



RESEARCH ARTICLE

A Theoretical Analysis of Stranded Biharis in Bangladesh: Seeking for nationality since four decades

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Abstract

Many people become refugee during communal riot of 1947 in India who ultimately took shelter in East Pakistan now known as Bangladesh. Those 'Urdu Speaking' refugees came from Bihar, Uttar Pradesh, Mahyindra Pradesh and Rajstan of India. They have known as Bihari as most of them came from Bihar province of India. The West Pakistani ruler welcomed them in East Pakistan due to their having similarity of religion, language and culture. They received citizenship of Pakistan and patrons in profession by government. They engaged themselves in Language movement (1952), liberation war (1971) in favor of Pakistan and against the interest of East Pakistan. After victory in 1971, Bangladesh did not recognize them as citizen of the state. And since then those people became stateless refugee. There is a huge controversy of their refugee status and they are stranded from their old country; Pakistan, and became alien in Bangladesh. In this paper, a theoretical analysis has been done to give a deep insight about the real status of Biharis in Bangladesh.

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Introduction

Biharis in Bangladesh, the 'stranded Pakistani; is seeking their identity since the Liberation war of Bangladesh in 1971. Those people came to East Pakistan now known as Bangladesh from Bihar, Uttar Pradesh, Mahyindra Pradesh and Rajstan during the partition of British India in 1947. East Pakistan was the part of Pakistan along with West Pakistan till 1971. East Pakistan was ruled by West Pakistan. The West Pakistani ruler welcomed the 'Urdu speaking Biharis' in East Pakistan due to their resemblances in religion, language and culture. So Biharis got all support from the Pakistani government. As a result they delivered all kind of support to the government against East Pakistani interest. Bihari's stand against east Pakistani peoples in the issue of Language movement in 1952, general election in 1970, and liberation war in 1971 (Sen, 2003). After getting independence from West Pakistan, Bangladesh denied accepting citizenship of 'Stranded Pakistani'-Biharis. On the other side, Pakistan was not interested to accept those old friends. The International convention in Geneva in 1982 stated Biharis are Non Bangladeshi or stranded Pakistani

(Chowdhury, 1987). So the 300,000 Biharis have been living in 66 neglected refugee camps in Bangladesh. There is a controversy about them in refugee issue. The United Nations High Commissioner for Refugee (UNHCR) does not recognize them as refugees. About 300000 Biharis live in Bangladesh horribly without identity, status and recognition.

2. Background

After partition of British India in 1947 there was a communal violence in all around of India. About 30,000 Muslim was killed in so called 'Bihar Killing' in October and November (Hashmi, 1996). People migrated to newly established East Pakistan for saving themselves and preserving their Islamic life (Haidar, 2003). Those people came from the Indian provinces named Bihar, West Bengal, Assam, Orissa, Nagaland, Manipur, Tripura and Sikkim (Chowdhury, 1987). Majority of the people came from the Bihar so they are well known as Bihari in East Pakistan. Bihari's language, culture, custom, tradition was quite different but religion to East Pakistan. But the Urdu speaking Biharis shared the same language with West Pakistanis who captured

the economic and political power in East Pakistan (Sen, 1999). The similarity of language and religion created opportunity for Biharis in the position of East Pakistani economy as West Pakistani rulers patronize them for their own interest (Begum, 1989).

West Pakistani rulers did not trust the Bengali peoples. They believed that Bengali people is disloyal to Pakistan and treated them as semi Hindus, pro Indians (Ahmed, 1967). So Biharis received all support and opportunities from the West Pakistanis. They received Pakistani nationality and had got the official jobs in the railways, post and telegraph,

armed forces, private industries, trade and commerce (Chowdhury, 1987). The Pakistani ruler discriminated the east Pakistani from getting jobs, so the Bengali peoples engaged themselves in agricultural work. After 1947 many Hindus migrated to India from East Pakistan. At that time the Bengali Muslims and Biharis together captured their property. As west Pakistani welcomed the Biharis in East Pakistan, they support West Pakistan in Language movement in East Pakistan in 1952 and Liberation war of Bangladesh in 1971.

Table 1: Population Distribution by Ethnicity in Industry/Occupation, 1951

Sector	Bengalis	Percentage	Biharis	Percentage
Agriculture, Forestry, Fishery	10,811,301	85.24	104,430	51.63
Mining	2,522	0.02	55	0.0365
Manufacturing	481,277	3.79	17,411	8.61
Construction, Electricity, Gas, Water	136,634	1.08	7,689	3.80
Commerce	477,510	3.76	25,044	12.38
Government Services	168,340	1.33	10,775	5.33
Personal and community services	420,020	3.34	16,682	8.25
Total	12,683,744	100.00	202,256	100.00

Source: Chowdhury (1987), 'Non-Bengali Refugees in Bangladesh', p 224.

Biharis supported Pakistan Muslim League and Jamat-e-Islami in the first general Election of Pakistan in 1970 which made Bengali nationalism (Sen, 2003). After President Yahya's declaration of postponement of the national assembly, the Bengali peoples became very furious with Pakistani decision. As a collaborator of Pakistani government, Biharis were the target of Bengali crowds. About three hundreds Biharis were killed in Chittagong in March of 1971. The Biharis were being persecuted in Dhaka, Chittagong, Khulna, Mymensing, Rangpur, Jessore during the Liberation war of Bangladesh due to their stand in favor of West Pakistan. The refugee issue came forward after getting independence of the Bangladesh in December 1971. About 10000 of Biharis took shelter in India in the early of Liberation war due to Bengali massacre (East Pakistan Crisis 1971).

Though a few numbers of Biharis joined to the East Pakistan civil armed forces and worked as a Razakars and Al Shams, the mass murder were held on Bihari

refugees by Bengali freedom Fighters. Several thousand Biharis were arrested and put on prisons. The New Bangladeshi government treated them as a trouble maker and guilty. The Biharis left their homes, property and compelled to come in Bihari refugee camps.

After independence war of Bangladesh, Biharis were persecuted on the basis of race, nationalities and specific ethnic identities. This persecution series forced Biharis to escape in refugee camps leaving their home and properties. Biharis who stand against the new born country Bangladesh, were targeted by the new government of Bangladesh. State was against them. Government declared the Bangladesh Abandoned Property Order 1972 (Control, Management and Disposal); which properties were belongs to Biharis; to control, manage and disposal of these properties. This order was about acquisition and control of properties of persons who

- 1) were not present in Bangladesh,
- 2) ceased to occupy their properties

3) or property of enemies.

The order included the properties that was belongs to a citizen of state or engaged in military operation against Bangladesh. As Biharis were the citizen of Pakistan and fought against Bangladesh, the state allowed to acquisition of their properties (Sen, 2003).

3. Repatriation Program:

Former Bangladesh President Sheikh Mujibur Rahman requested United Nations to arrange repatriation of Biharis. He also agreed to exchange of Bangladeshis in Pakistan for the Biharis in Bangladesh. But Pakistan did too much politics to leave the Biharis. The UNCHR showed that about 108750 Biharis repatriated to Pakistan until 1974 including military personnel, former civil servants and 25000 hardship cases that means who are orphans, widows and others, had no immediate relatives in Bangladesh. According to International Red Cross Society that works along with UNCHR, about 163,072 refugees were repatriated to Pakistan (Minority Rights Group Report, 1982). This program was postponed in June of 1974 due to want of fund. Bangladesh government requested to restart the repatriation program again. About 25,000 refugees who were registered to repatriate in 1974 were repatriated in August of 1977 by funding of Qatar and Kuwait contributed \$ 500,000 and \$50,000 respectively. Saudi Arabia also provided transportation facilities [Proceeding Report, Annexure IV].

Table 2: Estimated Figures of Repatriation, 1972-1999

Year	Number of Biharis Repatriated
1973-74	163,072
1979	9,872
1982	4,800
10 January 1993	325
Total	178,069

Sources: Proceeding Report, International Conference, Annexure IV

Again in 1979 about 9,872 refugees were repatriated in Pakistan and in 1982 about 750 families comprising 4,800 people able to go back in Pakistan (Proceeding Report, Annexure W). About 325 Biharis repatriated to Pakistan in January, 1993. Then president of Pakistan stated his country fulfill the tripartite agreement of 1974. He also stated the government of Pakistan would accept Biharis if sufficient financial resources would available for their transfer and rehabilitation (Ennals & Husain, 1983). The formal Law minister of Pakistan stated that 'It is their legal right that Biharis be brought to Pakistan. To deny them would amount to negation of

the ideology on which Pakistan was formed'(Proceeding Report, Annexure VII). But formal prime Minister of Pakistan Benazir Bhutto described it as a settled issue and she stated it as a politically potent issue. President Parvez Musharraf avoided this issue when he visited Bangladesh in 2002.

Then Pakistan disagreed to take back all Biharis. Pakistani political opposition stands against the repatriation programme (Khan, 2001). Muhajirs, immigrant from India and West Pakistan live in Sindh province where rehabilitation for Biharis was also arranged. There are ethnic clash between two groups in Sindh named Muhajir Quami Movement (MQM) Party and the Sindh National Alliance. The Second group is strongly opposed the repatriation of Biharis. No country neither Bangladesh nor Pakistan are interested to take responsibility of those unfortunate people. As a result of inhumane mentality of these two countries, about 250000 people is still seeking their nationality for long times.

4. Theoretical Analysis:

In this part, I will try to discuss some theories of migration to review the position of Biharis in Bangladesh. The factors behind the displacement of Biharis were violence, and later on event made disaster. Sociologists have researched migration issues from a variety of perspectives. Some studies are based on voluntary and forced migration; some on exiles, slave trade, religious and political persecution (Richmond, 1993). Most of the theorists focus on voluntary movements, while forced migration has not received the same degree of interest. Thus, there is a lack of research in this area. Most of the time reporting on events and developing policies have been the main focus of forced migration research (Gold, 1992). According to the concept of voluntary migration, people move from one country to another willingly or forced by political oppression, domestic or natural causes like famine or even due to personal inclination. Forced migration means people who are forced to leave country without any choice. This displacement could be consequences of racial or ethnic clashes, religious conflicts and national insecurity.

According to Peterson (1958), there are two class of migration like forced and impelled migration. Forced migration occurs when people are expelled from the area by external forces (government). Impelled migrants have some options regarding their possible flight and opportunity to evaluate the decision to be taken. Kunz introduced the Kinetic Model of flight and displacement of refugees. The refugee flight is

influenced by kinetic factors of inertia, friction, and vectors of the outside forces applied on them. The flight of refugees might be the result of dangerous situations and displacement by the army who may persecute them by interning them in concentration camps or imposing forced labour (Kunz, 1973)

Kunz (1981) classified refugees into three groups on the basis of their attitude towards their displacement: Majority identified refugees; Event related refugees and Self-alienated refugees. Majority identified refugees are the people who identify their country or nation but not their government. They are compelled to flee due to political and social persecution by their government leading to their ultimately becoming the most forgotten people of the world. People who leave their country due to religious or racial events are recognized as event-related refugees. Self-alienated refugees may be categorised as revolutionaries who leave the country because of their ideology and are not willing to recognise their own country. Voluntary migration is motivated by economic and family reunion factors while forced migration is characterised by political factors (Kunz, 1973). Voluntary movement directed by some pull and push factors which may be political, social, and economical. Those voluntary migrants come from insecure countries (Lee, 1966).

Zolberg (1983) first introduced integrated explanation of forced migration. Before him theorist thought that refugee movement is unpredictable and difficult to explain theoretically as refugees come from non economic circumstances, war, civil unrest and political regime changes. He argues that voluntary migration happens by economic causes but forced migration is deeply linked with political factors. According to Ager (1999), forced migration depends on various factors like global politics, policies and ideology, local cultural process, personal characteristics and capacities of refugees. Richmond (1993) and Castle (1998) agreed with him and state that there is an insatiable relation between refugee movement and globalization. There is a relationship among the history of prior contact between sending and receiving countries, prior conquest of kingdom, trade and business, colonial relation and recruitment (Portes & Borocs, 1989). Migration theories related to refugee are historical, structural, global and critical. Global inequalities and violence increase the push factors and shore up the potential receiving countries to take strong control over the border (Zolberg; Suhrke & Aguayo, 1989). Richmond (1988) says that population movement is a complex response to the reality of the global society in which

ethno religious, social, economic, and political determinacy are bound together.

By examining Bihari's position in Bangladesh We can see some of them categorised by voluntary migration specially the railway workers who were from Bihar and Uttar Pradesh (North Province). The President of Pakistan Mohammad Ali Zinnah encouraged them to be immigrant in East Pakistan and declared those people as a central government employee. The Pakistani leaders encouraged the Muslim civil servants and their relatives who wish to migrant in East Pakistan. Those voluntary migrants of Biharis were encouraged by economic factors. But most of the Biharis leave their native land because of communal violence this categories identified by forced migration.

5. Controversy of Refugee Status:

There is a huge debate regarding the status of Biharis who are living in Bangladesh in refugee camps. Are they refugee, migrant or stateless?

For the definition of refugee we can examine the Convention of 1951. Under the Article 1 A (2); that amended by the 1967 protocol which clarify the refugee on the basis of three conditions or situations (Malik, 1998). Such as

1. Somebody has to live outside of native country or if he does not have a nationality of his normal residence.
2. To have fear or threat of persecution on the basis of one of factors like race, religion, nationality, membership of a particular social group or public opinion
3. Fear of the protection of that country or to return native country due to fear of persecution

According to convention (1951) and protocol (1967) refugee must be an outsider of his or her native country or nationality. Some people may face the same situation and some people may have fled in one place to other places inside of the country of birth. In this cases the person is not crossed the border of country, and according to convention they will not consider as refugee. Secondly the refugee must have 'well founded persecution' due to race, religion, nationality, membership of a particular social group, or political opinion in his back home and unwell to depends on protection of his country. People who are a member of particular social group or political group or being involve in internal politics of the country that are against the interest of the government could

flee from native country due to fear of being persecution. This kind of refugee may maintain relationship with country of origin and on this ground many country do not interested to give refugee status to them because of political attitudes (Melander, 1974).

There are some circumstances under which the UNCHR does not recognize as a refugee. Firstly, people fled across the boundary country of origin due to distress and unable to return home. Those situations may cause by famines, floods or earthquakes which make life impossible there. Those situations are not included in the convention. So UNCHR does not recognize these people as refugee in those situations. Secondly, the convention stops to apply refugee status to those persons who are normally get the opportunity of it but if certain events occur whereby that persons has got the protection of his/her country of origin and voluntarily return to it. Thirdly, the UNCHR will not recognize as a refugee who committed serious crimes or acts specified by the Convention or people who is receiving assistance of United Nations agencies rather than the United Nations High Commissioner for Refugees.

The UNCHR verify the refugee status under the Convention of 1951 and protocol of 1967. Two processes are followed by UNCHR to ensure refugee status such as to find out the relevant facts of the case and comply with the conditions of Convention of 1951 and protocol of 1967. The conditions of 1951 Convention and 1967 protocol are described above. Now I am trying to depict the status of Biharis in Bangladesh who are living in refugee camps.

- 1) Biharis were migrated to East Pakistan due to communal riot in India in 1947. It is important to note that the riot was happened in the time of partition of India. The country of origin was India; later on the Indian Sub continent was divided in August, 1947 based on religion.
- 2) As Biharis migrated to East Pakistan because of terrible communal riot that happened in different parts of India, so it is beyond of doubt that migration was happened on the basis of 'well founded fear of persecution'.
- 3) The riot was based on communal factors. Only Muslim people were killed in this riot. The position of Muslim in some parts of India was very vulnerable. Religion was only factor for the migration of Biharis.

- 4) The People, who migrated to East Pakistan, were unwanted to go back to India because of insecurity of life and fear of persecution.

There are some reasons for what UNCHR does not agree to recognize of refugee that I discussed in previous paragraph. There are also some conditions for not able to recognizing as refugee that matches with Biharis in Bangladesh.

1. Opportunity to avail himself/herself protection of country of origin or lost of nationality voluntarily or regain the citizenship of native country.
2. Acquired a new nationality and gain the protection of advantages of it
3. Re-established voluntarily in the country that he left or outside which he remained owing to fear of persecution
4. Continued to refuse to avail himself of the protection of the country of his nationality even though the circumstances in connection with which he has been recognized as a refugee have ceased to exist (Farzana, 2009).

6. Being Stateless

International law tries to ensure the nationality for every person. Universal declaration of Human rights, Article-15 stated that everyone has right to have nationality, and will have a native country. "Everyone has the right to seek and to enjoy in other countries asylum from persecution" (Universal Declaration of Human Rights, article 14); Universal declaration of Human rights says in Article 24(3) "Every child has the right to acquire a nationality." But we can still see about 11 million people are stateless and don't have citizenship of any country because of communal wars and ethnic conflicts.

According to Citizenship Act (Provisions Order) which was issued in 1951 states in Article (4) everyone shall be a citizen by birth who born in Bangladesh after the commencement of this Act. But they will not be a citizen who or whose

- 1) father possesses such immunity from suit and legal process as is accorded to an envoy of an external sovereign power accredited in Bangladesh and is not a citizen of Bangladesh; or
- 2) Father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

This Act clearly states the obstacle to get Bangladeshi citizenship to Biharis. They assisted to

Pakistani army in the war of independence of Bangladesh. The Pakistan Citizenship Act 1951 of Section 3(d) states: "At the commencement of this Act every person shall be deemed to be a citizen of Pakistan who before the commencement of this Act migrated to the territories now included in Pakistan from any territory in the Indo-Pakistan subcontinent outside those territories with the intention of residing permanently in those territories". According to Pakistani citizenship law Biharis are considered as citizens of Pakistan.

If we examine the position of Biharis we can see they comply above categories but their refugee status taken away from them. They enjoyed the nationality of Pakistan and enjoyed all rights and advantages from the government of Pakistan according to Pakistan Citizenship Act, 1951. As a result they are expelled to remain refugee according to Convention definition. The Biharis meet above mentioned conditions as many of them came to East Pakistan in 1947. At that time they have option to settle in India or Pakistan and after 1951 according to Pakistan citizenship act they took protection from Pakistan (Rahman, 2003).

Stateless people are those who do not have a legal tie of nationality with any country. Those people are stateless who never gain national identity of birth country or who lost citizenship of a country or no right to claim citizenship of another country. The denationalization of Biharis by Pakistan made them stateless. Universal Declaration of Human Rights of 1951 states "Everyone has the right to a nationality and that no one shall be arbitrarily deprived of his nationality". Now about 11 million people live without citizenship and nationality. The Biharis were displaced twice in last five decades. They displaced in the time of India partition in 1947 due to religion riot and another displacement of them happened after emerges of Bangladesh in 1971. Though Pakistan government recognized them as a Pakistani citizen according to Pakistan citizenship act of 1951, now the Pakistani government are not recognizing them any more as their citizen and stated Biharis are stranded Biharis, not stranded Pakistanis.

The Universal Declaration of Human Rights article 12(4) stated that the right of citizen specially "the right of a national to return ". In this regard Pakistan violated international rules by denationalizing of Bihari and they have right to return to Pakistan. Due to Pakistani selective acceptance in to new territory, majority of Biharis became stateless (Lawand, 1996). It could be strongly argued that Biharis are legal nationals of Pakistan since 1947, after twenty five

years they cut off the citizenship right of them that are illogical deprivation of human rights by Pakistan government.

7. Conclusion:

Biharis are non-Bangladeshi, stranded Pakistani who is waiting to repatriate to Pakistan. Those stateless people are living in refugee camps in Bangladesh without proper nutrition, poor drainage and sanitation systems, education, and health care facilities. People with extended families live in very little huts in overcrowded dark places. Their social life is spoiled and exhausted. The Bangladesh government allows them to earn money for living as a Ricksha puller, cleaners and street shoppers. The Convention of 1951 declared everybody has national identity; so United Nations really need to work hard to makes it true. The most of the Bihari people want to go back to Pakistan and UNCHR could play a vital role to restart the repatriation program. Many of them want to citizenship of Bangladesh though Bangladeshis treat them as enemies. Bangladesh authority should re-evaluate the position of the Biharis from the humanitarian perspectives. Both Bangladesh and Pakistan needs political honesty and willingness to restart repatriation program again. Pakistan cannot deny their responsibility of taking back those unfortunate people. They should give opportunity to repatriate those stranded people on the same ground of repatriation happened in 1972-1993.

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