

**Submission by the United Nations High Commissioner for refugees (UNHCR)  
for the Office of the High Commissioner for Human Rights' Compilation Report -**

**Universal Periodic Review:**

**BANGLADESH**

**I. BACKGROUND INFORMATION**

The main population of concern for UNHCR in Bangladesh are Rohingya from Rakhine State - a geographically isolated area in western Myanmar, bordering Bangladesh - who have been rendered stateless by the nationality laws of Myanmar. For more than twenty years, Bangladesh – despite its own resource constraints – has been generously hosting this population, notably the approximately 30,000 registered refugees living in two official camps in Cox's Bazar district. In addition, there is a second population of Rohingya from Rakhine State estimated to be at more than 200,000 persons, which UNHCR considers to be in a refugee-like situation. The latter reside outside the camps in Cox's Bazar and in neighbouring districts, as well as in makeshift sites adjacent to the official camps. Following the Government's suspension of registration in mid-1992, this population has not benefited from legal status or documentation, resulting in protection gaps and increased vulnerability.

Bangladesh is not a State party to the *1951 Convention Relating to the Status of Refugees* or its *1967 Protocol* (hereinafter jointly referred to as the 1951 Convention). There is no provision for refugees in national legislation, although a number of national laws and provisions in the Constitution cover all persons on the territory. The regulation governing the presence of refugees is the 1946 Foreigners Act, which supersedes all other legal provisions, as it grants the Government the power and discretion to decide on the scope of the Act's application. Against this legal landscape, protection is extended to refugees through administrative mechanisms.

There have been a number of developments for refugees since Bangladesh's 1<sup>st</sup> Universal Periodic Review (UPR) review in 2009. For instance, the construction of new shelters in the refugee camps was completed in January 2012, and all refugee households in the camps now live in adequate dwellings. The under-5 mortality rate has decreased, as have the cases of Severe and Acute Malnutrition, because all under-5 children in the camps benefited from the nutrition and health services.

Early childhood education has also been introduced in the refugee camps. On the other hand, Bangladesh has taken a number of decisions indicating that it would be conducting a review of its overall refugee policy. For instance, resettlement of refugees to third countries was halted in October 2010. Likewise, proposals presented by UNHCR on the identification of unregistered persons from Myanmar residing in Bangladesh, as well as by the UN at large on the development of Cox's Bazar district, have not received a favourable response. As a result, an opportunity to improve the economic and social rights of several communities was lost.

Such decisions appear to be driven by the Government's concern about a pull factor of Rohingya into Bangladesh.

Bangladesh's announced review of its refugee policy has not yet been concluded. In the meantime, the protracted nature of the refugee situation, coupled with the continuing policy of encampment of registered refugees, continues to impact on their level of self-reliance.

Political reforms in Myanmar from 2011 had raised some hope that openings may take form for Rohingya in Rakhine State, thus paving the way for eventual solutions to the protracted refugee situation in Bangladesh. However, the widespread eruption of violence in Rakhine State in June 2012, which led to several thousand persons trying to flee Rakhine State and seek sanctuary in Bangladesh, has posed a major setback to developments along the Myanmar/Bangladesh border. Given its concerns about national security and a major influx, the Government of Bangladesh responded to the crisis by closing its border and returning any arrivals in Bangladesh to Myanmar. This closed-border policy remains in force and according to media reports, some 4,000 persons have been sent back to Myanmar as of October 2012.

Bangladesh is also host to 227 refugees of various nationalities who were recognized by UNHCR under its mandate, in the absence of a national mechanism to determine refugee status. Unlike Rohingya from Rakhine State, these refugees do not live in camps and are generally self-reliant.

Although UNHCR is not aware of any non-refugee stateless populations in Bangladesh, it continues to monitor developments with respect to groups who are formerly stateless or who may be at risk of statelessness. Bangladesh is not a State party to either of the international Statelessness Conventions, the *1954 Convention Relating to the Status of Stateless Persons* (the 1954 Convention) and the *1961 Convention on the Reduction of Statelessness* (the 1961 Convention), and there is no national legislation guiding prevention and reduction of statelessness or the protection of stateless persons.

## **II. ACHIEVEMENTS AND BEST PRACTICES**

UNHCR welcomes the 2008 decision by the High Court of Bangladesh, which recognized the formerly stateless Urdu-speaking community, sometimes referred to as the *Biharis*, as citizens of Bangladesh, unless they consciously reject Bangladeshi citizenship. Since then, this group is mostly able to access their rights as citizens.

UNHCR welcomes the Births and Deaths Registration Act 2004, according to which the registration of births and deaths of "all the persons" who are born and die in Bangladesh, is mandatory. Birth registration helps prevent statelessness by establishing a legal record of where a child was born and who his or her parents are. As such it serves as a key form of proof of whether a person has acquired nationality by birth or by descent. UNHCR further welcomes the complementary circular issued in early 2009 for Birth Registration of the registered Rohingya Refugee Children in Kutupalong and Nayapara Camps. The Office hopes for the full implementation of the Act and the circular, and supports the recommendation by the Committee on the Rights of the Child (CRC) "*that the State party take all necessary measures to accelerate free of charge birth registration for all children born within the national territory, including children whose father- or both father and mother- are unknown, children born to single mothers, children born out of wedlock and*

*refugee children. ... The Committee urges the State party to allow children without official documentation to access social services, such as health and education, while waiting to be registered.”<sup>1</sup>*

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### **Issue 1: Creation of a refugee protection framework**

UNHCR operates in Bangladesh under a Memorandum of Understanding from 1993, which has voluntary repatriation as its main focus. This, combined with the lack of a legal framework to deal with refugees, provides for an *ad hoc* environment of cooperation with Government institutions, which in turn results in an insecure and unpredictable environment for refugees, as well as for other groups of Rohingya from Rakhine State living in Bangladesh.

Accession to the 1951 Refugee Convention and establishment of a national legal framework would provide a clearer basis for the Government of Bangladesh to provide refugees with international protection. Accession would also greatly facilitate the mobilization of international support, so as to alleviate the burden and responsibility primarily shouldered by Bangladesh in hosting refugees. UNHCR believes that it is necessary to broaden the base of State support for the international refugee instruments, ensuring that the protection provided to refugees is more universal in scope and the burdens and responsibilities of governments are equitably distributed and consistently applied. In this context, UNHCR welcomes the recommendations made by both CEDAW<sup>2</sup> and CRC<sup>3</sup> that Bangladesh consider ratifying the 1951 Convention.

#### Recommendations:

It is recommended that Bangladesh accede to the *1951 Convention* and its *1967 Protocol* as well as take steps towards the drafting and adopting national refugee legislation. This would formally recognize Bangladesh’s decades-long hospitality and solidarity towards refugees from Myanmar and underline the importance attached by Bangladesh to cooperate with the international community in efforts to finding solutions for refugees. It would also allow the Government to deal with issues related to asylum in a structured manner, thus complementing Bangladesh’s obligations under international human rights instruments, as well as provisions in its Constitution.

Related to the above, there are a large number of Rohingyas in Bangladesh without access to asylum procedures and refugee status determination. It is recommended that as part of the elaboration of its refugee policy that Bangladesh registers and regularizes the unregistered population from Rakhine State. Bangladesh may also consider establishing asylum and refugee status determination procedures, in order to identify those who are genuinely in need of international protection. UNHCR further supports the recommendation by Committee on

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<sup>1</sup> CRC/C/BGD/CO/4, Committee on the Rights of the Child, 51st Session, 26 June 2009, paragraph 41, available at [http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.BGD.CO.4\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.BGD.CO.4_en.pdf)

<sup>2</sup> See further CEDAW concluding observations and recommendations, 48<sup>th</sup> session, March 2011, paragraphs 37 and 38, available at:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/417/30/PDF/G1141730.pdf?OpenElement>

<sup>3</sup> See further CRC concluding observations and recommendations, 51<sup>st</sup> session, 26 June 2009, paragraphs 78 and 79, available at: [http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.BGD.CO.4\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.BGD.CO.4_en.pdf)

the Rights of the Child that the State party provide the unregistered population from Rakhine State with, “*at minimum, legal status, birth registration, security and access to education and health care services.*”

In view of the protracted refugee situation, it is also recommended that registered refugees be granted the right to freedom of movement, right to work for purposes of becoming self-reliant and access to basic services. Following her mission to Bangladesh in December 2009, the Special Rapporteur on human rights and extreme poverty had similarly recommended the Government to pursue durable solutions to the situation in refugee camps and, in this regard, “*to finalize its refugee policy and take measures to reinstate the resettlement programme run by the Office of the United Nations High Commissioner for Refugees*” and “*to seek out resettlement options that prioritize and protect the rights and interests of refugees*”. Reduction of their dependency on international assistance should facilitate their empowerment and development, as well as aid their transition towards durable solutions.

### **Issue 2: Respect of the non-refoulement principle**

UNHCR is concerned about the closure of the Myanmar/Bangladesh border following the eruption of violence in Rakhine State in June 2012. According to media reports, some 4,000 asylum-seekers trying to flee Rakhine State have been sent back to Myanmar by October 2012 and the closed-border policy remains in force.

#### Recommendations:

The Government should ensure unhindered access of persons in need of international protection to its territory and fully comply with the principle of *non-refoulement*.

### **Issue 3: Detention of unregistered Rohingya from Rakhine State**

Another protection issue is the detention of unregistered Rohingya from Rakhine State, on whose behalf UNHCR is not granted access to intervene. The majority of this group are arrested and detained for illegal entry under the Foreigners Act. They languish in detention as “Released Prisoners” once they have served their sentence, given that they can neither be released into Bangladeshi territory nor, for the time being, received in Myanmar territory because of their stateless status. Released prisoners include women, men, and children alike, including victims of human trafficking and forced prostitution. UNHCR considers that the situation of “Released Prisoners” qualifies as arbitrary detention. This is in line with the findings of the Human Rights Council’s Working Group on Arbitrary Detention, according to which “the criminalization of irregular migration exceeds the legitimate interests of States in protecting its territories and regulating irregular migration flows” and that “if there has to be administrative detention, the principle of proportionality requires it to be the last resort.”<sup>4</sup>

#### Recommendations:

The Government is encouraged to undertake measures that prevent arbitrary and/or indefinite detention of unregistered Rohingya, particularly “Released Prisoners” who have already served their sentences. In this respect, the Government may wish to explore alternatives to detention. This is all the more important for women and children who have been trafficked into prostitution.

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<sup>4</sup> WGAD Report to the Thirteenth Session of the Human Rights Council, A/HRC/13/30, 18 January 2010, paras 58 and 59.

#### **Issue 4: Prevention of statelessness and protection of stateless persons**

Notwithstanding the positive 2008 decision by the High Court of Bangladesh recognizing the Biharis as citizens of Bangladesh, there remain some administrative hurdles, which prevent the Urdu-speaking community from fully benefiting from their rights and entitlements as citizens of Bangladesh, such as access to passports. In a joint report of the Special Rapporteur on the question of human rights and extreme poverty and the Special Rapporteur on the issue of human rights obligations related to the access to safe drinking water and sanitation, both experts expressed concern “about the full implementation of the High Court decision, which requires continuous efforts by the State to ensure the rights of Biharis as citizens of Bangladesh without discrimination.”<sup>5</sup>

Bangladesh is not a State party to either the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*. Accession to the Statelessness Conventions would establish a framework to prevent and reduce statelessness and avoid the detrimental effects of statelessness on individuals and society by ensuring minimum standards of treatment for stateless persons.

The *1954 Convention relating to the Status of Stateless Persons* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. Importantly, the *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

Furthermore, the *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

#### Recommendations:

UNHCR recommends that Bangladesh considers acceding to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* as well as taking steps to draft and adopt national legislation guiding prevention and reduction of statelessness or the protection of stateless persons.

UNHCR supports the recommendation by the Special Rapporteur on the extreme poverty and the Special Rapporteur on the safe water and sanitation “to design and implement a comprehensive programme to integrate *Biharis* into Bangladeshi society, including by ensuring that poverty reduction programmes specifically address their situation.”<sup>6</sup>

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<sup>5</sup> A/HRC/15/55, Human Rights Council, 15<sup>th</sup> Session, Joint Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Cardona, and the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, 22 July 2010, p.28.

<sup>6</sup> A/HRC/15/55, Human Rights Council, 15<sup>th</sup> Session, Joint Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Cardona, and the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, 22 July 2010, p.28.

### **Issue 5: Sexual Violence and Trafficking**

UNHCR welcomes initiatives being taken by the Government to protect vulnerable groups, including the ongoing work on a new anti-trafficking law. Moreover, during the last UPR, Bangladesh accepted the recommendation to provide human rights training to law enforcement and judicial officers, with a specific focus on the protection of the rights of women and children. Among others, UNHCR finds this to be in line with the Prevention of Oppression Against Women and Children Act of 2000 (as amended in 2003), a domestic legislation which applies to all women and children in the territory who have survived crimes of sexual violence. Unfortunately, however, unregistered Rohingya women and children from Rakhine State have not truly benefitted from this Act. Notably, in reporting crimes, they would be also be subject to charges under the Foreigners Act for illegal entry. As a result, unregistered women and children from Rakhine State are deterred from seeking justice.

Recommendations: UNHCR supports the recommendation by the Committee on the Elimination of Discrimination against Women to Bangladesh that it “*ensure that all forms of violence against women and girls, including domestic violence and all forms of sexual abuse are criminalized, that perpetrators are prosecuted and punished and that the women and girls who are victims of violence have access to immediate means of redress, rehabilitation and protection (...) and to “remove any impediment faced by women in gaining access to justice (...).”*<sup>7</sup>

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
October 2012**

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<sup>7</sup> CEDAW/C/BGD/CO/7, Committee on the Elimination of Discrimination against Women, 48<sup>th</sup> Session, 22 March 2011, p. 20.

## Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedure Reports

- Universal Periodic Review:

### BANGLADESH

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and recommendations from relevant Special Procedures' Reports, relating to issues of interest and persons of concern to UNHCR with regards to Bangladesh.

#### 1. Treaty Body Reports

**CEDAW/C/BGD/CO/7**

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, 48<sup>th</sup> session**

**22 March 2011**

#### **Discriminatory laws**

15. The Committee notes with appreciation the efforts of the State party to review and revise discriminatory legislation. It remains concerned, however, at the persistence of a significant number of discriminatory laws and provisions, including laws relating to marriage, divorce, nationality, guardianship and custodial rights that deny women equal rights with men.

**16. The Committee calls upon the State party to pursue without delay its law review process with the view to harmonizing its domestic legislation with its obligations under the Convention within a clear time frame. The Committee also urges the State party to enhance its law reform through partnership and collaboration with religious leaders, lawyers and civil society organizations including women's non-governmental organizations.**

#### **Nationality**

25. The Committee welcomes the adoption of the Citizenship (Amendment) Act (2009), entitling a Bangladeshi woman to transmit citizenship to her children but it remains concerned that the spouse of a Bangladeshi woman can apply for citizenship after being a resident in the country for five years, whereas the residential requirement for a foreign woman married to a Bangladeshi man is two years only.

**26. The Committee urges the State party to amend its legislation on citizenship in order to bring it into full compliance with article 9 of the Convention.**

#### **Violence against women**

19. While commending the State party for the range of efforts to address violence against women, including the enactment of the Domestic Violence Act, Prevention of Cruelty to Women and Children Act, Acid Crime Control Act, Child Marriage Restraint Act and the Dowry Prohibition Act, the Committee remains concerned that the prevalence of violence against women and girls, including domestic violence, rape, acid throwing, dowry-related violence, fatwa-instigated violence, and sexual harassment in the workplace persist in the country. The Committee notes with concern the limited number of shelters and One Stop

crisis-centres as it views these to be inadequate in responding to the needs of the victims of violence against women. The Committee also notes with concern that despite the High Court's decision that the extrajudicial punishments fatwas are illegal, there are reports of illegal penalties being enforced through *shalish* rulings to punish "anti-social and immoral behaviour". The Committee also regrets the absence of data and information on all forms of violence against women as well as the absence of studies and/or surveys on the extent of such violence and its root causes.

**20. The Committee urges the State party to give priority attention to combating violence against women and girls and to adopt comprehensive measures such as a national action plan to address all forms of violence against women and girls, in accordance with its general recommendation No. 19 (1992). It calls upon the State party to expeditiously:**

**(a) Ensure that all forms of violence against women and girls, including domestic violence and all forms of sexual abuse are criminalized, that perpetrators are prosecuted and punished and that the women and girls who are victims of violence have access to immediate means of redress, rehabilitation and protection;**

**(b) Remove any impediment faced by women in gaining access to justice and ensure that *shalish* decisions do not violate laws and do not lead to extrajudicial penalties;**

**(c) Take effective measures to ensure the implementation of the existing legal framework including enactment of legislation on sexual harassment and organize training and awareness-raising programmes for the judiciary and public officials, in particular law enforcement and health service personnel, in order to ensure that they are sensitized to all forms of violence against women and can provide adequate gender-sensitive support to victims;**

**(d) Establish counselling services and sufficient number of shelters for victims of violence in all parts of the country, including in rural areas;**

**(e) Establish a database to collect data and information on the implementation of the laws and policies in place to deal with all forms of violence against women and girls and on the impact of such measures;**

**(f) Undertake studies and/or surveys on the extent of such violence and its root causes.**

### **Trafficking and sexual exploitation**

21. The Committee remains concerned about the continuing prevalence of trafficking in women and girls in the country. The Committee is also concerned that despite the ratification by the State party of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in July 2002, its provisions have not been incorporated into domestic law, that no extradition treaties with neighbouring countries have been signed to address trafficking and sexual exploitation and that only a few traffickers have been arrested and convicted. The Committee further expresses its concern at the limited gender sensitization trainings for border police and law enforcement personnel.

**22. The Committee requests the State party to fully implement article 6 of the Convention, including through:**

**(a) Incorporation of the SAARC Convention into the State party's legislation;**

**(b) Intensification of its efforts with respect to international, regional and bilateral cooperation, including conclusion of bilateral agreements with neighbouring**



**countries, in order to prevent trafficking and to harmonize legal procedures aimed at the prosecution of traffickers;**

**(c) Adoption of a comprehensive action plan to address trafficking and sexual exploitation and ensure its effective implementation, as well as training of the judiciary, law enforcement officials, border guards and social workers across the country;**

**(d) Collection and analysis of disaggregated data on all aspects of trafficking in order to identify trends and priority areas for action.**

#### **Disadvantaged groups of women**

37. The Committee is concerned at the very limited information and statistics provided on disadvantaged groups of women and girls, including minority women such as Dalit women, migrant women, refugee women, older women, women with disabilities and girls living on the streets. The Committee is also concerned that those women and girls often suffer from multiple forms of discrimination, especially with regard to access to education, employment and health care, housing, protection from violence and access to justice.

**38. The Committee recommends that the State party:**

**(a) Collect disaggregated data on the situation of disadvantaged groups of women facing multiple forms of discrimination and adopt proactive measures, including temporary special measures, to eliminate such discrimination and protect them from violence and abuse;**

**(b) Consider ratifying the UNHCR Refugee Conventions 1951 and 1967.**

#### **CRC/C/BGD/CO/4**

**COMMITTEE ON THE RIGHTS OF THE CHILD, 51<sup>st</sup> session**

**26 June 2009**

#### **Data collection**

24. The Committee notes with appreciation the efforts made to improve data collection and monitoring mechanisms through collaboration between the State party and relevant organizations. Nevertheless, the Committee is concerned that the lack of reliable disaggregated data from the national to the district levels hampers effective follow-up or evaluation of the implementation of the Convention. The Committee is particularly concerned that reliable, disaggregated data in important areas of the Convention are not available such as statistics on child births, health, child abuse, child labour, and children working and/or living in streets. The Committee also notes with concern the lack of coordination and collaboration among government agencies in data collection and the inadequate technical capabilities for data collection, analysis, and reporting.

**25. The Committee reiterates its recommendation that the State party strengthen its efforts to develop a comprehensive and coordinated system of data collection on matters related to the implementation of the Convention from the national, divisional and district levels. The data should cover all children under the age of 18 and be disaggregated by age, sex and particularly those groups of children who are in need of special protection. The Committee encourages the State party to seek further assistance from, inter alia, the United Nations Children's Fund (UNICEF) in this regard.**

#### **Non-discrimination**

32. While noting the commitment taken by the State party in its Constitution and "Vision 2021" to create an equitable, just and non-discriminatory society, the Committee is

nevertheless concerned that the principle of non-discrimination contained in article 2 of the Convention is not fully respected in practice. Girls continue to face discrimination and disparities, particularly with regard to health care, nutrition and early marriage, as do particular groups of children, including refugee children, children with disabilities, children in slums and rural areas and children of ethnic and religious minorities. The Committee is also concerned that children face discrimination on the basis of social origin, or other status of their parents.

**33. The Committee strongly recommends that the principle of non-discrimination, as provided for under article 2 of the Convention, be fully and vigorously applied by the State party and integrated into the implementation of all other articles to guarantee, without discrimination, the rights set out in the Convention. The Committee further recommends that the State party take the necessary measures to ensure that efforts to address persistent discrimination and reduce disparities are adequate and effective in the family, schools and other settings, and in particular among marginalized and excluded children, including girls, children of ethnic minorities and refugee children.**

### **Birth registration**

40. The Committee appreciates the entry into force of the Births and Deaths Registration Act on 3 July 2006. While the Committee welcomes the progress made recently to increase birth registration to about 50 per cent, it is concerned that the birth registration rate is still very low. Further, the Committee is concerned at the continuing difficulties associated with the manual registration system and issuance of birth certificates. The Committee also expresses concern that lack of registration is a basis for discrimination and exclusion from access to social services, especially in the case of children whose father- or both father and mother- are unknown, children born to single mothers, children born out of wedlock and refugee children.

**41. The Committee recommends that the State party take all necessary measures to accelerate free of charge birth registration for all children born within the national territory, including children whose father- or both father and mother- are unknown, children born to single mothers, children born out of wedlock and refugee children. It also recommends that the State party carry out information and awareness-raising campaigns for parents and the community at large on the need to register births. The Committee encourages the State party to consider the use of a mobile registration system to reach remote areas and the introduction of a national electronic birth registration system. The Committee urges the State party to allow children without official documentation to access social services, such as health and education, while waiting to be registered.**

### **Refugee children**

78. The Committee notes that the State party is not a party to any international or regional treaty relating to refugees nor does it have any legislative or administrative provisions for refugees. The Committee also notes the concerns expressed by the State party delegation regarding, in particular, the effects of “pull factors” if conditions for refugee children were to be regularized. The Committee is concerned that the State party has only agreed, in principle, to issue birth certificates to all children registered as refugees in Bangladesh. While noting the position of the State party to only grant refugee status to the *Rohingya* children from Myanmar, the Committee is concerned about these and other groups of refugee children such as the *Bihari* who have difficult or no access to services in the State party. The Committee expresses deep concern that no durable solution has yet been found to comprehensively address the rights of refugee children.

**79. The Committee reiterates its recommendation to the State party to:**

- (a) Establish national legislation and procedures to allow immediate access to relevant procedures determining refugee status to all refugee children and their families;**
- (b) Consider allowing children residing in the refugee camps and their families to access, inter alia, education, and continue to ensure that all refugee children and their families have adequate access to better health and nutrition services, protection against violence and that those who are particularly at risk are offered support;**
- (c) Address the concerns of approximately 100,000 – 200,000 *Rohingya*, including children, not registered as refugees by the State party but who reside in the country for similar reasons as the registered refugees in official camps and to provide them with, at a minimum, legal status, birth registration, security and access to education and health care services;**
- (d) Ensure the full rights of child refugees in the territory and fully implement existing High Court Orders that would facilitate equal enjoyment of their rights;**
- (e) Ensure that family reunification is dealt with in a positive, humane and expeditious manner, in accordance with article 10 of the Convention;**
- (f) Consider ratifying the 1951 Convention relating to the Status of Refugees;**
- (g) Seek international assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNICEF.**

#### **Sale of children and trafficking**

88. The Committee notes the information shared by the State party delegation on the three-phase programme of prevention, protection and prosecution and welcomes the formulation of the National Plan of Action against Sexual Exploitation and Abuse of Children, including Trafficking (NPA-SEACT). However, the Committee is concerned at the lack of implementation of the Plan and the lack of information on the sale of children.

**89. The Committee reiterates, with urgency, its previous recommendation that the State party concentrate its efforts to combat the sale of children and trafficking and inter alia:**

- (a) Ensure that child victims of sale and trafficking are not criminalized;**
- (b) Strengthen partnerships with the community, relevant NGOs and international development partners to provide child victims of trafficking with adequate recovery and social reintegration services and programmes;**
- (c) Undertake an in-depth study on the trafficking in children in order to assess its scope and root causes and enable effective monitoring, and adoption of measures to prevent, combat and eliminate it;**
- (d) Exchange information and expertise among relevant ministries, national and international organizations and improve coordination and the availability and reliability of data, disaggregated by age, sex, and ethnic and socioeconomic background, on children who are sold or trafficked within the State party or to neighbouring countries;**
- (e) Consider ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**
- (f) Seek technical assistance from, among others, ILO, the United Nations Office on Drugs and Crime (UNODC), and UNICEF.**

**CRC/C/OPSC/BGD/CO/1**

**COMMITTEE ON THE RIGHTS OF THE CHILD, 45th session**

**Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography**

5 July 2007

22. The Committee, stressing the fact that a proper system of birth registration is among the most important preventive measures against the offences covered by the Optional Protocol, welcomes the Births and Deaths Registration Act of 2004. However, the Committee remains concerned that the rate of birth registration is still very low, especially in rural and remote areas. The Committee is also concerned that there are cases of children born to refugees married to Bangladeshi nationals who are not recognized as Bangladeshi and may remain in a situation of statelessness.

**23. The Committee recommends that the State party accelerate the implementation of the Births and Deaths Registration Act of 2004 and intensify its efforts to improve its birth registration system in order to guarantee the registration of all children within its jurisdiction. Furthermore, the Committee recommends that children of whom one parent is a Bangladeshi national be recognized as Bangladeshi nationals.**

24. The Committee is concerned at the falsification of identity documents in order to “legalize” early marriages or involve children in prostitution, which is a legal activity for adults in possession of a government certification.

**25. The Committee recommends that the State party:**

**(a) Ensure that every child has a valid birth certificate;**

**(b) Intensify its efforts to verify accurately the age of children and combat the falsification of identity documents;**

**(c) Take measures to ensure that information is available, especially to adolescent girls, on the harmful effects of early marriages;**

**(d) Intensify its efforts to protect children from early and forced marriages, which may often have elements of practices prohibited under the Protocol, i.e. sale of children and/or child prostitution.**

## 2. Special Procedure Reports

**A/HRC/20/25**

**HUMAN RIGHTS COUNCIL, 20<sup>th</sup> session**

**Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona**

**5 April 2012**

### **A. Legal and institutional framework**

64. The Special Rapporteur reiterates her recommendations that Bangladesh ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and submit its initial report to the Committee on Economic, Social and Cultural Rights. She welcomes the Government’s indication in February 2011 that it intends to consider withdrawing its reservations to articles 2 and 16 1 (c) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/BGD/CO/7, para. 11).

65. No progress has been made with respect to the Special Rapporteur’s recommendation that Bangladesh appoint an Ombudsman in accordance with the Constitution. However, the Special Rapporteur is pleased to note the enactment of the Domestic Violence (Prevention and Protection) Act 2010, an important step towards addressing the persistent problem of violence against women, which contributes to women’s overrepresentation among the poor.

She calls on the Government to ensure the full and effective implementation of the legislation.

### **B. Situation of people vulnerable to poverty**

66. Those most vulnerable to poverty in Bangladesh include women, children, persons with disabilities, minority groups, indigenous peoples and refugees. As described in the mission report, these groups experience multiple forms of stigmatization and intolerance and are frequently deprived of the opportunities and resources necessary to enjoy minimum essential levels of economic, social and cultural rights (A/HRC/15/55, paras. 14–33). According to the information available to the Special Rapporteur, it appears that the situation of the most vulnerable groups in Bangladesh has not changed significantly since her visit. She reiterates the need for Bangladesh to actively tackle discrimination against those groups and ensure their access to services and adequate social protection.

### **Refugees**

67. One of the groups most vulnerable to poverty in Bangladesh is Rohingya refugees. The Special Rapporteur had encouraged the Government to consider a system for identifying and registering refugees and ensuring their access to basic services. Information received indicates that despite some efforts to improve the situation in the refugee camps, the refugees' rights to move in and out of the camps, to work and gain a livelihood, and to access education are circumscribed. This situation is exacerbated by the Government's prohibition of civil society organizations working in the areas surrounding the camps, and by the lack of an official refugee policy or registration system. The Special Rapporteur again calls on Bangladesh to prioritize improving the situation of the Rohingya refugees, who are entitled to enjoy minimum essential levels of enjoyment of human rights.

68. The Government must pursue durable solutions to the situation, and in this regard should finalize its refugee policy and take measures to reinstate the resettlement programme run by the Office of the United Nations High Commissioner for Refugees, which was suspended in November 2010. As the political situation improves in Myanmar, the Special Rapporteur encourages the Government to seek out resettlement options that prioritize and protect the rights and interests of the refugees.

**A/HRC/15/55**

**HUMAN RIGHTS COUNCIL, 15<sup>th</sup> session**

**Joint report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Cardona, and the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque**

**22 July 2010**

### **D. Minority groups and indigenous peoples**

27. The experts also visited an urban slum in Mirpur, Dhaka, where the Urdu-speaking communities, sometimes referred to as *Biharis*, reside alongside Bengali communities. These communities live in very difficult conditions, with inadequate housing and poor access to sewage and drainage – problems that are exacerbated during the flood season. Residents identified a lack of free primary health care and poor sanitation and hygiene as the main problems that they face. People living in these camps are also reportedly threatened with forced eviction. While some of the conditions may not differ from those in other slums, the

historical discrimination that the Urdu speakers have suffered, in large part owing to their statelessness, further inhibits their enjoyment of human rights.

28. **The independent experts welcome the 2008 High Court decision that recognizes Urdu speakers as Bangladeshi nationals, and commends the Government for the measures taken to register them, issue them with national identity cards and allow them to vote in the 2008 elections. It is believed that between 70 and 80 per cent of the community have acquired a national identity card and participated in elections.<sup>8</sup> However, the independent experts remain concerned about the full implementation of the High Court decision, which requires continuous efforts by the State to ensure the rights of Biharis as citizens of Bangladesh without discrimination. The experts also urge the Government to design and implement a comprehensive programme to integrate Biharis into Bangladeshi society, including by ensuring that poverty reduction programmes specifically address their situation.**

#### **E. Rohingya refugees**

31. The Government and the people of Bangladesh have shown great hospitality to Rohingya refugees over the past decades. In collaboration with the United Nations High Commissioner for Refugees (UNHCR) and other partners, the Government has taken important measures to improve the situation of registered refugees residing in camps. However, despite recent improvements in the conditions of the camps, registered refugees do not fully enjoy freedom of movement, the right to work or the right to education, which leaves them extremely vulnerable to abuse and exploitation.

32. The independent expert on the question of human rights and extreme poverty visited Cox's Bazaar and the Kutupalong camp, and met with groups of refugees, local authorities, the Refugee Relief and Repatriation Commissioner and civil society organizations working in the area. The expert was concerned at the overcrowded conditions in the camps and the deplorable living conditions for those living immediately outside them. While 28,000 refugees live in the camps, the Government estimates that between 200,000 and 400,000 unregistered refugees live nearby. The unregistered refugees do not have adequate food or shelter, nor access to basic services, including sanitation, safe drinking water and health care. The experts are particularly concerned by recent civil society reports on the worsening conditions of unregistered refugees.

33. The experts understand that the Government of Bangladesh has limited resources, which prevents it comprehensively addressing all of the needs of refugees coming from Myanmar. However, until a sustainable solution is identified, the Government must ensure livelihood opportunities and progressively ensure access to basic services, such as sanitation, safe drinking water, health care and education. The Government and the international community should ensure that any assistance provided to the communities does not discriminate on the basis of nationality, but rather results in those who are most in need of assistance receiving it, so as to prevent tensions between the refugee and host communities. The experts also encourage the Government to consider a system for identifying and registering unregistered Rohingyas. They note that protection of the Rohingya does not lie solely with the Government of Bangladesh, and therefore call upon the international community to step up efforts to ensure protection and to seek durable solutions.

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<sup>8</sup> United Nations High Commissioner for Refugees, Note on the nationality status of the Urdu-speaking community in Bangladesh, available at [www.unhcr.org/refworld/pdfid/4b2b90c32.pdf](http://www.unhcr.org/refworld/pdfid/4b2b90c32.pdf).

## **VII. Conclusions and recommendations**

123. The independent experts recognize the efforts made by Bangladesh and its pioneering approaches to address extreme poverty and to ensure access to safe drinking water and sanitation although some challenges remain. The experts are convinced that, with political will and continued prioritization of these issues, the Government can tackle these problems successfully. In this regard, the experts recommend that the Government:

(a) Ensure equal protection of all human rights — civil, cultural, economic, political and social — in the law, in their independent monitoring and in their enforcement. The experts urge the Government to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Furthermore, economic, social and cultural rights should be explicitly included within the mandate of the National Human Rights Commission; (...)

(c) Collect disaggregated data, with particular regard to the most vulnerable groups, to have a clear picture of who is living in urban slums. On the basis of that information, the Government should also draw up a comprehensive plan for people living in poverty in urban areas, including specific measures to ensure their access to sanitation and safe drinking water. The Government must address the situation of those who lack secure tenure, and put an end to forced evictions, which are contrary to the Government's human rights obligations. (...)