

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

The Government of Pakistan is severely restricting the lives of hundreds of thousands of her citizens by denying them official Computerized National Identity Cards. Without these cards containing a picture and other basic information one can not perform the most essential things every one needs to do everyday. Notwithstanding the facts that all such individuals fulfill the requirements of the Citizenship Act of Pakistan and are habitual residents of Pakistan. The government has chosen to steel the citizen's nationality through denial of their official identity.

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.

The above ordinance is one of most flawed documents we have ever seen. Following is our perspective on the matter.

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) it is not possible to offer constructive feedback. Nonetheless we will try.

The executive order is so poorly drafted that it fails to identify the population which is subject to its enforcement for example all minor should automatically be classified as exempt population. Foreign tourists, students, diplomats, academics and performers of all kind are other examples of exempt populations.

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 and in most of the province of Sindh are most certainly not issuing new Identity cards to those who had the old ID cards or even CNIC’s automatically. Causing a great deal of stress 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 or psychological patients and bonded labourers to name just a few.

In order to facilitate the integration of individuals and groups into 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. No such exemptions are included. Incidentally the international convention on the rights of the child (Yes Pakistan has signed it) includes an explicit prohibition on conditions for registration of the child.

Collection of this information by all kinds of public and private entities places a burden of collection and storage of information on all. The sheer amount of the information is likely to make it burdensome and useless. What public purpose is served by recording the Identity card number of every person traveling on every train clear across the country. Why is it any business of the government where citizens are traveling to or coming from.

An amendment should be made for acceptance of other Government issued identifications such as passports, driver's licenses, employer or educational issued identity cards.

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 the 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. This is the most abused part of the program. The list of acceptable documents for purposes of obtaining CNIC should be widely publicized and clearly posted. The discretion of the officials should be limited so there are no opportunities for corruption in issuing of the cards.

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. NADRA has refused new CNIC's for people who already had a CNIC or were Ex. Army Servicemen.

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. In such instances they have already confiscated the old identity card.

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 program to be exclusively in Sindhi language is peculiar. How useful is this for say a police official in the province of Punjab. All of the data on cards should also be in one of the two official languages English/Urdu.

We have come across 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.

Similarly we also came across many children were denied an identity card even though the parents of the child hold valid CNIC or otherwise unquestionably Pakistanis.

It is important for the public to know why the National Registration Act was suspended and it was necessary to develop a brand new department at great expense. The public needs to know both the official government line as well as the real reasons.

NADRA provides periodic reports to the federal and provincial Governments. These reports need to be accessible to the public so that the trends in denial of identification can be discerned and appropriate actions taken. We didn't go in thinking that denial of CNIC's was a big problem but it sure seems to be. We certainly met dozens who have been denied identification cards. It will not be surprising if the numbers runs in to hundreds of thousands.

The division of responsibility and cooperation between the federal and provincial governments in the matter of identification of citizens should be a matter of public record and easily accessible to anyone in need of this information.

In the NADRA ordinance there are references to exchange of data with other levels of Govt. and access to information by outside agencies. How may parties with public, educational or research interest access the data.

So far many elected representatives at provincial and federal level have raised questions about practices at NADRA. But nothing seems to come of it. Certainly the Government does not seem to be paying any attention to this important matter. This population is spread over many constituencies and it is possible that different minorities in different parts of the country are victims of denial of identity.