The High Court said they were Bangladeshis

The state and the camp-dwelling Urdu-speaking community

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FILE PHOTO: KAZI TAHSIN AGAZ APURBO

THE members of camp-dwelling Urdu-speaking community (CDUSC) are both baffled and dismayed over a series of recent decisions by the Bangladesh government. They are surprised to learn that, almost a decade and a half after the higher judiciary's unequivocal reaffirmation of their citizenship status ("Md Sadaqat Khan (Fakku) and 10 others vs the Election Commission and others," May 18, 2008), instead of developing a comprehensive rehabilitation and reintegration programme, the government appears to be pursuing policies that are contradictory and, in cases, may be inconsistent with the constitution, the laws of the land, and the High Court judgment. Though such developments with a possible adverse impact on a disadvantaged community failed to draw attention of the mainstream civil society and the media, they have triggered uncertainties and concerns not only among the members of the community, but also among those who value pluralism and diversity and have respect for the rule of law.

On September 16, 2021, the director general (DG) of Bangladesh Bureau of Statistics (BBS) instructed the deputy commissioners of all districts to prepare a list of "all stranded Pakistanis" in a stipulated format, and send the same to his office by a certain date. In providing the context, the DG explained that the move was a follow-up to a decision of the National Security Council under the Cabinet Division, where it decided to "update the number of all stranded Pakistanis to present the issue in the international fora and step up diplomatic efforts for their repatriation to Pakistan." Perhaps under the same consideration, in her meeting with the newly appointed Dutch ambassador to Bangladesh on October 16, 2021, the prime minister of Bangladesh identified Rohingyas and the CDUSC as "a burden for Bangladesh" (*The Daily Star*, October 17, 2021).

In both those instances, the CDUSC have been viewed as aliens with the underlying assumption that they have no claims to Bangladeshi citizenship, and thus constitute "a burden" and qualify to be "repatriated" to another country. Such an assessment of the citizenship status of the community members is not only in sharp contrast to several prime-ministerial initiatives for their rehabilitation over the last several years, but it is also misleading and unconstitutional.

Earlier on November 6, 2014, while visiting the disaster management and relief ministry, the prime minister had instructed the authorities to take initiative to resettle the members of the "Bihari community" "living in unhygienic conditions" in camps in the middle of Dhaka to a nearby area to "improve their residential facilities, reduce insecurity and on humanitarian consideration." Acting on it, the ministry wrote to the deputy commissioners of Dhaka and Gazipur districts to select sites by November 15, 2015. The prime minister gave a similar instruction during her visit to the housing and public works ministry on December 28, 2014, calling for Mohammadpur- and Mirpur-based "Bihari community's" "resettlement and relocation to peripheral areas of Dhaka." In response, the concerned authority took initiative to look for five to seven acres of government land in Mirpur, Savar or Tongi area, with the plan to construct a number of "six-storey walk-up buildings."

In yet another initiative, the disaster management ministry undertook plans for the relocation of 100,849 members of 24,212 families residing in five "non-Bengali (Bihari) camps" to the adjoining Keraniganj area and Gazipur district that would require 726 acres of land. It may be noted that in these statements and communication, the senior government functionaries and state institutions referred to the CDUSC as "Biharis" or "non-Bengalis (Bihari)," and not as "stranded Pakistanis" on even a single occasion. Such engagement of the government with the CDUSC—albeit limited to those residing in greater Dhaka area—was perceived as a belated move for the community's rehabilitation in the light of the higher judiciary's reaffirmation of their Bangladeshi citizenship more than a decade ago.

The citizenship status of the CDUSC was finally settled by the higher judiciary's pronouncement in 2008 in "Md Sadaqat Khan (Fakku) and 10 others vs the Election Commission and others," in which Urdu-speaking, camp-dwelling petitioners demanded their inclusion in the ongoing voters rolls (Writ Petition No 10129 of 2007). In its verdict, the High Court dismissed the state's claim that CDUSC members lost their Bangladeshi citizenship by opting to go to Pakistan (in the mid-1970s) and for living in the ICRC camps, which the state argued "enjoyed a special status," thereby falling outside the operation of the laws (including citizenship laws) of the land. Elaborating the provisions of the citizenship law, the High Court observed, "Members of the Urdu-speaking people, wherever they live in Bangladesh... have already acquired the citizenship of Bangladesh by operation of law." It noted that the Election Commission was "under constitutional obligation to enrol them in the electoral rolls as voters." The court went to assert that "no functionary of the Republic can deny such rights of the Urdu-speaking people who want to be enrolled as voters."

Continuous denial of Bangladeshi citizenship for decades has put the members of camp-dwelling Urdu-speaking community in a situation of virtual statelessness in their own land.

The court was unambiguous in its disapproval of denying citizenship rights to the CDUSC and noted, "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 nation-building. The sooner the Urdu-speaking people are brought to the mainstream of the nation, the better."

The verdict brought a closure to all confusion, misunderstanding and misrepresentation that pervaded the issue for decades. It not only validated the citizenship status of the members of CDUSC, but stressed that their claims to Bangladeshi citizenship is on equal footing as that of the mainstream Bengali community. The state's omission in denying CDUSC members Bangladeshi citizenship for decades contributed to a situation of virtual statelessness in their own land. While the state's neglect and apathy largely continue (barring supplying of free electricity to the camps), and NGOs and development partners remain at arm's length from engaging in alleviating their misery and poverty, the members of the community have remained resilient in withstanding challenges with fortitude. Even the multi-pronged and multisectoral development interventions under the auspices of the coveted Millennium Development Goals (MDGs) and the subsequent Sustainable Development Goals (SDGs) appear to have missed this community, one of the most backward ones of the country.

For generations, the camp-dwelling Urdu-speakers did not receive any protection from the state. Some measures taken by the Bangladesh government for the rehabilitation of Dhaka-based camp-dwellers in the mid-2000s were steps in the right direction. However, the recent decision of the National Security Council goes in the opposite direction of government policies of recent past, and bodes serious omen for the members of the community. Why are we raising again a well-settled constitutional question, duly addressed by the higher judiciary on writ petition under Article 102 of the constitution, the supreme law of the land?

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Memo No. 26.06.0000.029.07.001-21/97(3) Date: 17.01.2022

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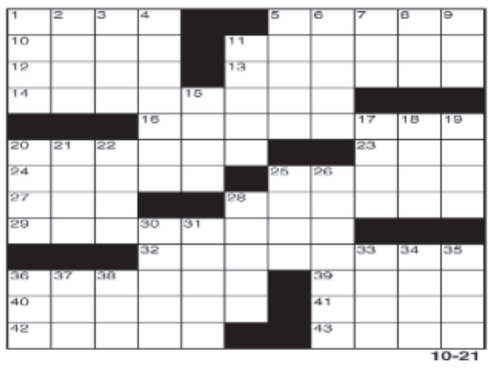

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