals applying for government jobs or education are better off using non-camp addresses. Moreover, 'if you have money, you can get a job'.⁹⁸ According to Ali, having a national ID is less of a guarantee than the means to bribe your way to opportunities.

Some interviewees' perceptions of the ID cards were primarily optimistic. For example, Sara is 40 years old and the mother of four small children. She said she felt she had no opportunities until she obtained a national ID card. It enables her to say that 'I am a national of this country, I have rights, and I expect that when I want to open a bank account, obtain a passport, or buy land, I will be able to do so'.⁹⁹ She is 'happy to have become a voter. With the national ID card, my kids are able to say that they are educated gentlemen, and equal with others. The ID is very useful for my kids.'

Farida, who is 21 years old, married and studying to receive a Bachelor's degree in business studies, was similarly positive. She reported that she feels 'more important' having obtained a national ID card. 'If you don't have an ID, you have lots of problems'.¹⁰⁰ With her card, she voted for the first time, opened three bank accounts and applied for shares in the national stock exchange. She needed an ID card to apply for her job and believes that having an ID helps keep her job secure.

For Munni, another young woman living in a camp in Mohammedpur, the ID card affirms her sense of identity and aspirations. She is 18 years old and became a voter last year. Her father is a butcher, her mother is a housewife and she has four sisters. Two of her sisters are in 'open university' and two are in government schools. As for her, 'I'm an educated girl' she said, studying commerce in her higher secondary school. When asked to speak about her identity, she responded, 'Of course I am Bangladeshi.' An ID card 'is necessary to prove I am Bangladeshi, that my motherland

is Bangladesh. It is necessary to go into the outside world, to apply for a government job.' She would like to join the army because it is 'honorable, established, and comes with benefits and facilities'.¹⁰¹ She claims that one potential barrier to her success is that 'some men think women should not study', but this has nothing to do with having an ID card.

Others' impressions of having an ID card were characterized by ambivalence, with some expressing uncertainty, a sense of powerlessness despite having a card, and even fear. Shahanaz has four children and all attend private school. She believes that she is in the same position since she obtained an ID card. 'I am confused. I do not know if having an ID helps or not. Twenty-six years ago, many of my relatives went to Pakistan, but I did not have enough money at the time. Now, only two relatives live in Bangladesh. I prefer to go to Pakistan.' She voted for the first time last year, but 'many people said different things, such as that if we became voters, our children would become more secure in Bangladesh. On the other hand, we also heard that the government would evict us if we became voters.'¹⁰²

Sajia, a mother of six, was also ambivalent. All of her children study at home 'because of financial problems'. Most of her boys work in handicrafts, making two saris per week. They are paid 500 Taka for a sari that sells on the market for 4000 Taka. 'What will happen next? I don't know. It depends on the government.'¹⁰³ One of her sons, Raja, is 20 years old, registered to vote last year and spends several hours a day embroidering saris. He said, 'Without an ID card we can't do anything.' He needed an ID to enroll in university, and he would like to use his ID to obtain a passport. He wants to go overseas and become a fashion designer. 'I want something bigger', he said with a grin. Whether or not Raja can fulfil his dreams and truly enjoy the benefits of citizenship will depend on whether or not he can overcome his family's poverty.

Josim is 35 years old and was born in Bangladesh. He said that there has been 'lots of suffering, but the next generation will lead a better life'.¹⁰⁴ He elaborated that 'we need an ID card to have a national identity, to feel secure, to fulfill our needs, to get jobs, and attend government schools'. He nonetheless expressed fears that with an ID card, he would not be permitted to live in the camp.

In Mirpur, Sadakat Khan, who successfully brought the 2008 petition seeking voter rights, claims that little has changed for individuals who live in the camps. In principle, having an ID clears the way to applying for certain jobs, going to school and seeking rehabilitation from the government. Yet having a camp address still creates barriers to accessing basic services. Living conditions in the camps, especially poor sanitation, are unchanged. Several cases involving housing rights are still pending in the

legal system; the courts are being asked to prevent government evictions from the camps. According to Sadakat Khan, '[w]e need more legal assistance to continue to litigate our rights. We still do not know how to seek compensation for property that was lost in 1971.'¹⁰⁵ In making these statements, Khan is not content to rest on any laurels he may have earned in successfully bringing the 2008 case. He is modest and matter-of-fact.

In Adamjee camp near Narayanganj, views on the community's current status were pessimistic. Many individuals claimed that they had applied for jobs in the 'Export Processing Zone', a complex of factories being constructed near the camps, but that they were turned away because they were 'Biharis'. They felt that the ID cards had made no difference in their lives. One group said they wanted to go to Pakistan but that they would be all right staying in Bangladesh if they had 'full rights and dignity'.¹⁰⁶ Worth noting is that many camp-dwellers in Adamjee had been previously employed in the now defunct nearby jute mills and that the most recent group of individuals who went to Pakistan in 1994 originated from Adamjee. The school in the camp where the emigrants reportedly gathered 15 years ago to say goodbye to the community is now derelict.¹⁰⁷

ANALYSIS AND CONCLUSION

Overall, interviewees' sentiments ranged from ambivalent to positive regarding the impact of being recognized as citizens and having obtained a national ID card. Because having a national ID card permitted access to public schools, jobs, bank accounts, licences and passports, many individuals perceived that their prospects and their children's futures had substantially improved. However, poverty, corruption and ongoing confusion within certain administrative agencies over the legal effect of having a camp address continue to block access to these opportunities. Enduring perceptions by the majority of the country's population (and perpetuated by the media) that the group consists of 'stranded Pakistanis' also feed notions that the Urdu-speakers are not from Bangladesh.

These conditions in turn diminish the meaning and value of nationality in the country. More broadly, they reflect weaknesses in legal institutions. If people cannot access their legal rights because they are indigent, because bureaucrats are corrupt or unhelpful, or because average individuals just do not believe that they are entitled to these rights, what is the use of such rights? Moreover, national ID cards do not by themselves reunite individuals with family in Pakistan. Solving statelessness does not solve all problems. Yet while some expressed concerns that having a national ID card

might increase the likelihood of eviction, no one reported that national ID cards had actually made their lives worse than before.

Notably, when asked about why it was important to have a national ID card, several interviewees first stated that it enabled them to say that they were citizens of Bangladesh. They understood that from this fact, many benefits flowed. As one woman said, 'I am a national of this country, I have rights.' One did not need to be an eminent jurist to grasp that nationality, for all practical purposes in Bangladesh, constituted the 'right to have rights'.¹⁰⁸ This relationship between citizenship and other rights has profound psychological implications. In Bangladesh and elsewhere, for persons without citizenship, life is a giant negation. Stateless persons have conveyed feelings of dislocation, stasis, powerlessness, hopelessness and depression. To say 'I am a national of this country', in the slums of Dhaka or anywhere, is an affirmative statement that 'I exist.' As Sadakat Khan stated after the May 2008 judgment, 'We hope to get our life back'.¹⁰⁹ Moreover, 'We can live in Bangladesh with dignity'.¹¹⁰

Although interviewees' assessments of their situation since obtaining national ID cards are not resoundingly enthusiastic, the success of the Urdu-speakers in confirming their citizenship rights through the courts is unquestionably significant. On a basic level, statelessness is a legal problem.¹¹¹ Through successive court judgments and with the help of sympathetic attorneys, community members confronted the root of their predicament and obtained legal remedies. It was a triumph not only for the Urdu-speakers, but also for rule of law more broadly, for '[t]he petitioners succeeded in a judiciary vulnerable to political influence and lengthy delays'¹¹² and elicited powerful language from the courts regarding citizenship rights and the group's need for integration into society. Thanks to these efforts, most Urdu-speakers living in Bangladesh can claim Bangladeshi nationality. The community is definitively not stateless, and no one can legitimately assert that Urdu-speakers, living inside or outside the camps, are legally barred from enjoying the benefits of citizenship.

However, as some of the interviewees suggest, legal victories are not enough.¹¹³ The remaining challenges for genuinely ending statelessness among the Urdu-speakers of Bangladesh are the political, social, economic and administrative obstacles that frustrate implementation of the group's rights as citizens. As the American Ambassador to Bangladesh, James Moriarty, stated to community leaders when he visited Geneva camp in November 2009, 'I came here to call attention to your community, to show that political rights exist, but that there is still much ground to cover'.¹¹⁴

Groups such as the RMMRU call for 'rehabilitation with dignity', and along with Al-Falah, advocate for government and non-governmental

plans to support education, livelihoods and general integration developed in consultation with the community. While remaining persistent with its advocacy that Pakistan take more responsibility for the community, SPGRC also affirms rehabilitation as a solution, stating that 'we are ready to stay [in Bangladesh], but with all basic needs and rights'.¹¹⁵ An attorney in the Sadakat Khan case further averred that '[i]f you give them some support, they will be excellent citizens'.¹¹⁶

Ahmed Ilias of Al-Falah accepts that expectations must be realistic. 'Things will not change overnight. We must have our own policy and programs to rehabilitate the community, and match it with the government's plans. I have to own Bangladesh, including its problems. I must acknowledge that the government is facing problems more challenging than the Biharis'.¹¹⁷ Since the government generally aims to benefit the majority, the strategy should seek to make the government see the Urdu-speakers as part of the population, while still allowing the community to retain its linguistic traditions.¹¹⁸ Community leaders also foresee the need for more litigation to protect rights. Yet the government can easily avert the need for costly litigation and facilitate the community's integration by unequivocally affirming the rights of Urdu-speakers and prohibiting discrimination and unequal treatment.¹¹⁹ It should also continue to raise with Pakistan the rights of certain individuals to reunite with family members. Such gestures might form part of a concurrent process of post-liberation reconciliation.

The story of the Urdu-speaking community of Bangladesh provides important lessons regarding successful advocacy for nationality rights. It also demonstrates that ending statelessness does not always resolve all of its consequences, nor does it eliminate all of its causes. This fact in turn raises questions regarding how to define and measure statelessness, how to determine when the predicament has actually ended and when victory can truly be declared. Due largely to individual initiatives, unsung heroes and increasing international attention, the Urdu-speakers of Bangladesh stand and deserve a fair chance of carrying their success forward to full enjoyment of citizenship, to the 'life with dignity' that Sadakat Khan and others have long sought.

NOTES

1. Ilias (2003), p. ix, fn. 1 and p. xi.
2. Terminology used to define the group is somewhat contentious. Ahmed Ilias of the non-governmental organization AL-falah asserts that '[i]n Bangladesh, "Bihari" is a word usually considered offensive for a non-local, speaking Urdu.' (ibid., p. ix). Members of the young generation express that terms such as 'Bihari' or 'stranded

Pakistani' are unhelpful to their efforts to advocate for integration and rehabilitation within Bangladesh, as they imply that the group is from and therefore belongs somewhere else (Author interviews with members of Al-Falah in their early to late 20s, August 2008 and November 2009). 'Urdu-speaking minority' is the preferred term of those who wish to claim Bangladeshi citizenship, because they consider it to be more accurate and inclusive than other terms while still retaining a sense of cultural distinctiveness. Perhaps appealing to linguistic identity is also helpful for inspiring unity within the Bangladeshi context. As will be discussed below, the Language Movement played a significant role in shaping national identity before independence in 1971, partly through promoting appreciation for Bengali language and culture. Reference to an Urdu-speaking minority is arguably a call for cultural recognition and celebration to which the Bengali majority can relate.

By contrast, another group organized within the community is called the Stranded Pakistanis General Repatriation Committee (SPGRC). As the name suggests, the group has pressed for the community's repatriation to Pakistan and prefers to identify the minority as 'stranded Pakistanis.' This term references the group's historical identification with Pakistan before Bangladesh's independence and alludes to deep grievances against Pakistan's refusal to accept those individuals who wish to migrate to Pakistan.

Connotations related to the term 'stranded Pakistani' carry validity. Yet mindful of the diversity of opinion among community members in Bangladesh, I have chosen to use the term 'Urdu-speakers' and 'Urdu-speaking minority' throughout this chapter because these terms do not carry strong implications as to where the group ultimately belongs.

3. Ibid., p. ix.
4. Ibid., p. x.
5. Al-Falah means 'welfare' in Urdu.
6. Ilias (2003) p. 39.
7. Ibid., p. 60.
8. Ibid., p. 56.
9. 'Author interview with SPGRC at Adamjee camp, Narayanganj, November 2009; see also Khan (2004).
10. Ilias (2003) p. 62.
11. Ibid., p. 66.
12. Minorities at Risk Project (2007). According to the Minority at Risk Project, 'Bengalis reportedly killed over 1,000 Biharis', though other estimates are much higher.
13. Anthony Mascarenhas, *Sunday Times*, London (13 June 1971), quoted in Kelley (2009). Mascarenhas subsequently published two books, *The Rape of Bangladesh* (1971) and *Bangladesh: A Legacy of Blood* (1986).
14. Bangladesh means 'Bengal nation or land'.
15. Lynch and Calabia, (2006).
16. Kelley (2009), pp. 349, 356 (citing Sen, 2000, p. 41).
17. Paulsen (2006), pp. 54–5.
18. See South Asia Forum for Human Rights (n.d.).
19. The *Bangladesh Abandoned Property (Control, Management and Disposal) Order*, 1972 (President's Order No. 16 of 1972, 28 February 1972, Preamble and Article 2.
20. Paulsen notes that '[t]he supposedly temporary law has yet to be consolidated or codified.' (Paulsen, 2006, p. 57).
21. *New Delhi Agreement between India and Pakistan*, Article 3, (28 August 1973).
22. Kelley (2009), p.357 (citing Shah (1997)).
23. *New Delhi Agreement*, Article 3 (a) (iii).
24. Ibid., Article 3 (a) (v).
25. Ibid., Article 3 (a) (vii).
26. Ibid., Article 3.
27. *Tripartite Agreement of Bangladesh-Pakistan-India*, Article 6 (9 April 1974).

28. Ibid., Article. 12.
29. Chowdhury (1998).
30. Kelley, (2009), p. 358.
31. Refugee and Migratory Movements Research Unit (2007).
32. Calculations based on author's interviews with *Benarasi* and *Karchupi* weavers and embroiderers in camps in Narayanganj and Mohammedpur, November 2009.
33. *Survey of Stranded Pakistanis Conducted by Pakistan High Commission*, Rabita Islami, and Assisted by SPGRC, Table 4: Distribution of population by camp and location of residence (1992).
34. Daily Star (1993). Apparently, most of the 1110 families living in the Adamjee camp believed that they would also be imminently repatriated to Pakistan. In anticipation, many left their jobs and sold property. See Khan (1993).
35. Ibid.
36. See, for example, (1992).
37. Lynch and Calabia (2006).
38. Ibid.
39. The Dhaka Declaration, Summit of SPGRC 1, 5 November 2009).
40. See Hussain (2009); McKinsey(2007) author interview with Al-Falah, August 2008.
41. 'The Story of Khalid Hussain', Durban Review Conference, Geneva, 2009, available at <http://www.un.org/durbanreview2009/story27.html>.
42. Author interview with young Urdu-speaking mother, August 2008.
43. Author interview with Khalid Hussain, November 2009. See also Paulsen (2006), p. 56.
44. Paulsen (2006), also author interviews with Urdu-speakers, August 2008 and November 2009.
45. Paulsen (2006), p. 56.
46. Kelley (2009), p. 360.
47. Paulsen (2006), p. 56.
48. See, for example, OBAT Helpers, Inc. (n.d.), at <http://www.obathelpers.org/index.html>.
49. Paulsen (2006), p. 57.
50. *Constitution of the People's Republic of Bangladesh*, Article 6 (1972).
51. *Adaptation of Existing Bangladesh Laws Order*, Preamble (1972).
52. *Bangladesh v. Professor Golam Azam*, 46 DLR (AD) 192 (1994).
53. *Pakistan Citizenship Act*, Article 4 (1951).
54. Ibid., Article 5 (1951).
55. Ibid., Article 16 (1951).
56. *Bangladesh Citizenship (Temporary Provisions) Order*, Article. 2 (a) (1972).
57. Ibid., Article 2 (b) (1972). Certain persons residing in the United Kingdom may also encounter obstacles to citizenship under Article 2.
58. Ibid., Article 3 (1972).
59. *Delhi Agreement*, Article 3 (iii), 3 (v), and 3 (viii).
60. *Tripartite Agreement of Bangladesh-Pakistan-India*, Article 12 (1974).
61. See Farooqui (2000) (exploring the confusion between 'non-Bengali' and 'Pakistani citizen' within the context of abandoned property orders).
62. Certain international instruments articulate emerging international standards on statelessness and state succession. See, for example, International Law Commission Draft Articles on the Nationality of Natural Persons in relation to the Succession of States, available at <http://www.unhcr.org/refworld/type,INTINSTRUMENT,,4512b6dd4,0.html>, and *Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession* (2006), available at <http://conventions.coe.int/Treaty/EN/Treaties/Html/200.htm>.
63. *Mukhtar Ahmed v. Government of Bangladesh*, 34 DLR (1982) 29, cited in Farooqui (2000), p. 28. See also *Abdul Khaleque v. The Court of Settlement*, 44 DLR 273 (filing an application for repatriation does not result in loss of citizenship), cited in *Abid Khan and Others v. Bangladesh*, 55 DLR 318 (2003).

64. Paulsen (2006), p. 63.
65. Ibid., 46 DLR (AD) 220-21 (1994).
66. Ibid., 46 DLR (AD) 215 (1994).
67. Ibid., 46 DLR (AD) 207 (1994).
68. Ibid., 46 DLR (AD) 222 (1994).
69. Ibid., 46 DLR (AD) 207-08 (1994).
70. Ibid., 46 DLR (AD) 197 (1994).
71. Ibid., 46 DLR (AD) 238 (1994).
72. *Abid Khan and Others v. Government of Bangladesh*, 55 DLR 318 (2003).
73. Ibid.
74. Ibid.
75. Ibid.
76. Paulsen (2006) pp. 67–8.
77. UNHCR (2009), [paragraph 5].
78. *Sadakat Khan and Others v. The Chief Election Commissioner*, Writ Petition No. 10129, 10 (2007).
79. Ibid. Writ Petition No. 10129, 16 (2007).
80. Ibid.
81. Ibid. Writ Petition No. 10129, 9-10 (2007).
82. Ibid. Writ Petition No. 10129, 10 (2007).
83. Ibid. Writ Petition No. 10129, 14 (2007).
84. Ibid. Writ Petition No. 10129, 14, 17 (2007). ('Till now option lies under the law with a citizen to enroll as a voter.')
85. Ibid. Writ Petition No. 10129, 17 (2007).
86. Ibid. Writ Petition No. 10129, 16 (2007).
87. M.I. Farooqui, the Urdu-speaking attorney who brought the Abid Khan case, among others, acknowledged that the 'government is acting because of the accumulation of earlier cases.' Author interview with M.I. Farooqui, August 2008.
88. Author interview with M.I. Farooqui, August 2008.
89. Southwick and Lynch (2009), p. 17
90. Southwick and Calabia (2008), p. 2.
91. Ibid.
92. UNHCR (2009) [paragraph 8] author's visit to Bangladesh on behalf of Refugees International, August 2008.
93. Research for Development (2008), see also UNHCR (2009) [paragraph 7.].
94. The RMMRU of Dhaka University alleged that the eviction rumours had been spread by 'a small group . . . having been frightened by the empowerment of the general members of the community as citizens of the country'. (Refugee and Migratory Movements Research Unit, 2008).
95. Southwick and Calabia (2008).
96. Interviewees' names have been changed.
97. Author interview, Mohammedpur, November 2009.
98. Ibid.
99. Ibid.
100. Ibid.
101. Ibid.
102. Ibid.; see also Parveen (2008), ('Biharis residing in camps are in fear of eviction and uncertainty after the High Court on May 18 granted them citizenship, ending a long-lasting argument over their status.')
103. Author interview, Mohammedpur, November 2009.
104. Ibid.
105. Author interview with Sadakat Khan, Mirpur, November 2009.
106. Author interviews facilitated by SPGRC, Adamjee camp, Narayanganj, November 2009.
107. Author interview with SPGRC, Adamjee camp, Narayanganj, November 2009.

108. *Trop v. Dulles*, 356 U.S. 86, 102 (1958).
109. Parveen (2008).
110. Author interview with Sadakat Khan, August 2008.
111. According to the 1954 *Convention relating to the Status of Stateless Persons*, Article 1, a stateless individual is 'a person who is not considered as a national by any state under the operation of its law'.
112. Southwick and Lynch, (2009), p. 17.
113. Ibid. 'RI's visit to Bangladesh in August 2008 revealed that a court judgment confirming citizenship rights, while significant, is itself insufficient to end nearly four decades of poverty and discrimination.' See also author interview with SPGRC, November 2009. ('The High Court decision is not enough. It is the political hurdle we are still facing.')
114. American Ambassador. Moriarty's visit to Geneva camp, Mohammedpur, November 2009.
115. Author interview with SPGRC, November 2009.
116. Author interview with Rafiqul Islam Miah (August 2008), quoted in Southwick and Calabia (2008), p. 2.
117. Author interview with Ahmed Ilias, November 2009.
118. Ibid.
119. Refugee and Migratory Movements Research Unit (2007). See also Southwick and Calabia (2008).