

Joint Submission
to the Human Rights Council
at the 42nd Session
of the Universal Periodic Review.

PAKISTAN

Introduction

1. Imkaan Welfare Organisation,¹ Nationality For All (NFA)² and the Institute on Statelessness and Inclusion (ISI)³ make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Pakistan.
2. This submission focuses on:
 - 2.1. Discrimination and exclusion of stateless people in accessing citizenship documentation and registration.
 - 2.2. Denial of Child rights, including child's right to a nationality and stateless children's access to other rights such as, education and participation.
 - 2.3. The COVID-19 impact on stateless communities.
 - 2.4. Gender discrimination in Pakistan's nationality law.

¹ Imkaan Welfare Organization works in marginalised communities in Karachi – Pakistan with different interventions in Maternal and child health, mental health, recreation and learning for children, solid waste and legal aid. Imkaans focus is on statelessness and stateless communities, awareness, advocacy on their rights and facilitation in the process of acquisition of citizenship.

² Nationality For All (NFA) is a not-for-profit organization that aims to promote the right to nationality and address statelessness through research, advocacy, and capacity building in the Asia Pacific region. NFA was formed from the work undertaken by the Statelessness Network Asia Pacific (SNAP) over four years to build a regional civil society movement on addressing statelessness in the region.

³ The Institute on Statelessness and Inclusion (ISI) is the first and only human rights NGO dedicated to working on statelessness at the global level. ISI's mission is to promote inclusive societies by realising and protecting everyone's right to a nationality. The Institute has made over 90 country specific UPR submissions on the human rights of stateless persons. ISI has also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23rd to the 41st UPR Sessions. For more information, see <https://www.institutesi.org/>.

Previous UPRs of Pakistan

3. Pakistan was previously reviewed during the first, second, and third cycles of the UPR, in 2008, 2012, and 2017 respectively. During the first cycle, Pakistan did not receive any recommendations on the subject of statelessness or nationality.⁴ During the second cycle, Pakistan received one recommendation by Austria to ratify the Statelessness Conventions, which it noted.⁵ During the third cycle, Pakistan received one recommendation by Slovakia to ratify the Convention on the Reduction of Statelessness, which it noted.⁶
4. In January 2020, as part of the mid-term review of Pakistan's 3rd Cycle UPR, the United Nations Country Team encouraged the Government to consider ratifying relevant conventions; ensure registration and documentation at birth of children born in Pakistan, including those within the Bengali, Bihari and Rohingya communities; ensure the regularization of legal stay of those without legal status; consider positive measures to prevent statelessness by implementing citizenship laws and policies for the inclusion of Bengali, Bihari and Rohingya communities; ensure adopting measures to provide protection to stateless persons and those at risk of statelessness, including the right to free movement, work, health and education.⁷ These recommendations were reflected in the Draft National Policy Framework on Human Rights prepared by the Ministry of Human Rights.⁸

Pakistan's International obligations

5. Pakistan is not a signatory to the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. However, Pakistan has international obligations to protect the right to a nationality and the rights of stateless people on the basis of other UN and regional treaties to which it is a party. These include:
 - International Covenant on Civil and Political Rights (see article 24.3 ICCPR)
 - International Covenant on Economic, Social and Cultural Rights (see articles 2.2 and article 3 ICESCR)
 - Convention of the Rights of the Child (see articles 2, 3, 7 and 8 CRC)
 - Convention on the Elimination of All Forms of Discrimination against Women (see article 9 CEDAW)
 - International Convention on the Elimination of All Forms of Racial Discrimination (see article 5(d)(iii) CERD)
 - Convention on the Rights of Persons with Disabilities (see article 18 CRPD).

⁴UN HRC, Universal Periodic Review, 'Report of the Working Group on the Universal Periodic Review', Pakistan, A/HRC/8/42 (4 June 2008), para 106.

⁵UN HRC, Report of the Working Group on the Universal Periodic Review, Pakistan, A/HRC/22/12 (26 December 2012), para 122.7; UN HRC, Report of the Working Group on the Universal Periodic Review, Pakistan, Addendum, A/HRC/22/12/Add.1 (13 March 2013), para 4.

⁶UN HRC, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review, Pakistan, A/HRC/37/13, para 152.29; N HRC, Report of the Working Group on the Universal Periodic Review, Pakistan, Addendum, A/HRC/37/13/Add.1, para 4.

⁷ UNCT Mid-term Review of Pakistan's UPR Submission, January 2020.

⁸ Draft National Policy Framework on Human Rights, Ministry of Human Rights, [Available at: <http://www.mohr.gov.pk/Sitelimage/Misc/files/National%20Policy%20Framework%20on%20Human%20Rights.pdf>].

6. In 2013, the CERD Committee recommended that Pakistan “take effective measures to issue gypsies with identification documents.”⁹
7. In 2013, the CEDAW Committee recommended that Pakistan repeal all discriminatory laws, including the Citizenship Act (1951) and accede to “the 1961 Convention on the Reduction of Statelessness, with the aim to develop a national legislative framework to strengthen the protection of refugees, asylum seekers and stateless persons.”¹⁰
8. In 2016, The Committee on the Rights of the Child reiterated its recommendation (from 2009) on birth registration¹¹ and recommended Pakistan to “enforce legal measures against child and bonded labour involving refugee, asylum-seeking and stateless children” and protect them from falling victim to early marriage, abuse, trafficking or religious radicalization. It also recommended Pakistan to “ensure the equal implementation of its citizenship laws with a view to extending citizenship to Bengali, Bihari and Rohingya children” and urged the State to ratify the Statelessness Conventions.¹²
9. In 2017, the Human Rights Committee¹³ and the CESCR Committee¹⁴ recommended that Pakistan take measures to ensure that all children are registered at birth. The CESCR Committee also recommended that Pakistan “adopt legislative and policy frameworks to provide protection for refugees, asylum seekers and stateless persons in compliance with international norms and standards.”¹⁵
10. In 2020, the CEDAW Committee recommended that Pakistan “amend section 10 of the Citizenship Act of 1951 with a view to bringing it into full compliance with article 9 of the Convention by enabling Pakistani women to transmit their nationality to a foreign spouse on an equal footing with Pakistani men” and “consider ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.”¹⁶

⁹ Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the combined twenty-first to twenty-third periodic reports of Pakistan’, CERD/C/PAK/CO/21-23 (3 October 2016), para. 36.

¹⁰ Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the fourth periodic reports of Pakistan’, adopted by the Committee at its fifty-fourth session (11 February-1 March 2013), CEDAW/C/PAK/CO/4 (27 March 2013), para. 36.

¹¹ Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of Pakistan’ CRC/C/PAK/CO/5 (11 July 2016), para. 29.

¹² Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic report of Pakistan’ CRC/C/PAK/CO/5 (11 July 2016), para. 66 (a)-(e). In 2009, the CRC Committee recommended that Pakistan “ensure the full implementation of measures taken to remove structural obstacles to birth registration, launch a mass cost-free birth registration campaign and simplify the procedures for birth registration in order to cover all persons in the country, regardless of sex, religion, status or nationality, in accordance with article 7 of the Convention.” It also recommended the state consider ratifying relevant international instruments, including the Convention relating to the Status of Stateless Persons. Please see: Committee on the Rights of the Child, ‘Concluding Observations: Pakistan’ CRC/C/PAK/CO/3-4 (15 October 2009), para. 83(d)-(e).

¹³ Human Rights Committee, Concluding observations on the initial report of Pakistan, CCPR/C/PAK/CO/1 (23 August 2017), para 44.

¹⁴ Committee on Economic, Social and Cultural Rights, Concluding observations on the initial report of Pakistan, E/C.12/PAK/CO/1 (20 July 2017), para 62

¹⁵ Ibid, para 26.

¹⁶ Committee on the Elimination of Discrimination against Women, Concluding observations on the fifth periodic report of Pakistan, CEDAW/C/PAK/CO/5 (10 March 2020), para 38.

Snapshot of Statelessness in Pakistan

11. There are no reliable statistics on the statelessness population in Pakistan, with massively divergent estimates being put forward by different government sources. For example, according to official Pakistani government data presented to UNHCR, there were 47 stateless people the country in 2020.¹⁷ In a 2021 article on COVID vaccinations however, a senior government health official estimated the stateless population at 3 million.¹⁸ There are large groups of undocumented people in the country, many of whom are stateless or at risk of statelessness. There is a reported population of between 400,000¹⁹ and 500,000 Rohingya refugees,²⁰ almost a million undocumented members of the ethnic Bengali community, around 775,000 undocumented Afghans, Biharis and other undocumented groups in Pakistan.²¹
12. The citizenship law of Pakistan operates through both *jus sanguinis* (by descent) and *jus soli* (by birth on the territory) provisions. *Jus sanguinis* provisions provide that a child born in Pakistan to a Pakistani parent (regardless of how the parent obtained citizenship) is a citizen by descent. Further, if the child is born outside Pakistan to a Pakistani citizen by birth, the child automatically acquires Pakistani citizenship. If the child is born outside Pakistan to a citizen by descent, the child is not a citizen till the birth is registered.²² Pakistan's *jus soli* provisions have been interpreted to provide citizenship to all children born on the territory of Pakistan, except those whose fathers have diplomatic immunity, or are enemies or aliens (despite the terminology used being "enemy aliens").²³ This provision is therefore gender discriminatory. The narrow interpretation of the *jus soli* provision results in the exclusion of children born to foreigners (or 'aliens') in the territory, unless one parent is Pakistani, in which case they can access citizenship through descent.²⁴
13. The communities or groups that are either stateless or at the risk of statelessness can be categorized into four types: ethnic Bengalis, Afghan refugees, Urdu speaking Biharis and Rohingyas. It is important to note that the Afghan refugees and the Rohingyas have

¹⁷ UNHCR, 'Global Trends: Forced Displacement in 2020', Annex, Table 5,

[Available at <<https://www.unhcr.org/2020-global-trends-annex-table-statelessness>>] accessed July 13, 2022.

¹⁸ Aamir Saeed, 'Pakistan says will solve tough problem of vaccinating over 3 million stateless people, Arab News Online, 26 May 2021, available at: <https://www.arabnews.pk/node/1865021/pakistan>

¹⁹ Zia Ur Rehman, 'Bengali and Rohingya Leaders Gearing up for LG Polls,' The News, (Online, 14 August 2015) <https://web.archive.org/web/20150814203153/http://www.thenews.com.pk/Todays-News-4-333213-Bengali-and-Rohingya-leaders-gearing-up-for-LG-polls>, accessed July 13, 2022.

²⁰ Usman Ahmad, 'Pakistan's Rohingya Hypocrisy,' The Diplomat, (Online, 20 September 2017) <<https://thediplomat.com/2017/09/pakistans-rohingya-hypocrisy/>>, accessed July 13, 2022.

²¹ See UNHCR, 'Global Trends: Forced Displacement in 2019'; UNHCR, 'Global Trends: Forced Displacement in 2020.' Reuters has estimated that there are 300,000 Rohingya in Pakistan, Saad Sayeed and Syed Raza Hassan, 'Rohingya Refugees in Pakistan Fear for Relatives in Myanmar', Reuters, (Online, 10 September 2017), <<https://www.reuters.com/article/us-myanmar-royingya-pakistan-idUSKCN1BLOB4>> accessed July 13, 2022; The New York Times estimated 500,000 Rohingya in Myanmar, Mahreen Zahra-Malik, 'Far From Myanmar Violence, Rohingya in Pakistan Are Seething', The New York Times, (Online, 12 September 2017), <<https://www.nytimes.com/2017/09/12/world/asia/rohingya-pakistan-myanmar-violence.html>> accessed July 13, 2022; The Rohingya Project has estimated 350,000 Rohingya in Myanmar, The Rohingya Project, <<https://rohingyaproject.com/>> accessed July 13, 2022; CNN has estimated that there are 55,000 Rohingya living in Pakistan, Sophia Saaifi, 'Pakistan's Stateless Rohingya', CNN, (Online, 11 September 2017), <<https://edition.cnn.com/2017/09/11/asia/pakistan-stateless-rohingya/index.html>>, accessed July 13, 2022.

²² The Pakistan Citizenship Act (1951) s 5.

²³ The Pakistan Citizenship Act (1951) s 4.

²⁴ Faryal Nazir, 'Report on Citizenship Law: Pakistan', EUDO Citizenship Observatory, (Report, December 2016), at 4-5.

been completely left out of efforts to facilitate citizenship for stateless groups. Children of Afghan refugees in Pakistan are at risk of statelessness, as the High Court of Pakistan has explicitly stated that they are excluded from the operation of the *jus soli* provisions of the Pakistan citizenship law.²⁵ While there has been some analysis of Pakistan's citizenship laws and the status of Afghan refugees, there is very limited research or mapping focusing on their statelessness.²⁶ Bengali speaking and Bihari populations, many of whom have lived in Pakistan prior to independence, while not legally barred, have also been excluded from the operation of *jus soli* provisions as well as facing administrative barriers to accessing national identity documents.²⁷ Despite several promises and certain attempts to facilitate the re-verification of blocked ID cards paving the way to provide Computerized National Identity Cards (CNIC) to Bengalis and Biharis, nothing substantial has materialized.²⁸

Ethnic Bengalis

14. Even though the nationality laws of Pakistan provide that any person with documents that prove domicile in Pakistan before 1978 can acquire citizenship, the law has not been implemented, including because of corruption and discrimination.²⁹ It is estimated that 70 to 80% of the 3 million Bengali speakers in Pakistan do not have identification documents and thousands have had to register as 'aliens' depriving them of access to rights and services protected for citizens.³⁰ There are claims that they are the most discriminated ethnic group in the country.³¹
15. A large Bengali population resides in the Machar colony, one of Karachi's biggest slums, housing an estimated 700,000 people.³² It is estimated by Imkaan Welfare Organization that 65% of them are Bengalis, more than half of who have no citizenship documents.³³ Bengalis were given manual ID cards in 1973 and onwards but after the introduction of

²⁵ See *Ghulam Sanai v Assistant Director National Registration Office* [1999] PLD 18 (Peshawar National High Court); Faryal Nazir, 'Report on Citizenship Law: Pakistan', EUDO Citizenship Observatory, December 2016, at 5–6.

²⁶ See Syed Nadeem Farhat, 'Citizenship Laws of Pakistan: A Critical Review' (2019) 16(2) Policy Perspectives 59; United States Department of State, 'Pakistan 2020 Human Rights Report' (Report, 2021); Ifikhar A Khan, 'Afghan Refugees' Children Can't Get CNICs: Nisar', DAWN (Online, 11 August 2016) <<https://www.dawn.com/news/1276821>> accessed July 13, 2022; Marjoleine Zieck, 'The Legal Status of Afghan Refugees in Pakistan, a Story of Eight Agreements and Two Suppressed Premises' (2008) 20(2) International Journal of Refugee Law 253.

²⁷ See Tahera Hasan, 'Minor Aliens', DAWN, (Online, 24 August 2021), <https://www.dawn.com/news/1642330?mc_cid=d29b077bfe&mc_eid=43f38914b3> accessed July 13, 2022; Hajira Maryam, 'Stateless and Helpless: The Plight of Ethnic Bengalis in Pakistan', Al Jazeera, (Online, 29 September 2021), <https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan?mc_cid=d29b077bfe&mc_eid=43f38914b3> accessed July 13, 2022.

²⁸ Zia Ur Rehman, 'Pakistan Moves towards Legalising Bengalis and Biharis, Not Rohingyas', Geo News, (Online, 18 October 2017) <<https://www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas>>, accessed July 1, 2022.

²⁹ Khaula Jamil, 'Women behind the Lens: 'She Dreams of Competing Outside Pakistan but It's Hopeless,'' The Guardian, sec. Global development, (Online, 11 March 2022), <<https://www.theguardian.com/global-development/2022/mar/11/women-behind-the-lens-khula-jamil-bangladeshi-pakistan-gymnastics>> accessed July 13, 2022.

³⁰ *Ibid.*

³¹ Hajira Maryam, 'Stateless and Helpless: The Plight of Ethnic Bengalis in Pakistan', Al Jazeera, (Online, 29 September 2021), <<https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan>>, accessed July 13, 2022.

³² *Ibid.*

³³ *Ibid.*

the digitization process through the establishment of a National Database and Registration Authority (NADRA) and National Alien Registration Authority (NARA) in 2000, Bengalis were registered as aliens.³⁴ Many Bengalis with valid Pakistani ID cards and passports were forcibly issued NARA cards with their citizenship effectively stripped since 2002.³⁵

Afghan Refugees

16. By the end of 1988, UNHCR estimated that four to five million Afghan refugees lived in Pakistan.³⁶ After the end of the Taliban regime in 2001, more than 1.5 million refugees returned to Afghanistan in 2002 with more refugees going back in the following years as well.³⁷ With Taliban's return to power, 117,550 new arrivals have come from Afghanistan to Pakistan between January 2021 and June 2022.³⁸
17. In 2020, Pakistan Today reported that there are many second, third and fourth generation Afghan children and youth living in Pakistan who were born and raised in Pakistan, while denied legal status in the country.³⁹ In addition to the registered refugees with a Proof of Registration (PoR) card, the Afghans living in Pakistan can be divided into three categories – Afghan Citizens Cards (ACC) holders, undocumented Afghans and visa holders.⁴⁰ The undocumented Afghans who do not have any Pakistani or Afghan legal identity documents are at risk of statelessness.
18. As of January 2022, UNHCR reported that there are approximately three million Afghans living in Pakistan, 1.4 million of them have PoR cards, around 840,000 have an ACC, and 775,000 of them are estimated to be undocumented.⁴¹ The Pakistani Ministry of States and Frontiers Regions (SAFRON) estimates the number of undocumented Afghans in the country to be between 300,000 to 400,000.⁴² The Pakistani Society for Human Rights and Prisoners Aid (SHARP) states that there is no authentic data available on the Afghan refugee population in Pakistan, with certain reports claiming that there are more than three million Afghans residing in Karachi alone.⁴³

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ 'Pakistan's Afghan Refugees: A Timeline,' The Express Tribune, (Online, 4 October 2016), <<http://tribune.com.pk/story/1193771/pakistans-afghan-refugees-timeline>> accessed July 13, 2022.

³⁸ European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

³⁹ Muhsen Ali, 'Top UN Official Due Today, as Afghan Refugees' Stay Nears End,' Pakistan Today, (Online, 6 September 2018) <<https://archive.pakistantoday.com.pk/2018/09/06/top-un-official-due-today-as-afghan-refugees-stay-nears-end/>>, accessed July 5, 2022.

⁴⁰ European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁴¹ UNHCR, 'Afghanistan Situation Regional Refugee Response Plan 2022,' (Report, 12 January 2022) [Available at <<https://reliefweb.int/attachments/c467e2f1-12cd-3e78-ba82-d37a020110f9/EN.pdf>>] accessed July 13, 2022.

⁴² Arshad Yusufzai, 'The Refugee Question,' The News, (Online, 1 August 2021), <<https://www.thenews.com.pk/tns/detail/870855-the-refugee-question>>, accessed July 5, 2022.

⁴³ European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

19. Legally undocumented Afghans are liable to arrest, detention and deportation under the Foreigners Act, 1946 and many of them have been detained for months and years.⁴⁴ Proof of a relationship with a documented (either PoR or ACC) Afghan helps the person's case.⁴⁵ In 2021, the Government announced its intention to register 'all foreigners' issuing a so-called 'alien card' that would allow them to open bank accounts, start businesses, obtain SIM cards and travel. The cards are valid for five years and can be extended. However, Afghan nationals were left out of this scheme.⁴⁶

Urdu speaking Biharis

20. After the India-Pakistan partition in 1947, refugees from the Indian province of Bihar heading to East Pakistan were labelled as 'Biharis'.⁴⁷ After the 1971 independence of East Pakistan as Bangladesh, the term 'Bihari' was used by the Bengalis for all Urdu speaking communities including Punjabis, Pathans, Sindhi and Baloch.⁴⁸ In 1974, around 170,000 Bihari refugees were repatriated from Bangladesh to Pakistan and were allocated land, which has become a slum where they are targeted by other ethnic groups.⁴⁹ With regard to their citizenship status, the data available is unclear as many retain their Pakistani passports from before. In 2017, a special parliamentary committee discussed documentation issues faced by Biharis to provide a pathway to citizenship for them. However, they still have not received adequate documentation and continue to struggle to be accepted as Pakistani citizens.⁵⁰

Rohingyas

21. On June 20, 2022, the Foreign Office spokesperson Asim Iftikhar stated that there are as many as 400,000 Rohingyas taking refuge in Pakistan.⁵¹ The total number of Rohingyas residing in Pakistan has been a point of contention as other sources report the number to be as high as 500,000⁵² with 300,000 residing in Karachi alone.⁵³

22. Interestingly, none of them are reported as stateless persons by the Government of Pakistan to UNHCR. Karachi is one of the largest population centres of Rohingyas.⁵⁴ Rohingyas live among Bengalis in Karachi and are at times intentionally or unintentionally mistakenly identified as Bengalis to allow them an easier path to

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ Sultan M. Hali, 'Biharis: Their Crime Was Their Belief in Pakistan - Sultan M Hali,' Global Village Space, (Online, 14 December 2018), <<https://www.globalvillagespace.com/biharis-their-crime-was-their-belief-in-pakistan-sultan-m-hali/>> accessed July 13, 2022.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Zia Ur Rehman, 'Pakistan Moves towards Legalising Bengalis and Biharis, Not Rohingyas', Geo News, (Online, 18 October 2017) <https://www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas>, accessed July 13, 2022.

⁵¹ Shaikat Paracha, '400,000 Rohingya Refugees Living in Pakistan, Reveals FO,' Aaj.tv, (Online, 20 June 2022), <<https://www.aaj.tv/news/30289869>> accessed July 13, 2022.

⁵² Usman Ahmad, 'Pakistan's Rohingya Hypocrisy,' The Diplomat, (Online, 20 September 2017) <<https://thediplomat.com/2017/09/pakistans-rohingya-hypocrisy/>>, accessed July 5, 2022.

⁵³ Saad Sayeed and Syed Raza Hassan, 'Rohingya Refugees in Pakistan Fear for Relatives in Myanmar', Reuters, (Online, 10 September 2017), <<https://www.reuters.com/article/us-myanmar-rohingya-pakistan-idUSKCN1BLOB4>> accessed July 13, 2022.

⁵⁴ Zia Ur Rehman, "Identity Issue Haunts Karachi's Rohingya Population," DAWN, (Online, 23 February 2015), <<http://www.dawn.com/news/1165299>> accessed July 13, 2022.

naturalized citizenship.⁵⁵ The stateless Rohingya population in Pakistan predominantly consists of those impacted by the separation of east and west Pakistan and the creation of Bangladesh.

Issue I Documentation and Registration

23. The National Database and Registration Authority (NADRA) Ordinance 2000 plays a prominent role in the challenges that those at risk of statelessness face in accessing registration and documentation. The NADRA Ordinance 2000 established the National Database and Registration Authority, which is the government agency responsible for facilitating the registration processes and the operation of a centralized database of citizens with the family tree of each person. NADRA is not mandated to determine nationality; however, NADRA is responsible for issuing Computerized National Identity Cards (CNICs) to citizens of Pakistan. CNICs act as the most common proof of citizenship in Pakistan and are necessary to exercise key rights, including voter registration, child registration, ownership of immovable property and acquisition of travel documents. Persons who lack other documentary proof can be eligible to apply for a CNIC by providing any two witnesses who hold CNICs. However, concerns have been raised about the implementation of this measure. NADRA officials have insufficient understanding of these governing laws and policies, or appear unwilling to implement them. Further, members of stateless communities with CNICs frequently report their cards being suspended or blocked.
24. Stateless communities have suffered from delay and discriminatory policies vis-à-vis documentation and legal identity. Despite provisions to regulate access of citizenship by birth, a huge gap remains in terms of implementation of the law with respect to stateless communities. The digitization of CNICs in Pakistan results in more stringent requirements of registration, which increased discrimination against the Bengali, Bihari and other communities, who have limited access to documentation, if any. Bihari and Bengali communities that are entitled to documentation remain largely discriminated against and excluded from registration processes. Moreover, Bengalis and Rohingyas have endured regular harassment by the police for bribes and arrests as these communities are denied computerized National ID Cards.⁵⁶
25. Stateless people face varied forms of discrimination depending on the ethnic group they belong to. Even though the nationality law provides that any person with documents that prove domicile in Pakistan before 1971 and subsequent policy 1978, can acquire citizenship, it is estimated that at least 70% of the Bengali speakers in Pakistan do not have identification documents and among them thousands have had to register as 'aliens' after the introduction of the digitization process.⁵⁷ In July 2021, the Government of Pakistan announced that under the Alien Registration Rules 2021 (Rules 2021), Alien Registration Cards (ARC) would be issued to foreigners and immigrants to facilitate and

⁵⁵ *Ibid.*

⁵⁶ Zia Ur Rehman, 'Pakistan Moves towards Legalising Bengalis and Biharis, Not Rohingyas', Geo News, (Online, 18 October 2017) <https://www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas>, accessed July 1, 2022.

⁵⁷ Khaula Jamil, "Women behind the Lens: 'She Dreams of Competing Outside Pakistan but It's Hopeless,'" The Guardian, sec. Global development, (Online, 11 March 2022), <<https://www.theguardian.com/global-development/2022/mar/11/women-behind-the-lens-khula-jamil-bangladeshi-pakistan-gymnastics>> accessed July 13, 2022.

provide access to basic rights and some form of documentation. However, the provision of rights is limited and people with “Afghan Nationality” are specifically left out of the scope of the same.

26. In the year 2000 the National Alien Registration Authority (NARA) was created with the mandate of registering immigrants and foreign residents in Pakistan. Since 2000, many Bengalis with valid Pakistani ID cards and passports have been forcefully issued NARA (alien) cards, thereby stripping their citizenship.⁵⁸

Case Study (see annex I for full case study)

27. Ayesha Begum (pseudonym) is a 77-year-old woman who resides in Machar colony, Karachi and has three sons and four daughters. Approximately 10 years ago, one of her sons, who worked in the fisheries at the time, was forcefully registered in the NARA Database after unlawfully being detained by the police. Consequently, the entire family’s government issued identity documents were blocked and cancelled. After writing multiple follow up letters and making in-person visits to NADRA offices, in June 2022, Ayesha Begum was successfully issued a renewed CNIC with lifetime validity. One of her sons, who was cleared, was able to submit his data-form at NADRA and now awaits processing. As for the rest of Ayesha Begum’s family, their CNICs are still digitally impounded and cannot be renewed.
28. Under the Foreigners Amendment Ordinance 2000, the NARA card was intended as a rights-conferring document through which foreigners would be allowed to work in Pakistan. Its mechanism asserts that an individual is to register themselves, voluntarily. Therefore, the forced issuance of the card itself, to an individual who is a Pakistani citizen, is unlawful, and has resulted in effect, in the stripping of their Pakistani nationality.

Issue II Child’s Right to a Nationality

29. Every child has the right to acquire and preserve their nationality without discrimination. Having a nationality is in the best interests of the child, and is essential for the child’s protection and to ensure they can develop to their full potential. Without a nationality, children are often denied access to other fundamental rights such as education and health care. As adults, they cannot open a bank account, cannot marry or vote, and are forced to work in the informal sector. And when they have children of their own, the children often inherit the same status. Their lack of nationality results in an intergeneration cycle of poverty and exclusion. Pakistan must comply with Article 7 CRC to provide for the right of every child to be registered immediately after birth and acquire a nationality, and Article 8 to respect the right of the child to preserve his or her identity, including nationality. Even though the PCA recognises *jus soli* acquisition of nationality, legal and administrative barriers, as well as discriminatory practices, prevent all otherwise stateless children in Pakistan from actually enjoying their right to nationality.

⁵⁸ Hajira Maryam, ‘Stateless and Helpless: The Plight of Ethnic Bengalis in Pakistan,’ Al Jazeera, (Online, 29 September 2021), <https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan>, accessed July 13, 2022.

30. The CNICs act as the most common proof of citizenship in Pakistan and are necessary to exercise key rights, including birth registration. People who are 18 years and above can be eligible to apply for a CNIC.⁵⁹ The documents required to apply for a new CNIC include identification documents (original/copy of CNIC) of either parent or blood relatives.⁶⁰ The NADRA website also provides for applicants to apply for a fresh CNIC independently by providing any two witnesses, who are CNIC holders. While priority is given to paternal/maternal relatives, “any CNIC holder personally known to applicant and of the same area/locality” may also be a witness for the applicant.⁶¹ Based on this, stateless adolescents could be eligible to apply for a CNIC by providing any two witnesses as supporters of their application. However, in practice, NADRA officials have insufficient understanding of these governing laws and policies or appear unwilling to implement them.⁶²
31. The case study in Annex I exemplifies how NADRA has been responsive and proactive at the higher level with an understanding of the issue and a seeming desire for resolution. There has been support and efforts to fill the implementation gap. At field level though, challenges prevail, both as a result of ignorance of government policy, and prevailing prejudice against members of certain ethnic groups.
32. It appears that the *jus soli* provision of Pakistani citizenship law would provide foundling children access to citizenship, however the in-practice application of this law is unclear.⁶³ Children in orphanages can be registered with NADRA through the orphanage, and the process has been facilitated by NADRA to ensure access to rights.⁶⁴ However there is a lack of a process for foundlings not living in orphanages or children’s homes.

Birth registration (registration as aliens)

33. The Alien Registration Rules provide for registration of minors with issuance of Alien Cards, disregarding the birth right provision of the PCA more specifically when dealing with children that are stateless or at risk of statelessness.
34. The major impact is on stateless populations or those at risk of statelessness, specifically those that are ethnic Bengali and Bihari, who upon the creation of NARA in 2000, suffered due to discriminatory practices. The process makes it mandatory for all previous NARA card holders to register, not considering the forced registrations and the process in place for application of the cancellation of NARA cards issued wrongly. Many NARA card holders have CNICs that have been blocked. This in turn impacts entire families that are deprived of the possibility of citizenship.

Access to documentation

⁵⁹ Children under 18 years do not have CNICs in Pakistan. CNICs are for adults (18+). Children can either be issued a “Child Registration Certificate” and also a “Juvenile Card”.

⁶⁰ NADRA Website, <<https://www.nadra.gov.pk/identity-requirements/#:~:text=Original%20National%20Identity%20Card%20>>, accessed July 13, 2022.

⁶¹ Ibid.

⁶² Musawi and Institute on Statelessness and Inclusion, *The Impact of COVID-19 on Stateless Communities in Pakistan*, (July 2022), forthcoming, at 20.

⁶³ The Citizenship Act (1951) s 4 (Bangladesh); The Pakistan Citizenship Act (1951) s 4.

⁶⁴ ‘NADRAS move to register orphan children’, DAWN, (Online, 21 November 2021), <www.dawn.com/news/1659296>, accessed July 13, 2022.

35. Large numbers of people living within Pakistan are impacted by a lack of identity documents, in particular the CNIC in the case of adults and the Child Registration Certificate (CRC) also known as the B-Form for children. CNIC and CRC are essential documents for any individual living in Pakistan, to be able to access government health facilities, education, employment, opening of a bank account, owning property, applying for government jobs, getting a sim card for a mobile connection, getting utility connections, and having access to basic rights and privileges that a citizen enjoys by recognition of his existence.

Issue III Access to rights

36. Denied computerized National ID Cards, many Bengalis, Rohingyas and Afghans endure regular harassment, extortion and arbitrary arrests by the police in Karachi and in the Afghan refugee villages (ARVs).⁶⁵ While all groups at risk of statelessness face similar challenges to access rights and services, Bengalis and Urdu speaking Biharis face relatively lesser barriers to exercising their rights as they have a pathway to obtaining CNICs. This section discusses the access to rights and services of education, employment, health care and housing of these four groups.

Education

37. Article 25A of the Constitution of Pakistan stipulates the provision of free and compulsory education to all children from five to sixteen years. However, access to education in general is reportedly poor in Pakistan with a shortage of schools and teachers.⁶⁶ Enrolment in schools require the determination of age on the basis of Form-B or CRC of NADRA which only children whose parents have a National Identity Card (NIC) can obtain.⁶⁷ Even ethnic Bengalis without citizenship documentation do not have access to public health and government schools,⁶⁸ which requires the submission of a legal document certifying citizenship.⁶⁹ UNHCR supported primary educational assistance for minors is only limited to PoR cardholders.⁷⁰ Attending prohibitively expensive private schools or informal *madrassas* is often the only way in which undocumented children can access education.⁷¹ Even in these cases it is not possible to

⁶⁵ Zia Ur Rehman, 'Pakistan Moves towards Legalising Bengalis and Biharis, Not Rohingyas', Geo News, (Online, 18 October 2017) <https://www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas>, accessed July 13, 2022.

⁶⁶ K M Mielke et al., 'Figurations of Displacement in and beyond Pakistan,' Transnational Figurations of Displacement (TRAFIG), (Working paper, August 2021), [Available at: <<https://trafig.eu/output/working-papers/figurations-of-displacement-in-and-beyond-pakistan/D054-TWP-Figurations-of%20Displacement-Pakistan-Mielke-et-al-2021-v02p-2021-11-05.pdf>>, accessed July 13, 2022] at 20.

⁶⁷ NADRA Website, 'Child Registration Certificate (CRC) – NADRA Pakistan,' <<https://www.nadra.gov.pk/identity/identity-crc/>> accessed July 13, 2022.

⁶⁸ Hajira Maryam, 'Stateless and Helpless: The Plight of Ethnic Bengalis in Pakistan,' Al Jazeera, (Online, 29 September 2021), <<https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan>>, accessed July 13, 2022.

⁶⁹ *Ibid.*

⁷⁰ Afghan Displacement Solutions Platform (ADSP), 'On the Margins: Afghans in Pakistan' (Report, December 2018), <https://adsp.ngo/wp-content/uploads/2019/06/ADSP_Report_AfghansinPakistan-1.pdf> accessed July 13, 2022.

⁷¹ Hajira Maryam, 'Stateless and Helpless: The Plight of Ethnic Bengalis in Pakistan,' Al Jazeera, (Online, 29 September 2021), <<https://www.aljazeera.com/features/2021/9/29/stateless-ethnic-bengalis-pakistan>>, accessed July 13, 2022.

graduate from high school without a CRC. (See Annex I for case studies illustrating this issue.)

Employment

38. Undocumented people have extremely limited – to no - access to the formal labour market.⁷² Among the Afghan refugees, self-employment and daily labour are the most common income sources.⁷³ However, Pakistan’s economy is largely informal and comprises many informal workers.⁷⁴ UNHCR in their Livelihood Strategy, stated that the possession of a CNIC was a pre-requisite for accessing formal employment opportunities.⁷⁵

Housing

39. The Rohingyas and ethnic Bengalis reside in squalor in Karachi with limited facilities. Registered Afghan refugees (PoR cardholders) reside in rural camps which are also known as ARVs, which also house Pakistani citizens.⁷⁶ As of August 2021, there are 54 such ARVs in Pakistan and among them 43 are located in the province of Khyber Pakhtunkhwa, 10 in the province of Balochistan and one in the province of Punjab.⁷⁷ The living situation in the ARVs has been reported to be precarious with inadequate basic services including health care, education and electricity.⁷⁸

Healthcare

40. The Afghan Displacement Solutions Platform (ADSP) report states that all Afghans living in Pakistan had access to health services at primary, secondary and tertiary level hospitals.⁷⁹ The access to healthcare was reported to be adequate according to a study conducted with 299 Afghan respondents.⁸⁰ However, free access to healthcare services

⁷² European Union Agency for Asylum, ‘Pakistan, Situation of Afghan Refugees: Country of Origin Information Report’ (LU: Publications Office, May 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁷³ K M Mielke et al., ‘Figurations of Displacement in and beyond Pakistan,’ Transnational Figurations of Displacement (TRAFIG), (Working paper, August 2021), [Available at: <<https://trafig.eu/output/working-papers/figurations-of-displacement-in-and-beyond-pakistan/D054-TWP-Figurations-of%20Displacement-Pakistan-Mielke-et-al-2021-v02p-2021-11-05.pdf>>, accessed July 13, 2022] at 28.

⁷⁴ *Ibid.*

⁷⁵ UNHCR, ‘Livelihoods Strategy: 2018 - 2021 Pakistan’ (10 February 2020), [Available at: <https://adsp.ngo/wp-content/uploads/2018/12/PS-8_LIVELIHOODS-STRATEGY-2018%E2%80%932021.pdf>, accessed July 13, 2022.

⁷⁶ K M Mielke et al., ‘Figurations of Displacement in and beyond Pakistan,’ Transnational Figurations of Displacement (TRAFIG), (Working paper, August 2021), [Available at: <<https://trafig.eu/output/working-papers/figurations-of-displacement-in-and-beyond-pakistan/D054-TWP-Figurations-of%20Displacement-Pakistan-Mielke-et-al-2021-v02p-2021-11-05.pdf>>, accessed July 13, 2022] at 4.

⁷⁷ Arshad Yusufzai, ‘The Refugee Question’ The News, (Online, 1 August 2021), <<https://www.thenews.com.pk/tns/detail/870855-the-refugee-question>>, accessed July 5, 2022.

⁷⁸ European Union Agency for Asylum, ‘Pakistan, Situation of Afghan Refugees: Country of Origin Information Report’ (LU: Publications Office, 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁷⁹ Afghan Displacement Solutions Platform (ADSP), ‘On the Margins: Afghans in Pakistan’ (Report, December 2018), <https://adsp.ngo/wp-content/uploads/2019/06/ADSP_Report_AfghansinPakistan-1.pdf> accessed July 13, 2022.

⁸⁰ K M Mielke et al., ‘Figurations of Displacement in and beyond Pakistan,’ Transnational Figurations of Displacement (TRAFIG), (Working paper, August 2021), [Available at:

is tied to the registration system. Only registered refugees are entitled to free healthcare services on equal terms with Pakistani nationals, which includes access to government health programs such as immunization campaigns, tuberculosis (TB) control, and HIV prevention and treatment.⁸¹ Undocumented Afghans were reported to have very few options for good quality healthcare especially maternal and postnatal healthcare.⁸²

Issue III Covid-19 & Statelessness

41. During the Covid-19 pandemic the challenges faced by stateless people in Pakistan were exacerbated. Already facing barriers in accessing their rights due to their status and living conditions, stateless communities in Pakistan faced added barriers in accessing nationality and documentation, healthcare and emergency relief, education and work as well as movement restrictions and an increase in Gender Based Violence (GBV).⁸³
42. More specifically, due to closures of public offices, including NADRA offices, and postponement of High Court hearings, there were increased delays in pending applications to NADRA⁸⁴ and in registration and documentation cases before the court.⁸⁵ Moreover, with the digitization of CNICs in Pakistan, stricter registration requirements were introduced, exacerbating the exclusion of the Bengali, Bihari and other communities from documentation.⁸⁶
43. In July 2021, the government of Pakistan announced that “foreigners, migrants and illegal migrants” will be issued Alien Registration Cards (ARC) as documentation that would also enable them to access COVID-19 vaccinations and work permits for private employment, private education etc.⁸⁷ However, holding an identity as an alien leads to the cancellation of citizenship as recorded on the NADRA database and to the stripping of the status of those who were recognized as citizens through NADRA. If an ARC is issued to a family member, the family’s citizenship cards are cancelled collectively. A CNIC can still be issued if the ARC is revoked, however, due to the deep-rooted

<<https://trafig.eu/output/working-papers/figurations-of-displacement-in-and-beyond-pakistan/D054-TWP-Figurations-of%20Displacement-Pakistan-Mielke-et-al-2021-v02p-2021-11-05.pdf>>, accessed July 13, 2022] at 19.

⁸¹ European Union Agency for Asylum, ‘Pakistan, Situation of Afghan Refugees: Country of Origin Information Report’ (LU: Publications Office, 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁸² Médecins Sans Frontières (MSF) International, ‘Meeting Regular Health Needs amid Coronavirus in Pakistan’, (Project Update, 8 September 2020) <<https://www.msf.org/meeting-regular-health-needs-amid-coronavirus-pakistan>> accessed July 13, 2022.

⁸³ Human Rights Commission of Pakistan, ‘Citizens – COVID-19 – Government: Pakistan’s Response’, (Report, July 2020) <<https://hrccp-web.org/hrccpweb/wp-content/uploads/2020/09/2020-Citizens-Covid19-Government-Pakistans-Response.pdf>> accessed July 13, 2022.

⁸⁴ ‘Coronavirus Lockdown: NADRA Reopens Offices to Public Nationwide’, Geo News, (Online, 4 May 2020) <<https://www.geo.tv/latest/286296-coronavirus-lockdown-nadra-reopens-nationwide-offices-to-public>>, accessed July 13, 2022.

⁸⁵ Sindh High Court, Circular No. RHC/Circular/2020 (22 March 2020); Chief Justice of the Sindh High Court, Directions (30 March 2020)

⁸⁶ Representative, Ministry of Human Rights, Interviewed on 19 April, 2022 in Musawi and Institute on Statelessness and Inclusion, ‘The Impact of COVID-19 on Stateless Communities in Pakistan’, (July 2022), forthcoming, at 27.

⁸⁷ ‘Pakistan to Issue Specific Identity Cards For Foreigners Staying In Country, Ary News, (Online, 5 July 2021) <<https://arynews.tv/pakistanissue-specific-identity-cards-foreigners-staying-country/>> accessed July 13, 2022. Also corroborated by KSIs with Representatives at Imkaan Welfare Organization and Pakistani Bengali Action Committee.

discrimination against the affected communities these processes are inaccessible.⁸⁸ In this light, the Pakistani Bengali Action Community has highlighted the importance of issuing computerised CNICs to community members, abolishing ARCs for those entitled to citizenship, counting community members in the upcoming census and curbing harassment of community members by authorities.⁸⁹

44. With the outbreak of COVID-19, initially only Afghans with PoR cards and other foreigners with CNICs were included in the COVID-19 vaccination programme.⁹⁰ Later in August 2021, the Sindh Health Department announced in Karachi that all persons with or without CNICs would be eligible to receive COVID-19 vaccines.⁹¹ However, it has been reported that many undocumented persons continue to experience different challenges in accessing vaccines.⁹²
45. Poor ventilation, lack of electricity, water and sanitation facilities as well as congestion in Asia's biggest slum, the Orangi Town, where Bengali, Bihari and Rohingya populations live do not allow for social distancing. Lack of targeted awareness raising campaigns on COVID-19 amongst stateless communities and the requirement of identification to access free healthcare created barriers in access to vaccinations for stateless people.⁹³
46. From 2022, mobile vaccination units to cater for those without documentation were deployed⁹⁴ but most of the Bengali community members received just one dose of vaccination to avoid entering data on National Immunisation System of Record regarding vaccination which requires CNIC details. Another issue is that vaccination certificates were not issued limiting stateless people's access to services. Although vaccination access is now easily available in Pakistan, fear and lack of information amongst statelessness communities inhibit many members from getting vaccinated.⁹⁵
47. Already facing harassment and discrimination, stateless communities in Pakistan faced further targeting as the aggravation of theft crimes during Covid-19 was attributed to them although there is no data to support this.⁹⁶
48. Regarding the enjoyment of certain civil and political rights by stateless groups during

⁸⁸ Representative, Imkaan Welfare Organization, Interviewed on 29 March 2022 in Musawi and Institute on Statelessness and Inclusion, 'The Impact of COVID-19 on Stateless Communities in Pakistan', (July 2022), forthcoming.

⁸⁹ Zia Ur Rehman, 'Rally Demands CNICs to Be Issued To The Bengali Community,' The News, (Online, 1 November 2021), <<https://www.thenews.com.pk/print/904835-rally-demands-cnics-be-issued-to-bengali-community>> accessed July 13, 2022.

⁹⁰ European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, May 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁹¹ Sumaira Jajja, 'Citizens without CNICs Eligible for Covid-19 Vaccination in Karachi,' DAWN, (Online, 2 August 2021), <<https://www.dawn.com/news/1638388>> accessed July 13, 2022.

⁹² European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, May 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

⁹³ Musawi and Institute on Statelessness and Inclusion, 'The Impact of COVID-19 on Stateless Communities in Pakistan', (July 2022), forthcoming, at 31.

⁹⁴ 'Door-to-door Covid-19 vaccination to kick-start in Sindh from Feb 1', The News, (Online, 28 January 2022), <<https://www.thenews.com.pk/print/928762-door-to-door-covid-19-vaccination-to-kick-start-in-sindh-from-feb-1>> accessed July 13, 2022.

⁹⁵ Musawi and Institute on Statelessness and Inclusion, 'The Impact of COVID-19 on Stateless Communities in Pakistan', (July 2022), forthcoming, at 31-32.

⁹⁶ Journalist reporting on statelessness issues in Pakistan, Interviewed on 16 March, 2022, *Ibid*, at 33.

the pandemic, although movement and travelling restrictions were already in place, added requirements on reviewing identification documentation made it even more difficult for stateless people to move around the country.⁹⁷

49. For stateless people in Pakistan, difficulties in accessing livelihood/employment were further exacerbated during the COVID-19 pandemic. Relying on informal work, primarily within the fishery industry, or daily wage jobs, members of stateless communities were amongst the first to be laid off due to the lockdowns. CNIC and work permit checks by relevant authorities became stricter, which stateless people do not possess.⁹⁸ During the pandemic the standard of living for stateless communities dropped further⁹⁹ and members from the stateless communities had to resort to begging.¹⁰⁰ Compensation for work from home was also significantly less.¹⁰¹
50. Regarding emergency aid, holding a valid CNICs was a precondition to register for the Ehsaas Emergency Cash Program thereby excluding members of stateless communities from emergency relief.¹⁰²
51. Regarding education, stateless children do not have access to public schools as they do not hold necessary documents including CNICs. Assistance to stateless children is provided by some schools on an ad hoc basis.¹⁰³ Even when accessing education in informal ways, stateless children are unable to sit for exams by the State's Education Boards due to lack of documentation.¹⁰⁴ For stateless children able to access education, the shift to online learning did not cater for their needs due to the lack of access to the internet, computers and laptops.¹⁰⁵
52. Women and girls within stateless communities were disproportionately impacted by the Covid-19 pandemic regarding discontinued education, lack of access to maternal healthcare at public hospitals, early marriages and increased gender-based violence.¹⁰⁶

Issue IV Gender Discrimination in nationality law of Pakistan

53. Article 10(2) of the Pakistani Citizenship Act 1951 provides that a foreign woman may acquire citizenship through marriage to a Pakistani man but the same is not provided for a foreign man. Even for foreign Afghani women, the process is said to be lengthy and cumbersome. In such situations, children are granted Pakistani citizenship only if they

⁹⁷ *Ibid*, at 34-35.

⁹⁸ Journalist reporting on statelessness issues in Pakistan, Interviewed on 16 March, 2022, *Ibid*, at 36.

⁹⁹ Representative, Pakistan Bengali Action Committee, Interviewed on March 21, 2022, *Ibid*, at 36.

¹⁰⁰ Representative, Imkaan Welfare Organization, Interviewed on 29 March, *Ibid*, at 36.

¹⁰¹ *Ibid*.

¹⁰² Ministry of Poverty Alleviation and Social Safety, <https://www.pass.gov.pk/>[Also confirmed in our interviews with Ministry of Human Rights, Imkaan, SHARP, Human Rights Alliance, Pakistan Bengali Action Committee; Sindh Human Rights Commission, Human Rights Commission Pakistan]

¹⁰³ Representative, Imkaan Welfare Organization, Interviewed on 29 March, 2022 in Musawi and Institute on Statelessness and Inclusion, 'The Impact of COVID-19 on Stateless Communities in Pakistan', (July 2022), forthcoming, at 37.

¹⁰⁴ *Ibid*.

¹⁰⁵ Community Member, Machar Colony, Interviewed on 16 May, 2022, *Ibid*, at 38.

¹⁰⁶ *Ibid*, at 39-41.

do not have another citizenship already.¹⁰⁷ The 2016 decision by the Government of Pakistan to repatriate Afghan refugees complicated the matter of Afghans married to Pakistanis as NADRA blocked the identity cards of such Afghan women.¹⁰⁸

54. A news article has reported¹⁰⁹ that there are hundreds of Pakistani women married to Afghan men over the last four decades.¹¹⁰ Pakistani women have protested for the right to have their nationality conferred to their Afghan spouses.¹¹¹ In January 2017, Pakistani government was said to be considering giving a 'special legal status' to Afghan nationals married to Pakistani women but this did not materialize.¹¹² In October 2021, a Pakistani woman married to an Afghan man filed a petition at the Peshawar High Court to declare section 10(2) of the Citizenship Act unconstitutional and discriminatory¹¹³ and the case is still ongoing in the said court.¹¹⁴

Recommendations

55. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Pakistan:
- I. Amend section 10 of the Citizenship Act of 1951 with a view to bring it into full compliance with article 9 CEDAW by enabling Pakistani women to transmit their nationality to a foreign spouse on an equal footing with Pakistani men.
 - II. Adopt and fully implement legislative and policy frameworks to provide equal rights and protection for refugees, asylum seekers and stateless persons in compliance with international norms and standards.
 - III. Ensure equal implementation of its citizenship laws with a view to extend citizenship to Bengali, Bihari, Rohingya and other stateless children.
 - IV. Implement the Draft National Policy Framework on Human Rights as a means of actualizing the recommendations Pakistan received in its 2020 UPR mid-term review to (among others) ensure registration and documentation at birth of children born in Pakistan, including those within the Bengali, Bihari and Rohingya communities; ensure the regularization of legal stay of those without legal status; consider positive measures to prevent statelessness by

¹⁰⁷ European Union Agency for Asylum, 'Pakistan, Situation of Afghan Refugees: Country of Origin Information Report' (LU: Publications Office, May 2022), [Available at: <https://data.europa.eu/doi/10.2847/613763>] accessed July 13, 2022.

¹⁰⁸ Syed Bukhar Shah, 'Pakistani Men Who Married Afghan Women Seek Rules Relaxation', The News, (Online, 24 October 2016) <<https://www.thenews.com.pk/print/159522-Pakistani-men-who-married-Afghan-women-look-for-rules-relaxation>> accessed July 13, 2022.

¹⁰⁹ *Ibid.*

¹¹⁰ Zaland Yousafzai and Abubakar Siddique, 'Pakistani Wives Want Their Afghan Husbands Back,' Radio Free Europe/Radio Liberty, sec. Culture, Gandhara (Online, 16 November 2016) <<https://gandhara.rferl.org/a/pakistan-afghan-husband-protest/28121588.html>> accessed July 13, 2022.

¹¹¹ Tariq Ali, 'Afghans Married to Pakistani Women to Get Special Legal Status,' Khyber News TV | Pashto News and Current Affairs Channel (Blog, 20 January 2017) <<https://khybernews.tv/govt-decides-to-give-legal-status-to-afghan-refugees-who-married-pakistani-nationals/>> accessed July 13, 2022.

¹¹² *Ibid.*

¹¹³ Bureau Report, 'Woman Moves PHC against Denial of Citizenship to Afghan Husband,' DAWN, (Online, 29 October 2021), <<https://www.dawn.com/news/1654597>> accessed July 13, 2022.

¹¹⁴ Bureau Report, 'Peshawar High Court Seeks Govt Response to Plea against Citizenship Act,' DAWN, (Online, 4 December 2021), <<https://www.dawn.com/news/1661815>> accessed July 13, 2022.

implementing citizenship laws and policies for the inclusion of Bengali, Bihari and Rohingya communities; and ensure adopting measures to provide protection to stateless persons and those at risk of statelessness, including the right to free movement, work, health and education.

- V. Expand interpretation of Pakistan's *Jus Soli* (by birth on the territory) citizenship provision in section 4 of the Pakistan Citizenship Act, in accordance with Pakistan's international law obligations, in order to facilitate citizenship acquisition of children born on the territory to non-Pakistani parents who are not deemed to be "enemy aliens".
- VI. Ensure that Bengali and Bihari children who are legally entitled to citizenship by birth on the territory, are not denied their right to citizenship as a result of discriminatory implementation of the law. Further ensure that all persons who have been denied access to citizenship in this manner, have their citizenship restored in an expeditious manner.
- VII. Recognise and restore the citizenship of all Bengali and Bihari persons who have been forcibly registered as aliens and issued with ARCs and NARA cards, thereby in effect, depriving them of their Pakistani citizenship.
- VIII. Ensure that all children – including stateless children and undocumented children – have access to education as protected under Article 25-A of the Constitution of Pakistan.
- IX. Provide training to staff of all relevant government departments to ensure that they are sensitised to the different challenges that stateless, undocumented and at risk of statelessness people face; that they are aware of their legal obligations to not discriminate and to facilitate documentation and access to rights for such people, and are provided the tools to deal with such people with empathy.
- X. In accordance with NADRA policy, ensure the equal right of women in practice, to register the births of their children against their own CNIC without the need to provide the father's CNIC.
- XI. Review administrative procedures to ensure that no one is left without a birth registration, including by taking measures to reach rural populations through mobile units. Further, ensure that everyone born in Pakistan has the access to acquiring a CRC and CNIC, on the basis of the birth registration.
- XII. Record and report accurate statistics of the stateless population in Pakistan, including Rohingyas, Afghan refugees, Ethnic Bengalis and Urdu speaking Biharis.
- XIII. Provide documentation to undocumented Afghans and other stateless people.
- XIV. Expedite facilitated citizenship for stateless groups including Afghans and Rohingyas.
- XV. Ratify and fully implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.