

Report

Workshop on Citizen Draft Bill, 2016



September- 2016



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Date, Venue & Participants

On August 28th, 2016, Council of Minorities (CoM) hosted a half-day workshop on “Citizen Draft Bill 2016” at YWCA Auditorium in Dhaka. The 34 workshop participants represented civil society organisations, media, academia and the linguistic minority community.

Context of the Workshop

The Citizenship Draft Bill 2016 has been approved by the cabinet on 1st February, 2016. If passed in the parliament, the bill will replace the existing Citizenship Act 1951 and the Bangladesh Citizenship Temporary Provisions Order 1972.

Objective of the Workshop

The purpose of the workshop organised by Council of Minorities was to review the draft bill before it is placed in the parliament for enactment. The recommendations identified in this workshop would be the basis of future advocacy discussions with parliamentarians, legal experts, civil society activists and journalists.

Discussions

The workshop opened with an introductory speech made by Mr. Zakir Hossain, the President of Council of Minorities. Following his speech, Mr. Shahariar Sadat, Advocate, Supreme Court of Bangladesh and Academic Coordinator, South Asian Institute of Advanced Legal and Human Rights Studies (SAILS), presented his critical reflection on the draft bill. He explained how the draft bill, if passed without modification, will violate fundamental human rights. It will also render many Bangladeshis stateless, and create a social and political crisis.

The current citizenship draft bill may be an attempt to override the supremacy of the constitution of Bangladesh. With reference to Art 7 of the constitution of Bangladesh and the landmark case of Marbury v. Madison in US Supreme Court, Mr. Sadat emphasized that “the constitution is the pinnacle/supreme source of law of a country, with a written constitution and no law can override or violate the fundamental fabric of the constitution”. The court can declare any provision of legislation as unconstitutional and the Parliament is required to modify that law in accordance with the constitutional principles.

Throughout the workshop, the participants engaged in open discussions and group work to analyse different sections of the draft bill. These discussions identified several crucial areas in the draft where amendment is necessary to ensure social stability and compliance with the fundamental constitutional principles, existing domestic laws, judgement by the apex court and international legal instruments.

Recommendations of Workshop Participants

The recommendations generated from the discussions in the workshop have been summarised and categorised under respective sections of the draft bill.

Section	Recommendation
Section 2	Clarify the meaning/definitions of “foreign enemy”, “allegiance” and “deny the existence of Bangladesh”.
Section 3	Rephrase this section in an affirmative manner. Eg. “This law will not override any existing laws, decrees etc...” Article 102 of the Bangladeshi constitution & Indian Citizenship Law 2015 can be referred here.

Section 4 (2)	Children should not be victimised for the action of their parents. Remove section 4 (2) (a) and (b) or make it simpler. Right to citizenship by birth should be given to anyone who was born in the territory of Bangladesh and whose either parent is a Bangladeshi citizen.
Section 5 (2)	Birth certificate should not be essential criteria of citizenship. Children of Bangladeshi citizens have the right to obtain Bangladeshi citizenship, irrespective of their place of birth.
Section 5 (2) (a)	Extend the time period for receiving birth certificate up to six years.
Section 5 (2) (c)	Remove this section because we all are equal before the law.
Section 5 (3)	Explain which activities “deny the existence of Bangladesh”. There must be written declaration denying existence of Bangladesh. Merge this section with Section 2.
Section 8 (1)	Explain clearly why Bangladeshis cannot have dual citizenship of SAARC countries and Myanmar.
Section 10	List the “conditions” for naturalization.
Section 11(b, c, e)	These articles violate the right to marriage and should be removed.
Section 16	Remove the section.
Section 17	Merge this section with section 4 “Citizenship by Birth”. In cases where the authority denies citizenship of children, opportunity for appeal should be given. Appeal can be lodged within 90 days of the decision.
Section 18 (a)	Clear definition of ‘allegiance’ is required. Remove this word.
Section 19 (2)	Should not cancel citizenship of children whose parents have revoked Bangladeshi citizenship. Minor children born to Bangladeshi parent(s) should be allowed to choose their citizenship when they become adults.

Section 20 (1) (c)	Define the “actions and behaviour” that express non-allegiance to Bangladesh’s sovereignty and constitution. Who is responsible for identifying such actions and behaviour? Replace “non-allegiance” with “activities that pose threat to national security”.
Section 22	Many members of the Urdu speaking community cannot use their real address in the NID card because their residences do not always have holding numbers. An article should be added in section 22 to exempt the Urdu speakers from its application.
Section 28 (2)	Modify this section.

Follow-up Advocacy Actions

A bottom up approach is needed to influence the policy makers. This includes:

- Discussions with parliamentarians
- Roundtable dialogue with lawmakers and civil society groups
- Distribution of fliers highlighting the recommendations of workshop participants
- A press conference to sensitize media personnel about the anomalies in some sections of the Citizenship Draft Bill 2016
- Awareness sessions and expert discussions on electronic media. Eg. radio programs and TV talk shows
- Op-ed innational and international newspapers
- Use of social media extensively
- A memorandum can be prepared to be sent to the international development partners.

Council of Minorities (CoM)

Council of Minorities (CoM) is a human rights organization with a special focus on establishing the rights of minorities and indigenous people. Established in 2012, CoM envisions a peaceful, poverty-free and xenophobia-free world where people, especially minorities and indigenous people, the powerless and marginalized will have equal opportunities to live with dignity and hope.

CoM is trying to ensure social, cultural, political, constitutional and economic rights of the minorities and indigenous people through partnership, networking, and advocacy and lobbying with the Government. CoM promotes and fosters mass awareness on minority rights and duties; creates social awareness against social stigma, discrimination and xenophobia through performing arts, drama and documentary films; enhances the capacity of minorities and indigenous people to organize training, seminars and workshops on their rights; and organises summits and fellowship programs for minority people.

Contact:

Khalid Hussain

Chief Executive

Email: khalid.aygusc@gmail.com

Cell: 880-1911479073

Web: www.com-bd.org