

## CONFIDENTIAL – NOT FOR CIRCULATION

Critique of the National Database and Registration Authority Ordinance, 2000 and practices surrounding issuance of Computerized Identity Cards in Pakistan.

An ordinance is an order of the executive branch of the country for formulation of a law which is needed but the legislative branch is either unable or unavailable to frame. Or the matter in question is of such an important nature that it must be dealt with by the executive branch immediately.

This ordinance is flawed in many ways; following is our perspective.

### Objectives and goals of the authority

The Government has spent millions of dollars of money to create a system and beurocracy to register all citizens of the country. Perhaps the body of the ordinance is not the best place to clearly layout the objectives and benefits of and guidelines for the establishment of the authority. At some point even yardsticks for measuring the success of the authority and its various programs should have been made public so they could be debated and discussed by all interested parties.

An executive order is as much an instrument of public policy as an act of the legislature. It deserves to be reviewed with just the same diligence. Without a clear statement of objectives, elaboration of benefits and enunciation of guidelines (values) is not possible to offer constructive feedback.

### Article 6.2

This agency is founded and funded by the federal Government and is responsible for the National Identity Card Program. We can understand if the federal Government wants to have input of local authorities or provincial Governments in planning and operation of this agency and its work. However from reading of this particular clause it is hard to determine what is the role assigned to the local or provincial government, is it regulatory, supervisory or consultative. It is very important to clarify the relationship.

### Article 7.i

Apparently Governments, semi government and private institutions can access the data but conditions of use or fees are not spelled out. It is also not known how close to the raw data a researcher may get.

### Article 9 and 10

Citizens in possession of a validly registered identity card shall be deemed to have been registered in the new database. Authorities in Karachi are most certainly not issuing new Identity cards to those who had the old ID cards automatically. Causing a great deal of pain and enormous expenditure to hundreds of thousands of citizens.

### Article 17.2

How does the holder of a card cease to be eligible to hold a card which is defecto proof of their nationality.

### Article 19

The purposes for which a computerized national identity card is required is not specified in the ordinance, its applications are ever expanding. Following is a short list:

1. Application for a passport
2. Driver license
3. Utility connections such as water, electricity, telephone, gas etc.
4. Air travel
5. Train travel
6. Purchase or ownership of property
7. Opening of a bank account
8. Claiming of any Government benefits such as pension

9. Signing or witnessing any legal documents
10. Obtaining a tax identification
11. Business, import or export license
12. Admission of minors to schools
13. Admission to University or college.
14. Receiving deliveries from the post office
15. Cashing of any checks.
16. Employment in any sector or industry
17. Medical insurance coverage
18. Work/Employer sponsored benefits
19. Registration to vote
20. Birth Certificate

There will always be a small percentage of population which will remain beyond the reach of any registration system and allowances ought to be made for these populations. Examples are agrarian or mountain dwelling societies in distant or unreachable areas, nomads, agricultural or migrant workers, mental, bonded laborers or psychological patients.

In order to facilitate the integration of individuals and groups from the national identity card program. Also there are activities which must be declared exempt from requiring Identity Card numbers such as registration of new births, enrollment of kids in primary and secondary school, child health and immunization and pre and post natal care for mothers, to ensure near universal access to these programs.

#### Article 23

##### Power to call for proof of information

Not only that Proof of Pakistani citizenship is not clearly stated, but the officials have unrestricted power to ask for documentary information and other evidence (they may conceivably ask for personal testimony of the midwife who attended citizen's birth) whatever that may be as proof of citizenship. The officials are routinely asking for information as to the legal status of the parents going back almost a generation. Often they reject valid birth certificates issued by competent authority on the pretext that such certificates were unreliable.

The old national identification cards are routinely rejected as having been issued without sufficient investigation. Be that as it may, citizens have a valid identification issued by the State and it should be honored by the State.

#### Article 46

##### Ordinance to override other laws

Does this ordinance override the Citizenship Act of Pakistan 1951, Pakistan Citizenship Rules 1952, The Naturalization Act 1926 and Pakistan Naturalization Rules 1961. If this is so then why are they still being published as enforceable laws? Does this clause mean that certain clauses of the aforementioned laws which are in conflict with this ordinance have become inoperative?

As best as we can determine the Citizenship Act of Pakistan is valid and enforceable law which sets out the criteria of Pakistani citizenship. In a country where the computerized national identity card is now almost universally accepted as conclusive proof of one's identification the National Database and Registration Authority Ordinance should be amended to bring it in line with the citizenship act of Pakistan.

Even though formally CNIC is only an identification document its denial brings consequences akin to denial of Nationality. A large group (in hundreds of thousands) is in imminent danger on this account.

Considering that the new computerized identity cards confer no new rights or benefits on the citizens, and some of the most disadvantaged groups of citizens are subjected to additional expenses (travel, lost time, fees etc.) and inconvenience, the issuance of these cards should be at no charge and minimum trouble to the citizens.

We came across cases where the victims of CNIC rejection have produced legally issued but expired Pakistani passports but NADRA official still refused to issue the CNIC.

On the face of the CNIC there are two dates the issue date (which is fine) but the second date is labeled a cancellation date which is disturbing. Under what circumstances may one's identification be cancelled. This may be labeled as "Renewal Date". Of course one can still have the card amended when there are changes of address, marital status or name etc. We suspect that upon end of the validity period of the card citizens will be hassled again for new cards.

Many victims have gone to collect their new cards but were denied delivery of the cards pending provision of additional evidence.

At least in one case the NADRA official showed up at the home of one of the victims, identified himself, asked for the identification cards and then ran away with the cards essentially stealing them. The victim did file a police report but nothing has materialized.

Because the whole system is now computerized most victims of denial are in the system as being habitual residents of specific areas. Were they to apply from another part of the country they will be flagged and will face many bureaucratic problems besides the obvious costs and inconvenience.

It is also obvious that certain series starting with (504) numbers, from majority Bihari population areas of Karachi are being singled out for greater scrutiny and denial.

The authority was created via a Presidential ordinance all of its employees are deemed to be civil servants.

We have noticed computerized national identity cards issued by NADRA in the province of Sindh exclusively in the Sindhi language. This in itself is not objectionable, however for a federal identification to be exclusively in Sindhi language is peculiar. All of the data on cards should also be in one of the official languages of English/Urdu.

We have signed up at least a dozen cases more can be signed up. Grounds for legal action against the Govt. of Pakistan exists for filing a case in the appropriate venue seeking specific and immediate remedies.

### Action Plan:

Underlined actions shall be responsibility of "SPIB". Please help us with items in bold face. This work will remain in the investigative phase until we have obtained much of the information requested below.

1. We need to get clarification as to acquisition of Pakistani nationality by marriage. Can a person of either sex claim Pakistani nationality based on their marriage to a Pakistani citizen.

Reason: In many cases a CNIC has been issued to either the wife or the husband but not both because NADRA is asking for proof of the status of the parents of the denied person. If the denied person's husband or wife is a Pakistani per the citizenship Act then the questions regarding parent's status are moot.

2. **It is important to learn why the National Registration Act was suspended and it was necessary to develop a brand new department at great expense. We need to know both the official government line as well as the real reasons.**
3. **NADRA provides periodic reports to the federal and provincial Governments. We need copies of these reports for the last several years to study and analyze. Hopefully these are easily available as this is public information.**

4. **A special report should be requested from the Govt. about the entire country (all provinces) as to number of cards denied each year, by province, by place of birth and ethnicity. This should be tabled as a question in the house by a member from Punjab.**
5. **There are some connections and give and take between the provincial Govt. and NADRA. They are not clearly spelled out in the ordinance. We need to learn exactly and specifically what they are? So they can be challenged at an appropriate time. Issuance of identity cards is a federal matter why is province involved in it in the first place. Certainly one level of Govt. may keep another level informed or seek feed back from each other, but not in a manner that curtails rights of citizens.**
6. **In the NADRA ordinance there are references to exchange of data with other levels of Govt. and access to information by outside agencies. If this is the case help us get more information on how to get access to the data base for research and education.**
7. **It is necessary to develop additional unofficial and informal contacts in NADRA to really get the inside scoop on what is and what may be coming up.**
8. SPIB is very interested in monitoring and investigating the application of NADRA laws in Pakistan and planning and executing necessary legal actions against the ill-effects of this law on the ordinary citizens.
9. The human rights bodies at home and abroad and the human rights monitoring group at the U.S. State Department need to be appraised of trends in arbitrary deprivation of Nationality in Pakistan. After ascertainment of a few more facts (reports requested above) a carefully worded letter directly to the President of Pakistan and an accompanying conversation with the Pakistan ambassador in the US and the State department will be helpful. (We feel several U.S. Government agencies and non-profits are interested in this activity.)
10. **So far only a few elected representatives seem concerned about the matter. This population is spread over many constituencies; and more elected representatives need to be involved. For example there will be constituencies in NWFP, Balochistan and at least one more constituency in Karachi (Baldia Town) would be interested in this issue. Obtain names and addresses of the provincial and federal elected representatives in these areas and channel the information to us.**
11. **Form a group of interested elected representatives with only the purpose of finding a reasonable solution to the problem of arbitrary denial of nationality through non-issuance of the computerized identity cards.**
12. Stateless People in Bangladesh shall try to include resolution of this issue in the legal action currently planned or institute new and separate proceedings in this regard. We have provided this intelligence because of our interest in the well being of this population and what we learned incidentally as we worked on our core issue. We will circulate these findings to interested parties.