



Institute on Statelessness and Inclusion and Statelessness Network Asia Pacific

Joint Submission to the Human Rights Council
at the 30th Session of the
Universal Periodic Review

(Third Cycle, May 2018)

Bangladesh

05 October 2017

Institute on Statelessness and Inclusion Statelessness Network Asia Pacific

Joint Submission to the Human Rights Council at the 30th Session of the Universal Periodic Review

Bangladesh

Introduction

1. The Institute on Statelessness and Inclusion (ISI) and the Statelessness Network Asia Pacific (SNAP) make this joint submission to the Universal Periodic Review (UPR) in relation to statelessness, access to nationality and human rights in Bangladesh.
2. ISI is an independent non-profit organisation committed to an integrated, human rights based response to the injustice of statelessness and exclusion through a combination of research, education, partnerships and advocacy. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. Over the past two years, the Institute has made over 20 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 28th UPR Sessions.¹
3. SNAP² is a recently formed civil society network with the goal of promoting collaboration and information sharing on addressing statelessness in Asia and the Pacific. SNAP is driven by a diverse membership and through direct engagement and contribution from its members and stakeholders, particularly formerly stateless persons, stateless persons and persons at risk of statelessness.
4. This joint submission draws on the combined expertise of ISI and SNAP, as well as their partner organisations in Bangladesh. The submission includes:
 - I. An overview of the human rights and protection challenges faced by the stateless Rohingya refugee population in Bangladesh;
 - II. An overview of discrimination against and the human rights issues faced by the formerly stateless Urdu speaking minority group;
 - III. An analysis and critique of the draft Bangladesh Citizenship Bill; and
 - IV. Joint recommendations by the co-submitting organisations.

The Universal Periodic Review of Bangladesh under the Second Cycle (2013)

5. Bangladesh was subject to the UPR for a second time in 2013 during the Sixteenth Session of the Second Cycle. During this review, Bangladesh received many recommendations related to the themes of the right to nationality and statelessness and in particular, the protection of stateless Rohingya refugees:

¹ For more information on the Institute's UPR advocacy, see <http://www.statelessnessandhumanrights.org/upr-universal-periodic-review/resources-database>.

² For more information about the Statelessness Network Asia Pacific, please see the website <https://www.statelessnessnetworkasiapacific.org/>

- I. Bangladesh received two recommendations related to ratification of 1951 Convention Relating to the Status of Refugees (and its 1967 Protocol), the 1954 Convention Relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness. It ‘supported’ the recommendation by Sierra Leone to ‘consider ratification’³ and ‘noted’ the recommendation by Austria to ‘ratify’⁴ these treaties.
- II. Bangladesh supported Nicaragua’s recommendation to “continue efforts to harmonize its normative framework with international human rights norms to which the country has acceded, particularly those concerning the rights of the child”.⁵ Furthermore, Uruguay recommended that Bangladesh “Strengthen measures in order to ensure that all children have a valid birth certificate and deploy additional and more coordinated efforts to protect children from early and forced marriages”.⁶ This recommendation was likewise supported. This demonstrates Bangladesh’s stated commitment to ensuring the child’s right to a nationality and birth registration (as set out in Article 7 of the Convention on the Rights of the Child), which must be implemented by the State, to ensure that no child is born stateless in the country.
- III. Bangladesh also supported Ecuador’s recommendation to “Consider the possibility of enacting laws for the protection of the most vulnerable groups from social discrimination”;⁷ and the recommendation of Nicaragua to “Continue working to provide State care to vulnerable and minority groups in the country, to ensure they are fully integrated into society”.⁸ These commitments are important, in light of the discrimination faced by the formerly stateless Urdu speaking minority community in Bangladesh.
- IV. Bangladesh received 10 recommendations related to the elimination of human trafficking and people smuggling, all of which it supported. For example, Azerbaijan recommended that Bangladesh “Continue its measures aimed at the elimination of human trafficking, people smuggling and other related crimes, including a comprehensive anti-trafficking legislation titled Human Trafficking Deterrence and Suppression Act, 2012, and the National Plan of Action 2012-2014 to combat human trafficking”.⁹ Despite these assurances, the risk of stateless Rohingya and Bangladeshi citizens being smuggled and trafficked by boat, resulting in many deaths at sea as well as bonded labour of those who reach their destinations, was a significant concern during the reporting period.
- V. Bangladesh supported the recommendation of the Holy See to “Continue improving the conditions of children, women, Dalits, indigenous people, refugees and migrants taking into account the special situation and difficulties that those groups have to overcome”.¹⁰
- VI. Finally, Bangladesh supported 7 recommendations related to the protection of refugees. These included recommendations to respect all provisions of the Refugee Convention, including the principle of *non-refoulement* of refugees (France);¹¹ “provide the UNHCR and other relevant humanitarian actors with access to the sites where large numbers of Rohingya refugees are located” (Canada);¹² and to “Respect, protect and fulfill the human rights of stateless Rohingya

³ A/HRC/24/12/Add.1, Para 129.3

⁴ Ibid., Para 130.7

⁵ Ibid., Para 129.4

⁶ Ibid., Para 129.95

⁷ Ibid., Para 129

⁸ Ibid., Para 129.152

⁹ Ibid., Para 129.12

¹⁰ Ibid., Para 130.23

¹¹ Ibid., Para 129.155

¹² Ibid., Para 129.157

persons, prioritize improving the situation of the Rohingya refugees, finalize its refugee policy and take measures to reinstate the resettlement programme” (Czech Republic).¹³

- VII. As Bangladesh faces an unprecedented challenge of hosting over 500,000 new Rohingya refugees who fled Myanmar throughout August and September 2017, it is essential that the international community provides Bangladesh with the support and resources needed, to uphold its commitments.

Bangladesh’s International Obligations

6. Bangladesh is party to core human rights treaties that include provisions related to statelessness and/or nationality, such as the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC, 1989), the Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW) and the Convention on the Rights of Persons with Disabilities (CRPD). In addition to guarantees of the right to nationality, both the ICCPR and CRC contain provisions that oblige Bangladesh to ensure the *timely* birth registration of *every* child *immediately* after birth.
7. Despite supporting and noting the Sierra Leone and Austrian recommendations related to the ratification of the 1951 Convention Relating to the Status of Refugees (and its 1967 Protocol), the 1954 Convention Relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness (refugee and statelessness conventions); Bangladesh is yet to ratify these treaties.
8. Notwithstanding Bangladesh’s failure to accede to the refugee or statelessness conventions, Bangladesh must comply with fundamental obligations towards refugees established under international law. Accordingly, everyone has the right to seek and to enjoy asylum from persecution and no persons may be expelled into a territory where they would be at risk of persecution. Article 22 of the CRC guarantees this right to all children, and Article 14 of the Universal Declaration of Human Rights (UDHR) – while not legally binding – sets out the global consensus to which Bangladesh is party, that all persons have the right to seek asylum. In addition, the rights to seek and to enjoy asylum and not to be subjected to *refoulement* are well-entrenched principles of customary international law.¹⁴ Significantly, the principle of *non-refoulement* is also an integral component of the right to be free from torture or cruel, inhuman or degrading treatment or punishment, a non-derogable right protected under Article 7 of the ICCPR, Article 3 of the CAT and Article 37 of the CRC. This right is recognised as a peremptory norm of international law and is therefore universally applicable. Furthermore, the right to life of all persons, which is protected under Articles 6 of the ICCPR and CRC, also prohibits *refoulement* to a situation in which the person’s life would be at risk.

Stateless Rohingya Refugees in Bangladesh

9. Bangladesh has served as a host to Rohingya refugees fleeing persecution from neighbouring Myanmar, for many decades.¹⁵ According to UNHCR data of March 2017, 33,148 Rohingya refugees had refugee

¹³ Ibid., Para 130.27

¹⁴ UN High Commissioner for Refugees (UNHCR), *The Principle of Non-Refoulement as a Norm of Customary International Law. Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93*, 31 January 1994, available at: <http://www.refworld.org/docid/437b6db64.html>

¹⁵ Human Rights Watch, *Burmese Refugees in Bangladesh: Still No Durable Solution*, 1 May 2000, C1203, available at: <http://www.refworld.org/docid/3ae6a86f0.html>

status in the country and were under the protection of UNHCR.¹⁶ Based on statistics by the Government of Bangladesh, an estimate of 300,000 – 500,000 Rohingya refugees from Myanmar live in the Bangladesh without receiving protection as refugees.¹⁷ These Rohingya are considered to be ‘illegal immigrants’ in Bangladesh.¹⁸ Furthermore, between October 2016 and March 2017, 74,000 Rohingya fled to Bangladesh due to an outbreak of indiscriminate violence against them.¹⁹ Bangladesh acknowledged pushing back at least 5,316 of these refugees to Myanmar between 8 October 2015 and 22 January 2017.²⁰ This amounts to a violation of the customary international law principle of *non refoulement*, according to which, States are prohibited from pushing people back into countries where they face persecution, death or serious harm.

10. Despite Bangladesh supporting recommendations under its previous Universal Periodic Review to provide UNHCR access to all Rohingya refugees in the country, it has not taken positive action on this, contributing to the extreme poverty and vulnerability of the estimated 300,000 – 500,000 refugees who have lived in its territory for an extended period of time. These longer term Rohingya refugees in Bangladesh, particularly those living outside the UNHCR registered camps, face severe restrictions in relation to their access to basic human rights including, but not limited to, the right to work, healthcare, education, freedom of movement and access to justice.²¹ Human rights groups have called on Bangladesh to ensure that these refugees have access to basic protection, however, Bangladesh has to-date, failed to protect, respect and fulfill their basic rights. Significantly, Bangladesh has not allowed the UN to negotiate resettlement of Rohingya refugees from its territory during this period, thereby denying protection elsewhere, to Rohingya refugees who have also been denied protection in Bangladesh.²²
11. One of the key concerns has been the vulnerability of these Rohingya refugees (and of Bangladeshi citizens as well) to being smuggled and trafficked out of Bangladesh, in extremely harsh conditions and on unsafe boats to Southeast Asia. A UNHCR study published in May 2017, estimates that approximately 112,500 Rohingya refugees as well as significant numbers of Bangladeshi’s made the hazardous journey to Malaysia (and beyond) between 2012 and 2015.²³ There were many fatal disasters recorded during this period. For example, in May 2015, over 1,000 refugees died at sea amidst push backs from Malaysia, Indonesia and Thailand.²⁴ While Bangladesh is not responsible for the push-backs by third countries, it’s failure to crack down on the trafficking industry placed thousands of Rohingya and Bangladeshi lives at risk. These included a “growing number of women and girls who undertook this sea journey from 2013 to 2015 (and) were often subjected to child marriage or other exploitative arrangements.”²⁵

New arrivals fleeing Myanmar - August and September 2017

12. Between 25 August 2017 and the time of writing this submission, there has been a massive – hitherto unprecedented – flight of Rohingya refugees fleeing indiscriminate violence by Myanmar armed forces and civilian mobs. The situation in Myanmar has been described as ‘ethnic cleansing’ by the UN High

¹⁶ UNHCR, Bangladesh Fact Sheet, March 2017, available at: <http://www.unhcr.org/50001ae09.pdf>

¹⁷ *Ibid.*

¹⁸ Brook Larmer, *Without a Home, and Without Hope*, NATIONAL GEOGRAPHIC, 22 August 2017, available at <http://www.nationalgeographic.com/photography/proof/2017/08/rohingya-refugees-myanmar-bangladesh/>

¹⁹ *Supra*, note 16.

²⁰ 67,000 Rohingyas intruded into Bangladesh: Foreign minister, STAR ONLINE REPORT, 31 January 2017, available at <http://www.thedailystar.net/country/67000-rohingyas-intruded-bangladesh-foreign-minister-1353877>

²¹ Daniel Sullivan, Reluctant Refuge: Rohingya Safe but not Secure in Bangladesh, REFUGEES INTERNATIONAL, July 2017, available at <https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/5966805d2e69cff9b5e410ae/1499889771253/2017.7.10Bangladesh.pdf>

²² See Krishna N Das, Reuters, *U.N. wants to negotiate with U.S., Canada to resettle Rohingya refugees*, 16 February 2017, available at: <http://www.reuters.com/article/us-myanmar-rohingya-bangladesh/u-n-wants-to-negotiate-with-u-s-canada-to-resettle-rohingya-refugees-idUSKBN15V1OJ>

²³ See UNHCR, *Mixed movements in Southeast Asia*, 2016, available at: <https://unhcr.atavist.com/mm2016>

²⁴ See http://www.institutesi.org/stateless_bulletin_2015-05.pdf

²⁵ UNHCR, *Mixed movements in Southeast Asia*, 2016, available at: <https://unhcr.atavist.com/mm2016>

Commissioner for Human Rights²⁶ and ‘crimes against humanity’ by human rights organisations.²⁷ As a result, over 500,000 refugees have arrived in Bangladesh in five weeks and more continue to arrive.²⁸ The sheer scale of the displacement; the condition of the new arrivals, e.g., facing starvation, fatigue and trauma, many with gunshot wounds and landmine injuries; and their demographics, the majority being children, women and the elderly; means that Bangladesh is currently facing a humanitarian catastrophe.

13. Bangladesh has struggled to cope with the scale and intensity of this new wave of forced migration, and the co-submitting organisations recognise that it is not possible for one individual country to cope with such a significant strain on its resources, without adequate support from the international community. While we urge the international community to support Bangladesh through the provision of resources and the resettlement of refugees, it is important to express in this submission, some concerns about Bangladesh’s response to the crisis.
14. Significantly, the situation at the time of making this submission must be viewed in light of Bangladesh’s track record of failure to protect hundreds of thousands of Rohingya refugees in the country. Furthermore, as noted, Bangladesh has also rejected previous efforts to negotiate resettlement of Rohingya refugees. Consequently, there remain concerns related to Bangladesh’s commitment to addressing the short-term emergency humanitarian needs and the mid-term human rights of Rohingya refugees.
15. In this regard, the refusal of Bangladesh to recognise that these arrivals – escaping persecution – are refugees, is of significant concern. Instead, Bangladesh uses the term ‘forcibly displaced’ when referring to the Rohingya.²⁹ This term fails to acknowledge that the Rohingya who have fled Myanmar are by definition refugees, who are entitled to international protection. Furthermore, Bangladeshi border guards have been reported to burn boats that carry Rohingya refugees in an attempt to restrict their entry into the country.³⁰
16. A related particular concern is Bangladesh’s call for Rohingya refugees to be returned to Myanmar, which has been followed by discussions between the two countries in this regard.³¹ The co-submitting organisations are of the position that return of refugees to Myanmar in the present circumstances would amount to *refoulement* in clear violation of basic principles of international law. A Policy Brief of the Institute on this issue,³² sets out basic conditions to be met by Myanmar, before return can be considered in compliance with international law. These include:
 - I. Any repatriation of Rohingya refugees must be voluntary. The notion of ‘voluntariness’ requires that *inter alia*:
 - a. All refugees are provided with adequate information about their rights under international law, including their right to refugee protection and to not be forcibly returned.
 - b. All refugees are provided with viable alternatives - protection in Bangladesh or resettlement to third countries - so that their choice to return is not influenced by a lack of protection.

²⁶ BBC, *Rohingya crisis: UN sees ‘ethnic cleansing’ in Myanmar*, 11 September 2017, available here: <http://www.bbc.co.uk/news/world-asia-41224108>

²⁷ See the Global Appeal for Action signed by 88 NGOs on 28 September 2017, and available here: <https://www.hrw.org/news/2017/09/28/myanmar-global-appeal-un-action>

²⁸ For an overview of the situation as of 30 September 2017, see http://www.institutesi.org/stateless_bulletin_2017-09.pdf

²⁹ See for example: <https://bdnews24.com/bangladesh/2017/10/01/bangladesh-wants-peaceful-solution-to-rohingya-issue-foreign-minister>

³⁰ Kathleen Prior, Bangladesh boarder guards ‘burning boats’ that bring Rohingya in bid to crack down on refugee flow, THE TELEGRAPH, 22 September 2017, available at <http://www.telegraph.co.uk/news/2017/09/22/bangladesh-border-guards-burning-boats-bring-rohingya-bid-crack/>

³¹ See Frontier Myanmar, *Myanmar makes proposal to take back refugees*, 2 October 2017, available at: <https://frontiermyanmar.net/en/myanmar-makes-proposal-to-take-back-refugees>

³² See http://www.institutesi.org/news/news_analysis.php

- c. All refugees should be consulted individually and not pressurised into agreeing to return to Myanmar.
- II. Any repatriation effort must be supervised by UNHCR, the UN Refugee Agency, with additional oversight from the OHCHR.
- III. All returning refugee, internally displaced and non-displaced Rohingya should be guaranteed their right to self-identify, their right to nationality and their right to documentation under international law.
- IV. All Rohingya should be guaranteed equal treatment under the law and the right to non-discrimination, including in relation to their enjoyment of basic human rights and freedoms which are entrenched in international law.
- V. Myanmar should ensure full humanitarian access as well as reconstruction and rehabilitation of affected areas, under the oversight and monitoring of the UN.
- VI. Community rehabilitation and integration should be prioritised, including through identifying and prosecuting hate speech and through desegregation.

The rights of the (formerly stateless) Urdu Speaking Community

17. As of recent recording, Bangladesh is home to approximately 300,000 members³³ of the Urdu Speaking Community, popularly known as “Biharis”, who fled to then East Pakistan (now Bangladesh) at the time of partition of the sub-continent in 1947. From 1971 until 2008, Urdu speakers, many of whom had sided with Pakistan in the Liberation War and had registered to be “repatriated” to Pakistan after 1971, were not recognised as falling under the terms of Bangladeshi citizenship legislation and were thus stateless.³⁴
18. The 2008 decision of *Md. Sadaqat Khan and others v. Chief Election Commissioner*³⁵ reaffirmed that all members of the Urdu-speaking community were nationals of Bangladesh and directed the Election Commission to enrol all members of the community in the electoral rolls and accordingly, to provide them with National Identity Cards without any further delay. The High Court also noted that:
- “[The] [q]uestion of citizenship of Urdu-speaking has got another aspect, which is very important from the constitutional perspective. Miseries and sufferings of such people due to statelessness were time to time reported in the national media, electronic and print. Besides, the reasons mentioned in the letter of the Election Commission, they are constantly denied the constitutional rights to job, education, accommodation, health and a decent life like other citizens of the country. By keeping the question of citizenship unresolved on wrong assumption over the decades, this nation has not gained anything rather was deprived of the contribution they could have made in the nation building. The sooner the Urdu-speaking people are brought to the mainstream of the nation is the better.”³⁶*
19. Despite their situation thus being ‘resolved’ by this decision, the Urdu speaking community continues to face challenges in the present day.
20. The members of this community still predominantly live in ‘refugee camps’ where they were placed post-independence. In 2006, an estimated 151,000 stateless persons from the Urdu speaking community lived

³³ Anam Zakaria, ‘We’ll never be home here’: Bangladesh’s Urdu speakers still dream of being resettled in Pakistan, 14 August 2017, available at <https://scroll.in/article/846758/well-never-have-a-true-home-here-urdu-speaking-community-in-bangladesh-still-dreams-of-pakistan>

³⁴ UN High Commissioner for Refugees (UNHCR), *Note on the Nationality Status of the Urdu-speaking Community in Bangladesh*, 17 December 2009, available at: <http://www.refworld.org/docid/4b2b90c32.html> [accessed 5 October 2017]

³⁵ *Md. Sadaqat Khan (Fakku) and Others v. Chief Election Commissioner, Bangladesh Election Commission*, Writ Petition No. 10129 of 2007, Bangladesh: Supreme Court, 18 May 2008, available at: http://www.refworld.org/cases,BAN_SC,4a7c0c352.html

³⁶ *Ibid*, at 8.

in 116 such camps, of which the biggest and most famous is 'Geneva Camp' in Dhaka. A further 100,000 lived outside the camps at the time.³⁷ Currently, 70 of these camps in 13 regions in Bangladesh are occupied.³⁸ In general, the living standards in these camps are poor, with inadequate housing, poor water and sanitation, high levels of poverty and unemployment and poor access to education.³⁹

21. The general discrimination faced by members of this minority group in accessing their rights, is a concern that remains unaddressed by Bangladesh. Despite being formally recognised as Bangladeshi citizens, the Urdu speaking community continues to face challenges in accessing documentation and proof of citizenship. In particular, members of this community faced challenges in accessing birth certificates for their children and passports to travel abroad.⁴⁰ Barriers to accessing birth certificates undermines the child's right to an identity, birth registration⁴¹ and nationality which is enshrined in Article 7 of the Convention on the Rights of the Child. Due to the support of community paralegals, many members of this community have been able to obtain birth certificates.⁴² However, many continue to be denied passports, for various reasons including their 'refugee camp' address and their inability to therefore provide proof of ownership of property or permanent residence.⁴³

Law reform – The 2016 Draft Citizenship Bill

22. In February 2016, the Cabinet of Bangladesh presented a draft citizenship bill, to be debated and adopted through a parliamentary procedure. The co-submitting organisations have learnt that this bill is due to be debated in parliament imminently, and therefore raises concern regarding some of its provisions.
23. Firstly, the bill does not protect every child's right to acquire a nationality, particularly where the child would otherwise be stateless, and it does not contain any safeguard against statelessness. Consequently, the bill fails to adhere to Bangladesh's obligations under Article 7 of the Convention on the Rights of the Child, which states as follows:

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

24. The bill grants citizenship to all persons whose mother or father is Bangladeshi, whether they are born on the territory (citizenship by birth) or abroad (citizenship by descent). However, the bill discriminates against those born abroad, undermining their right to nationality and leaving them at risk of statelessness, both in terms of acquisition of nationality and revocation of nationality. Sections 5.2.a & b of the draft bill for example, state that a child born abroad to a Bangladeshi parent shall not be a citizen if his or her birth

³⁷ Onchita Shadman and Roland Schönbauer, How a Bangladesh court ruling changed the lives of more than 300,000 stateless people, 23 February 2015, available at <http://www.unhcr.org/news/latest/2015/2/54ec22869/bangladesh-court-ruling-changed-lives-300000-stateless-people.html>

³⁸ See Minority Rights Group International: Bangladesh-Biharis, available at <http://minorityrights.org/minorities/biharis/>.

³⁹ Khalid Hussain, Biharis: On Becoming Citizens of Bangladesh, ASIA-PACIFIC HUMAN RIGHTS INFORMATION CENTER – FOCUS, March 2016, available at <https://www.hurights.or.jp/archives/focus/section3/2016/03/biharis-on-becoming-citizens-of-bangladesh.html>

⁴⁰ *Ibid.*

⁴¹ The right to a birth certificate is necessarily implied into the right to immediate birth registration, as it is the birth certificate that provides the substance to the right to birth registration - Paula Gerber, Andy Gargett and Melissa Castan, 'Does the Right to Birth Registration Include a Right to a Birth Certificate?' (2011) 29 Netherlands Quarterly of Human Rights 434, 435–36.

⁴² Khalid Hussain, Biharis: On Becoming Citizens of Bangladesh, ASIA-PACIFIC HUMAN RIGHTS INFORMATION CENTER – FOCUS, March 2016, available at <https://www.hurights.or.jp/archives/focus/section3/2016/03/biharis-on-becoming-citizens-of-bangladesh.html>

⁴³ *Ibid.*

is not registered within two years; or if he or she is not issued with a birth certificate in accordance with the law. Furthermore, Section 5.3 stipulates that no person shall be recognised as a Bangladeshi citizen if their father or mother engages in acts of war, or other activities against Bangladesh. These provisions, which if enacted, would deny the right of the child to nationality and place the child at risk of statelessness due to the negligence, actions or omissions of others. This is contrary to Article 7 of the CRC as well as Article 3, which protects the best interests of the child.

25. Section 4.2.b of the bill also places children born on the territory at risk of statelessness, by denying the right to citizenship if the child's mother or father is considered to be an alien enemy of the state.
26. Section 11.d of the bill, on 'citizenship by marriage' stipulates that the spouse of a Bangladeshi citizen who is an 'illegal immigrant' shall not be entitled to Bangladeshi citizenship. This provision appears to directly target and discriminate against stateless Rohingya refugees, who should be recognised and protected as refugees, but instead are widely perceived as 'illegal immigrants'.
27. Section 18 of the bill sets out 4 criteria which are the basis for 'disqualification for citizenship' notwithstanding any of the other provisions of the bill. These criteria concern direct or indirect allegiance to another state (with the exception of dual nationality), joining the military of another country, being the citizen or resident of a state that is or has been at war with Bangladesh or is an illegal immigrant. These criteria are very broad, and open to interpretation. Furthermore, the criteria does not provide any safeguard against statelessness.
28. Section 19, which deals with the denunciation of citizenship, stipulates that minor child of a person denouncing their Bangladeshi citizenship, shall not be able to obtain citizenship. As with section 5, this provision also fails to protect children from statelessness.
29. Section 20 allows for the revocation of citizenship of citizens by descent (i.e., those born abroad to a Bangladeshi parent), but not of citizens by birth (those born on the territory to a Bangladeshi parent). As with section 18 on disqualification, the criteria for revocation are also broad and susceptible to abuse.
30. Finally, members of the Urdu speaking community have expressed concern that Section 3 of the bill stipulates that the provisions of this bill will prevail in the case of any inconsistencies with any other legal instrument, decree, judgment etc. Members of this community fear that this provision may be invoked to undermine their citizenship which was recognised by the courts in a 2008 judgment. It is of crucial importance, that this fear is addressed, and members of this community are issued with guarantees that they will not be stripped of their nationality further to the enactment of this bill.

Recommendations

31. Based on the preceding overview, the Institute on Statelessness and Inclusion and the Stateless Network Asia Pacific, urge reviewing states to make the following recommendations to Bangladesh:
 - I. Ensure that all children born in the territory of Bangladesh, or to a Bangladeshi parent, are guaranteed without discrimination to their right to a nationality as enshrined in Article 7 of the Convention on the Rights of the Child.
 - II. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law.
 - III. Ratify and fully implement the 1954 Convention relating to the status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the 1951 Convention relating to the status of Refugees and its 1967 Protocol.

- IV. Protect all stateless Rohingya refugees on Bangladeshi territory, including by seeking the cooperation of the international community with sustainable integration efforts and through negotiating resettlement programmes with third countries.
- V. Crack down on the people trafficking and human smuggling industries and protect all stateless Rohingya refugees and Bangladeshi citizens from trafficking.
- VI. Ensure that no Rohingya refugees are returned to Myanmar in violation of the principle of *non-refoulement*, until basic conditions required under international human rights and humanitarian law (and as stipulated in this submission) are met by Myanmar.
- VII. Ensure universal and immediate access to birth registration with a special emphasis eradicating discrimination and other barriers to access faced by vulnerable populations, such as members of the Urdu speaking community.
- VIII. Guarantee access to and enjoyment of all basic human rights without discrimination of the Urdu speaking community of Bangladesh and Rohingya refugee community.
- IX. Address all concerns related to the right to nationality, statelessness and discrimination in the draft citizenship bill, and produce a new draft citizenship bill, which complies with relevant international standards and allows for considered public debate and consultation.