

## COMMENTARY

# INVISIBLE PEOPLE, VISIBLE BARRIERS: HEALTHCARE ACCESS FOR AND AMONG ETHNIC BENGALIS IN PAKISTAN

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## I INTRODUCTION

Bengali stateless persons number in the millions in Pakistan.<sup>1</sup> They are an ethnic group that speaks Bengali who resided in East Pakistan (now Bangladesh) and moved to West Pakistan (now Pakistan), during and in the aftermath of the 1971 Bangladesh Liberation War that led to the creation of Bangladesh. An invisible population in Pakistan, these stateless persons are unable to access education, healthcare and other fundamental human necessities. Access to healthcare is an internationally recognised human right<sup>2</sup> but the Government of Pakistan has hindered stateless people's access to health. In contrast to the support provided by the Government of Pakistan, in partnership with the United Nations High Commissioner for Refugees ('UNHCR') to Afghan refugees in the context of

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1 Alizeh Kohari, 'Marooned: Karachi's Stateless Fishermen', *Coda Story* (online, 3 November 2021) <<https://www.codastory.com/authoritarian-tech/bengali-pakistan-nadra-biometrics>>, archived at <[perma.cc/WP8Y-VYAV](https://perma.cc/WP8Y-VYAV)>.

2 Tedros Adhanom Ghebreyesus, 'Health Is a Fundamental Human Right', *World Health Organization* (Newsroom Commentary, 10 December 2017) <<https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-right>>, archived at <[perma.cc/EJ2X-L7HM](https://perma.cc/EJ2X-L7HM)>.

COVID-19 (which has also been inadequate),<sup>3</sup> the state has left the Bengali stateless on their own, causing frustration, anxiety and poor health outcomes.<sup>4</sup>

## II HISTORICAL CONTEXT

### A *History of Ethnic Bengalis in Pakistan*

Twenty-four years after the India–Pakistan partition in 1947, a civil war between East and West Pakistan resulted in the creation of the nation of Bangladesh in 1971. Following the secession of Bangladesh from Pakistan, many Bengali people chose to stay in Bangladesh, while some chose to move to Pakistan, mostly for economic reasons.<sup>5</sup> Other Bengali people were already living in (West) Pakistan. In the first 10 years after the creation of Bangladesh, people moved between Pakistan and Bangladesh as the Pakistani economy grew while Bangladesh was struggling.<sup>6</sup> The citizenship laws of Pakistan *only* provide citizenship to those who were living in Pakistan on or before 16 December 1971.<sup>7</sup> Due to this temporal limitation, there are millions of Bengali persons living in Pakistan today who are not able to become citizens of Pakistan.<sup>8</sup> Karachi, the largest city in Pakistan, hosts the majority of the stateless Bengali population.<sup>9</sup> They largely inhabit slums on reclaimed land near the Arabian Sea. Machar Colony is one such low-income informal settlement and is one of the most prominent communities inhabited by stateless Bengalis. In addition, there are many Bengali speakers (whose ancestors came from East Pakistan) who, despite being born in Pakistan after 1971, have not been granted Pakistani citizenship, which appears contrary to provisions in the citizenship laws of Pakistan.<sup>10</sup> Although they have documents proving their eligibility for citizenship and computerised national identity cards (‘CNIC’), they

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<sup>3</sup> Tanya Lone et al, *Towards Shock-Responsive Social Protection: Lessons from the COVID-19 Response in Pakistan* (Research Report, Oxford Policy Management and UK Aid, March 2021) 35–45.

<sup>4</sup> Imkaan Welfare Organisation, Nationality For All and Institute on Statelessness and Inclusion, ‘Pakistan’, Joint Submission to the Human Rights Council at the 42<sup>nd</sup> Session of the Universal Periodic Review, July 2022, 14–15 [44]–[49] <[https://files.institutesi.org/UPR42\\_Pakistan.pdf](https://files.institutesi.org/UPR42_Pakistan.pdf)>, archived at <[perma.cc/2MFR-N4GP](https://perma.cc/2MFR-N4GP)> (‘UPR Submission’); Anuj Kapilashrami et al, ‘Neglect of Low-income Migrants in COVID-19 Response’, *BMJ Opinion* (Blog Post, 29 May 2020) <<https://blogs.bmj.com/bmj/2020/05/29/neglect-of-low-income-migrants-in-covid-19-response>>, archived at <[perma.cc/EN77-ULXV](https://perma.cc/EN77-ULXV)>.

<sup>5</sup> Haris Gazdar, ‘Karachi, Pakistan: Between Regulation and Regularisation’ in Marcello Balbo (ed), *International Migrants and the City: Bangkok, Berlin, Dakar, Karachi, Johannesburg, Naples, São Paulo, Tijuana, Vancouver, Vladivostok* (UN-Habitat 2005) 151, 156.

<sup>6</sup> *ibid.* See also Bilal Karim Mughal and Saher Baloch, ‘The Woes of Bengalis, Burmese and Iranians of Karachi’, *Herald* (online, 14 September 2017) <<https://herald.dawn.com/news/1153771/the-woes-of-bengalis-burmese-and-iranians-of-karachi>>, archived at <[perma.cc/3NVP-FA63](https://perma.cc/3NVP-FA63)>.

<sup>7</sup> *Pakistan Citizenship Act No II of 1951*, s 16A (Pakistan) (‘Citizenship Act’).

<sup>8</sup> Haniya Javed, ‘Pakistan’s Undocumented Communities Struggle to Access COVID-19 Vaccines’, *The Blueprint* (online, 22 July 2021) <<https://theblueprint.news/news/2021/07/pakistan-s-undocumented-communities-struggle-to-access-covid-19-vaccines>>, archived at <[perma.cc/9LP7-LMAJ](https://perma.cc/9LP7-LMAJ)>.

<sup>9</sup> Kifayat Ali Shah, ‘Stateless and Helpless’, *The Express Tribune* (online, 16 May 2021) <<https://tribune.com.pk/story/2300034/stateless-and-helpless>>, archived at <[perma.cc/4F5J-VYDU](https://perma.cc/4F5J-VYDU)>.

<sup>10</sup> Mughal and Baloch (n 6).

are often met with refusal, discrimination and xenophobia from National Database and Registration Authority ('NADRA') officials.<sup>11</sup>

## B Citizenship Laws of Pakistan

The national identity card is the mandatory mechanism by which citizens of Pakistan are eligible to access healthcare, education and a number of essential services and documents like banking, voting, licences and passports, to name a few.<sup>12</sup> The Manual National Identity Card was first issued by the government of Prime Minister Zulfikar Ali Bhutto in 1973 and was referred to as the NIC or, subsequently, as the MNIC.<sup>13</sup> In 2000, NADRA came into being, converting the identity card into a Computerised National Identity Card, also known as CNIC.<sup>14</sup> The modern CNIC features a unique 13-digit number and identifies one's citizenship.<sup>15</sup>

According to the *Pakistan Citizenship Act of 1951* ('*Citizenship Act*'), citizenship is determined through multiple avenues: citizenship by birth, descent and naturalisation. Citizenship by birth guarantees citizenship to all individuals born in Pakistan after 1951.<sup>16</sup> Citizenship by descent involves granting citizenship to any individual born to a Pakistani citizen after 1951 by registering them at the nearest Pakistani Consulate.<sup>17</sup>

The *Citizenship Act* also provides citizenship to people who moved to Pakistani territories immediately after the partition of India and Pakistan and people who were living in Pakistan on or before 16 December 1971 following the secession of Bangladesh from Pakistan.<sup>18</sup> The *Citizenship Act* grants citizenship to those whose parents and grandparents were born in Pakistani territories and who have not, since 1947, been a resident of any country other than Pakistan.<sup>19</sup>

Without a CNIC, stateless persons cannot access essential services. Although much of the current stateless Bengali population of Pakistan has lived in Pakistan for more than one generation and many were born in the country, they are still refused citizenship.<sup>20</sup> They are denied citizenship on the basis of the language that they speak, are often met with xenophobia and are considered to be outsiders in the land where they were born.<sup>21</sup>

<sup>11</sup> *ibid.*

<sup>12</sup> 'National Identity Card (NIC)', *National Database and Registration Authority Pakistan* (Web Page, 2022) <<https://www.nadra.gov.pk/identity/identity-cnec>>, archived at <[perma.cc/KZ9U-UP5K](https://perma.cc/KZ9U-UP5K)> ('National Identity Card (NIC)').

<sup>13</sup> 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>>, archived at <[perma.cc/EY5Y-8VMH](https://perma.cc/EY5Y-8VMH)>.

<sup>14</sup> Alizeh Kohari, 'Pakistan's Biometric ID Scheme is Stripping Citizenship from Thousands of People', *Coda Story* (online, 2 November 2021) <<https://www.codastory.com/authoritarian-tech/pakistan-biometric-identification-nadra>>, archived at <[perma.cc/B4GN-BT6E](https://perma.cc/B4GN-BT6E)>.

<sup>15</sup> 'National Identity Card (NIC)' (n 12).

<sup>16</sup> *Citizenship Act* (n 7) s 4.

<sup>17</sup> *ibid* s 5.

<sup>18</sup> *ibid* s 6.

<sup>19</sup> *ibid* s 3.

<sup>20</sup> Kamal Siddiqui, 'The Hidden Ones', *The Express Tribune* (online, 27 July 2020) <<https://tribune.com.pk/story/2256814/the-hidden-ones>>, archived at <[perma.cc/GZ6T-9VW5](https://perma.cc/GZ6T-9VW5)>.

<sup>21</sup> Mughal and Baloch (n 6).

C NADRA

Pakistan's first registration office was established in 1973 to 'perform identification and maintain the statistical database of the citizens of Pakistan'.<sup>22</sup> The Government of Pakistan began issuing the first NICs to Pakistani citizens at that time. Around the year 2000, the Government of Pakistan also set up a registry for non-nationals, issuing registration cards that indicated that they were not citizens. The need for NICs increased as they became required for opening bank accounts, issuing passports and paying bills, among other uses.<sup>23</sup> Possessing these cards has become more valuable as they have evolved to include more features and benefits.<sup>24</sup>

Bengalis are denied national ID cards because they are considered aliens.<sup>25</sup> In the press, there are regularly stories of administrative officials revoking Bengalis' NICs and issuing them with alien registration cards instead, stripping them of citizenship and labelling them as aliens.<sup>26</sup> Due to a lack of ID cards, these communities have no access to healthcare, education, potable water, sanitation and sewage disposal, among other services.<sup>27</sup> In 2021, Prime Minister Imran Khan launched an initiative to issue Alien Registration Cards ('ARC') to all foreigners in Pakistan.<sup>28</sup> In addition to authorising non-citizens to stay in Pakistan, this card also provides access to private employment opportunities, bank accounts, private educational institutions, COVID-19 vaccinations, driver's licenses, vehicle registration, domestic travel and mobile and utility connections, and exempts cardholders from prosecution under the *Foreigners Act 1946*.<sup>29</sup> However, the ARC does not permit access to public health institutions. Exclusion from essential public services is discriminatory. While non-citizens can access services in the private sector, it is often more expensive and unaffordable for Bengali individuals.<sup>30</sup> Furthermore, while ARCs can prove useful to many non-citizens, they are disadvantageous to many Bengalis as they have been and will continue to be forced to apply for ARCs despite being eligible for NICs. When they apply or renew their NICs, they are harassed and turned away.<sup>31</sup> In the eyes of the state

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<sup>22</sup> Tariq Malik, 'Technology in the Service of Development: The NADRA Story' (Essay, Center for Global Development, 7 November 2014) 2 <<http://www.cgdev.org/publication/ft/technology-service-development-nadra-story>>, archived at <[perma.cc/37H2-8LVD](https://perma.cc/37H2-8LVD)>.

<sup>23</sup> *ibid* 3.

<sup>24</sup> *ibid* 7–8.

<sup>25</sup> Shah (n 9).

<sup>26</sup> *ibid*.

<sup>27</sup> Mansoor Raza, 'Documentation and Analysis of the Current Housing Trends in Machar Colony in Karachi, Pakistan' (2019) 26(2) *Journal of Research in Architecture and Planning* 19, 23, 28.

<sup>28</sup> 'Alien Registration Card Will Facilitate Inclusion in Economy: PM Imran', *Business Recorder* (online, 13 August 2021) <<https://www.brecorder.com/news/40113242>>, archived at <[perma.cc/VG76-CFR9](https://perma.cc/VG76-CFR9)>.

<sup>29</sup> 'NADRA Alien Registration Card in Pakistan 2022 Benefits', *Employees Portal* (Web Page, 22 November 2021) <<https://employeesportal.info/alien-registration-card-pakistan-nadra>>, archived at <[perma.cc/SS32-ET6L](https://perma.cc/SS32-ET6L)>.

<sup>30</sup> 'Pakistan: Unofficial Healthcare Discrimination against Bengalis', *IRIN* (online, 7 April 2020) <<https://www.refworld.org/docid/4bc2ccff1e.html>>, archived at <[perma.cc/G3P2-BXEV](https://perma.cc/G3P2-BXEV)>.

<sup>31</sup> Javed (n 8); 'Bengalis Afraid of Losing Their Identity and Rights', *The Express Tribune* (online, 4 November 2012) <<https://tribune.com.pk/story/460370/bengalis-afraid-of-losing-their-identity-and-rights>>, archived at <[perma.cc/G7XX-PLAX](https://perma.cc/G7XX-PLAX)>.

institution, this group of people are still considered to be Bangladeshis and therefore treated as aliens, despite having little to no connection to Bangladesh.<sup>32</sup>

### III LOCAL CONTEXT

#### A *Machar Colony*

In this commentary, individuals from Machar Colony will be used as a case study on the discriminatory practice of denying citizenship and the effects of this denial. In the colony, while about half of the Bengali population have NICs, the other half has had great difficulty in attaining one.<sup>33</sup> Even those with valid CNICs face challenges in renewing their cards, and many residents of Machar Colony have had their cards blocked or rescinded due to systemic discrimination, rendering them stateless. Many stateless individuals do not possess or have difficulty obtaining documentation identifying their historical residence in Pakistan to support their claims of citizenship. Some did not foresee the need to prove their deep-rooted connection to Pakistan.<sup>34</sup> Due to this, registration officers either deny their application for NICs or put their application under inquiry. The inquiry process usually takes six to seven years, causing families to wait inordinately for resolution. Experts agree that the registration and conferral of ID cards has made the process of registering and keeping track of citizens, and accessibility to many basic public and private resources, substantially more efficient.<sup>35</sup> One research article concluded that NICs played a major role in providing disaster relief to Pakistani regions affected by floods in 2010.<sup>36</sup> This example further substantiates the fact that withholding a CNIC from a rightful individual is equal to restricting their access to indispensable resources that should be rightfully available to all.

#### B *Healthcare*

Access to healthcare remains a serious problem faced by the stateless community due to exclusion, xenophobia, poverty and structural barriers. The COVID-19 case illustrates the challenges. Due to a lack of identity documentation and the challenge of travelling great distances to sites that administer the vaccines, many stateless people are unable to sign up for the COVID-19 vaccine.<sup>37</sup> In addition, many are hesitant to seek medical help for fear of being detained and deported.<sup>38</sup> Before spring 2021, only citizens with an ID number could sign up for COVID-

<sup>32</sup> Mughal and Baloch (n 6).

<sup>33</sup> *UPR Submission* (n 4) 5–6 [15].

<sup>34</sup> ‘Pakistan Treats its Own Bengali Citizens as Aliens’, *Policy Research Group* (Blog Post, 25 October 2010) <<https://www.policyresearchgroup.com/pakistan-treats-its-own-bengali-citizens-as-aliens>>, archived at <[perma.cc/8EHH-MTGP](https://perma.cc/8EHH-MTGP)>.

<sup>35</sup> Raza Ullah, Muhammad Yasir Abbass and Arif Khattak, ‘Exploring the Role of Computerized National Identity Card (Citizens’ Registration Card) in Securing Women’s Property Rights in Pakistan’ (2015) 8(2) *Abasyn Journal of Social Sciences* 213, 215–16; Gobind M Herani, ‘Computerized National Identity Card, NADRA Kiosks and its Prospects in Pakistan’ (2007) 1(2) *Indian Journal of Science and Technology* 1.

<sup>36</sup> Ayesha Siddiqi, ‘“Disaster Citizenship”: An Emerging Framework for Understanding the Depth of Digital Citizenship in Pakistan’ (2018) 26(2) *Contemporary South Asia* 157, 157, 170.

<sup>37</sup> *UPR Submission* (n 4) 13 [42], [44].

<sup>38</sup> Talha Burki, ‘Statelessness in the COVID-19 Pandemic’ (2021) 397 *The Lancet* 1529, 1529.

19 vaccinations.<sup>39</sup> The Government has made no effort to spread awareness or conduct testing for COVID-19 in these areas.<sup>40</sup> Most people's first exposure to information about COVID-19 is through WhatsApp and the stories on it are often rife with conspiracy theories and general misinformation.<sup>41</sup>

The problems in accessing healthcare go beyond COVID-19. Most of the inhabitants of Machar Colony are fishermen or shrimp peelers.<sup>42</sup> Their livelihoods depend on seasonal, low-income jobs; they are unable to get other work due to the lack of legal documents. Unsafe drinking water, lack of sewerage, improper waste disposal in proximity to the settlement and lack of affordable healthcare providers has resulted in many deaths from preventable diseases like dengue and the chikungunya virus.<sup>43</sup> For the residents of Machar Colony, healthcare is unaffordable.<sup>44</sup> In most cases, stateless people rely on each other by taking loans from other members of the community to pay for healthcare. In Machar Colony, the estimated cost of medical help from private health centres per visit is PKR5,000 (about USD30);<sup>45</sup> the estimate includes doctors' fees and the cost of medicine. For maternity care, costs are usually not incurred as most people choose to deliver their babies at home without the presence of any medically trained professionals. A delivery at a private hospital costs anywhere from PKR15,000 to PKR30,000 (approximately USD85 to USD170).<sup>46</sup> Public hospitals either turn the pregnant mothers away due to lack of documentation or do not provide satisfactory care and require the patient to bring someone to be with them at all times, which is often not possible for these low-income working families. In consequence, most people choose to give birth at home or go to untrained or unlicensed professionals, which has led to the passing of many mothers and infants.<sup>47</sup>

#### IV DISCUSSION

The state's insistence on maintaining that Bengalis are foreigners has affected research and advocacy for this community. Academics are hesitant to conduct

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<sup>39</sup> Javed (n 8).

<sup>40</sup> Haniya Javed, 'How Worse Can Coronavirus Be for Us?', *Asia Democracy Chronicles* (online, 6 August 2021) <<https://adnchronicles.org/2021/08/06/how-worse-can-corona-be-for-us>>, archived at <[perma.cc/64WV-D2CH](https://perma.cc/64WV-D2CH)>.

<sup>41</sup> 'Misinformation Mitigating Policies and Practices Compared: Lessons from South Africa' (Research Brief, AHA! Awareness with Human Action, 2022) 3.

<sup>42</sup> Shah (n 9); Gazdar (n 5) 163.

<sup>43</sup> Raza (n 27) 30.

<sup>44</sup> Xari Jaril, '50 Years of Statelessness: The Bengalis of Macchar Colony', *Voicepk* (online, 26 December 2021) <<https://voicepk.net/2021/12/50-years-of-statelessness-the-bengalis-of-macchar-colony>>, archived at <[perma.cc/57B2-LTR3](https://perma.cc/57B2-LTR3)>.

<sup>45</sup> Murad Moosa Khan, 'Private Healthcare in Pakistan — Costly, Unregulated and Predatory', *The Express Tribune* (online, 18 November 2019) <<https://tribune.com.pk/article/90951/private-healthcare-in-pakistan-costly-unregulated-and-predatory>>, archived at <[perma.cc/AGF7-JKK2](https://perma.cc/AGF7-JKK2)>.

<sup>46</sup> Hospital charges for delivery are listed in several not-for-profit hospitals in Karachi: see, eg, 'Normal Delivery', *Indus Hospital & Network* (Web Page, 2022) <<https://indushospital.org.pk/donate/normal-delivery>>, archived at <[perma.cc/FQ4P-2U5G](https://perma.cc/FQ4P-2U5G)>; 'How You Can Help', *Lady Dufferin Hospital* (Web Page, 2020) <<https://www.ladydufferinhospital.org/how-to-help>>, archived at <[perma.cc/7RGK-VMVE](https://perma.cc/7RGK-VMVE)>.

<sup>47</sup> Nusrat Shah et al, 'Home Deliveries: Reasons and Adverse Outcomes in Women Presenting to a Tertiary Care Hospital' (2010) 60(7) *Journal of the Pakistan Medical Association* 555, 556–58.

research in favour of the Bengalis due to the risk of social and political backlash.<sup>48</sup> There are very few exceptions to this, but one occurred in 2017, when an 18-member special committee that was formed to discuss issues faced by the Bengali community unanimously decided to ‘suggest a constitutional amendment to give legal status to the Bengalis in Pakistan’.<sup>49</sup> No such amendment has been suggested or passed. Local NGOs have tried to step in to substitute for the lack of governmental aid to Bengali Pakistani communities, providing healthcare or legal support on a very limited basis.<sup>50</sup>

## V CONCLUSION

While UNHCR’s *#IBelong* Campaign to End Statelessness recognises and endorses the good practices of governments ending statelessness, certain stateless communities are in its blind spot. The Bengalis in Pakistan are one such example. Pakistan has spent decades providing refuge to the people of Afghanistan and, for these efforts, it deserves due praise. However, its mistreatment of Afghan refugees, stateless Bengalis and other minorities must be addressed. The revocation and non-issuance of CNICs by NADRA and the general consensus that Bengalis are aliens in Pakistani society are lesser-known issues. The Bengali stateless population deserve acceptance into Pakistani society, so they can finally lead healthy, respectable and stable lives in their homeland.

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<sup>48</sup> Elaine Alam, ‘Closing Civic Space in Pakistan’ in *South Asia State of Minorities Report 2020: Minorities and Shrinking Civic Space* (Report, The South Asia Collective, 2020) 165, 185–91.

<sup>49</sup> Zia Ur Rehman, ‘Pakistan Moves towards Legalising Bengalis and Biharis, Not Rohingyas’, *Geo News* (online, 18 October 2017) <[www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas](http://www.geo.tv/latest/162968-pakistan-to-grant-citizenship-to-bengalis-and-biharis-not-rohingyas)>, archived at <[perma.cc/3KPG-MLKH](https://perma.cc/3KPG-MLKH)>.

<sup>50</sup> Abira Ashfaq, *Understanding Urban Resilience: Migration, Displacement and Violence in Karachi* (Report, International Committee of the Red Cross, 2019) 14–15.