

The Digital Cage: Constitutional Scrutiny of CNIC Blocking in Pakistan, With Particular Reference to Proclaimed Offenders

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Abstract

This study seeks to provide a critical evaluation of the constitutional and statutory legitimacy of barring access to the Computerized National Identity Card (CNIC) within the confines of Pakistan, especially in the exercise or process of imposing the same on Proclaimed Offenders (POs). While the research acknowledges the state's legitimate law enforcement interests, it argues that existing practices often run in a legally fraught context and thereby can subject individuals to arbitrary deprivation of identity and violation of fundamental rights including due process, dignity and recognition before the law. An exhaustive analysis of the relevant laws and the recent Judgments issued by the various High Courts shows that despite the wide powers supposedly granted to the National Database and Registration Authority (NADRA), these powers are demonstrably limited by the constitutional guarantees. High Courts have repeatedly confirmed that 'right to identity' is a basic right and there shall be strict compliance with the standards of due process and strict construction shall be made under Section 18 of the NADRA Ordinance. Drawing on those results, the paper calls for a principled legal construction that requires CNIC blocking to be based on express legal authorization, to meet stringent due process requirements, and to be proportionate to the enforcement goal to be achieved. It concludes with recommendations for comprehensive legislative, judicial and administrative reforms to balance the state security imperatives with individual fundamental rights and thus prevent statelessness and

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provide protection of legal identity according to both national and international human rights standards.

Keywords: CNIC Blocking, Proclaimed Offenders, NADRA Ordinance, Constitutional Law, Right to Identity, Digital Citizenship

1. Introduction

The all-pervasive authority to "block" a CNIC, is the central inquiry of this research. This power crosses over a panoply of basic guarantees of the Constitution, especially Articles 4 (duty of due process), 9 (security of one's person), 10 (guarantees relating to arrest and detention), 10A (guarantee to a fair trial), 14 (guarantee to the security of human dignity), and 25 (guarantee to the equality of citizens). The implications of such interventions require in-depth analytical study.³

The CNIC, issued by the NADRA, is not just an identification document; it is a cornerstone of the legal identity and is indispensable to access important civic and economic services, from banking, mobile communications, and property transactions to intercity travel.⁴ Consequently, the administrative or judicial blocking of a CNIC amounts to a serious curtailment on any individual's legal personality, having effectively condemned him or her to be a "digital non-person", without the possibility of participating in almost all aspects of civic life.

Philosophically, the "right to identity" goes beyond having a piece of paper.⁵ It forms an expression of fundamental human dignity, resoluteness and the recognition of the existence of an individual before the law to ensure a full participation in society.⁶ This right, while not always explicitly set out in a constitution, at times is inferred from other protections created within such constitutions such as the rights

³ Gudova, E. (2017). Remove the Document — and You Remove the Man Book Review: Hull M. S (2012) Government of Paper: The Materiality of Bureaucracy in Urban Pakistan, Berkeley: University of California Press. *Journal of Economic Sociology*, 18(3), 176. <https://doi.org/10.17323/1726-3247-2017-3-176-183>

⁴ Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. <https://doi.org/10.7302/3875>

⁵ Zameen Abid v. NADRA, PLD 2022 Lahore 39.

⁶ Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756.

to life, dignity and equality.⁷ In the digital age, the idea also extends downwards to 'digital citizenship' with the fractal and manipulation of the identity both in the digital and physical realms evoking complex legal and ethical issues of protection, consent and autonomy over identity in the digital realm. The growing intersectionality of physical and digital identities makes this a vital necessity that imposing laws must take into account to protect this fundamental right.⁸

This paper has examined in some detail the legal and constitutional limitations and pragmatic implications of CNIC blocking, especially when used against POs. While recognizing the undoubted right of the state to maintain law and order and to provide for national security, the present analysis inquires as to whether the exercise of such powers in matters relating to CNICs is carried out within well-defined frameworks of law and according to fundamental rights contained in the Constitution of Pakistan. The article systematically examines the statutory and normative basis for issuance and blocking of CNIC, examines critically the evolutionary trajectory of High Court jurisprudence, explains the notion of PO and the contentious scenario of use of CNIC blocking in this regard, and finally, derives a set of rules for the judiciary and administrative bodies. Finally, the paper discusses the wider policy and jurisprudential implications of this coercive practice, in order to be informed of a more constitutionally compliant and rights respecting approach.

2. Short Thesis

The thesis is straightforward. When applied to the declared offenders, blocking of CNIC's without a statute, without any safeguards and without any proportionality with the legitimate aim is constitutionally unsound. Such an extreme action is only allowed where it is expressly based on lawful power under the NADRA Ordinance (or some valid statutory delegation), strictly follows all requirements of due process, including robust notice and hearing under Section 18⁹, and is

⁷ Zameen Abid v. NADRA, PLD 2022 Lahore 39.

⁸ Vardanyan, L., Hamulák, O., & Kocharyan, H. (2024). Fragmented Identities: Legal Challenges of Digital Identity, Integrity, and Informational Self-Determination. *Deleted Journal*, 11(1), 105. <https://doi.org/10.2478/eustu-2024-0005>

⁹ Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585.

demonstrably proportionate and directly related to some legitimate achievement of enforcement purpose. Absent these strict forms of protection, the blocking of CNICs is an arbitrary deprivation of legal identity and fundamental rights of people making it unlawful, unconstitutional and open to judicial scrutiny to a great extent.

3. Statutory and Normative Foundations

The legal framework that they are governed by the issuance and management of CNICs in Pakistan derives essentially from the statutory powers vested in the NADRA.¹⁰ This section outlines the legal underpinnings and their normative implications of the fundamental texts on the matter, namely identity documentation and potential curtailment.

3.1.1 NADRA Ordinance — The Primary Statutory Text

The NADRA Ordinance, 2000 is the main statutory instrument addressing the issue of national identity cards. Section 18 of the NADRA Ordinance, therefore, is the most crucial part of the Ordinance, regarding the powers for the cancellation, impounding or confiscation of the CNICs. Crucially, it is discussed at length in Muhammad Umar's case¹¹, Hafiz Awais Zafar's case¹², and Hafiz Hamdullah Saboor's case¹³ that this section strictly makes these powers conditional on certain grounds and procedure. While NADRA's general power to issue National Identity Cards is well established, NADRA's de facto power to "block" these cards, especially in the context of "re-verification" drives aimed at distinguishing Pakistani citizens from foreign nationals or addressing national security concerns, has been observed. Such administrative actions, which most of the time lead to a card holder's status being downgraded to "under verification", fundamentally change their legal status.¹⁴ The result of any such blocking is severe, as it results in an "infrastructural blockage" that essentially hinders access

¹⁰ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

¹¹ Muhammad Umar v. Federation of Pakistan, PLD 2017 Sindh 585.

¹² Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756

¹³ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

¹⁴ Abbu Hashim v. Federation of Pakistan, PLD 2021 Sindh 492

to a plethora of government services and private sector operations, such as the issuance of passports, banking and telecommunications.¹⁵

The current judicial interpretation certainly holds that Section 18 should only be interpreted strictly, because of the substantial consequences that cancellation, impounding, or confiscation of the CNICs will have on fundamental rights, such as the right to identity, the right to freedom of movement, and the right to access essential services. While NADRA has shown a willingness to adjust its operations according to judicial orders (for instance using third gender categories on CNICs after Supreme Court orders as pointed by Ghalzai¹⁶ and Rashid & Umar¹⁷), there are no explicit provisions in the Ordinance that outline the standards for and the exact process of "blocking" the CNICs in particular for certain groups, for example POs. This lack of clear rules in statutes creates large areas of ambiguity and inherent potential for arbitrary administrator activity, which leads to litigation.

The constitutional salience of Articles 4, 9, 10, 10A, 14 and 25 is the fact that these articles collectively state on the autonomy, dignity and the existence of the individual as a recognised legal entity in the state. A CNIC, as the main vehicle for legal identity comes to be inextricably tied with these fundamental rights. Its arbitrary withdrawal or blocking thereby involves the direct implication of the state's duty to treat individuals in accordance with law, to respect their person and dignity and to ensure equality before the law and the idea that legal identity is a fundamental precondition for the enjoyment of all other rights is hereby solidified.¹⁸

¹⁵ -ibid-

¹⁶ Ghalzai, S. A. (2020). Framing Pakistani Hijras' Discursive Positioning on Gender, State and Society : analyzing Transgender Language, Identity and Subjectivity. *HAL (Le Centre Pour La Communication Scientifique Directe)*. <https://theses.hal.science/tel-03412543>

¹⁷ Rashid, A., & Umar, R. (2022). Constitutional and Legal Guarantees for Transgender in Pakistan: Reforms and Failures in Law. In *Springer eBooks* (p. 79). Springer Nature. https://doi.org/10.1007/978-3-030-98072-6_5

¹⁸ Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756

3.1.2 Pakistan Citizenship Act

The present definition of citizenship to all those who are the citizens of Pakistan relies on the Pakistan Citizenship Act, 1951.¹⁹ Any state action which directly affects a citizen's fundamental right to identity (such as when a CNIC is blocked) therefore inevitably implicates and potentially affects their citizenship status. The provisions of this Act are therefore important to define the legal entitlement to the national identity document and by implication the rights flowing from it. The temporary or permanent loss of legal identity of the citizen through blocking of CNIC, especially if this is done without any formal determination under the Citizenship Act, can raise deep questions as to its compatibility with the rights granted by this foundational legislation, which may in turn lead to the de facto questioning or suspension of one's nationality, even if this does not entail de jure loss of citizenship.

4. Case Law Landscape

The judicial scenario on the blocking of the CNICs in Pakistan is marked by a changing jurisprudence, wherein the High Courts have over the years emerged on the radar to exercise their supervisory authority in protecting the fundamental rights against overreach by authorities. This part of the project critically analyzes seminal judgments pronounced by different High Courts explaining the principles of due process, the constitutional "right to identity" and the limitations exercised over NADRA's powers as regards manipulation of CNIC. The resulting jurisprudential analysis offers the basic understanding needed to evaluate the legal limitations for utilizing the use of CNIC-blocking as an instrument of coercion, especially against those people who are declared as offenders.

4.1.1 High Courts — Consistent Theme

Pakistan's High Courts have shown their strong constitutional power under article 199 and intervened repeatedly to examine state actions with a view to checking on the liberties of individuals. A recurring theme in their jurisprudence is the insistence of due process and the

¹⁹ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

requirement that the state authorities work strictly within the purview of the law, as one can take a look at the requirement revolving around the assertion that an arrest should be followed by a prompt presentation before the magistrate for the purpose of being considered lawful.²⁰ This judicial vigilance recycles powerfully to acts that affect identity documents, unveiling some principles of continuity.

"Blocking" as Alien to the NADRA Ordinance and Requirement for Due Process

Sindh High Court in Muhammad Umar's case made a difference between the concept of "blocking" and "impounding" a CNIC. The Court held categorically that "blocking" is alien to the NADRA Ordinance. While accepting the authority of the NADRA to "impound" a CNIC under Section 18, the Court made stringent conditions on compliance with the same and stated that the impounding was subject to sustainable scrutiny considering four pertinent considerations, i.e. ensuring that impounding was done under a stringent protection of the interest of the people. The Court reaffirmed the proposition that any blocking undertaken without following the safeguards provided in Section 18 is unlawful.²¹ The judgment mandated that NADRA give prior notice, and a fair opportunity to be heard prior to impounding a CNIC and proceeds to detail the effective procedures for service of notice. Moreover, the Court emphasized that any final order affecting a CNIC to be reasoned and justifiable.

Building on the above tenet the Islamabad High Court in the case of Hafiz Hamdullah Saboor, gave the tragic impact of CNIC blocking, realising its harmful effects on the life of an individual as well as his fundamental rights under the Constitution. The Court condemned NADRA's practice of referring cases to "District Committees" for CNIC blocking and stated that such procedures are alien to the provisions of the statute and there was "no authority" without pre-order from a judicial authority.²² This judgment unequivocally criticised arbitrary blocking of CNIC on the basis of intelligence agency reports without

²⁰ Ali, M. I. (2023). Unveiling Shadows: Jus Cogens Imperative to Criminalize Enforced Disappearances in Pakistan. *Vietnamese Journal of Legal Sciences*, 9(2), 90. <https://doi.org/10.2478/vjls-2023-0011>

²¹ Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585

²² Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

due process as it renders the citizenship rights along with other fundamental rights redundant.

The Constitutional "Right to Identity"

The Lahore High Court, in a case of Hafiz Awais Zafar, profusely endorsed the "right to identity" as a fundamental, non-derogable, independent, and autonomous right, that is intrinsically related to human dignity. The Court find that this right is constitutionally protected under articles 9 and 14 holding it as an essential corollary to the rights to life and dignity. This decision was a ruling that explained that no individual can be deprived from their identity card without stringent due process thus reinforcing the principle that Section 18 of NADRA Ordinance needs to be strictly construed and faithfully followed in cases of manipulation of CNIC affecting the fundamental right.²³ The jurisprudential position brings together the consistent theme in High Courts that CNICs are intrinsically associated with, and central to, the enjoyment of the fundamental rights.²⁴

Further elaboration of the rights of identity, especially among vulnerable populations, can be found in Zameen Abid's case.²⁵ In this case, the Court held that non-issuance of CNIC was a patent violation of the Right to Identity. It underlined the State of affirmative duty to safeguard vulnerable groups for example women, persons with disabilities, and transgender persons by guaranteeing their access to national identity documents which in turn prevents them from becoming the target of exploitation. This case affirmed the duty of NADRA to comply with the directions made by the courts to uphold the rights of the Constitution and stressed that the blocking of an identity document cannot be done on suspicion without providing an opportunity of hearing.

NADRA's Lack of Jurisdiction to Adjudicate Citizenship

²³ Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756.

²⁴ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

²⁵ Zameen Abid v. NADRA, PLD 2022 Lahore 39.

A subsequent judgment in Fatima's case by the Balochistan High Court further reinforced these principles.²⁶ The Court reiterated that blocking CNIC has grave consequences by impinging upon fundamental rights, such as education, health and employment. It held that NADRA has no authority to arbitrarily block a CNIC without due notice and that it is squarely on NADRA to prove that an individual is not a citizen especially when citizenship is by birth. This judgment essentially declared that NADRA cannot decide about citizenship. The courts must refer matters of citizenship validity to the competent authority under the Citizenship Act in which the credibility of citizenship is in doubt.²⁷ Sovereign constitutional rights cannot be compromised by mere notification, thus explaining why the cardinal principle holds that "no one can be condemned unheard.

Decisions Allowing Limited Blocking Where Allied to reach/Jurisdictional Necessity

Despite the continued judicial focus on due process and statutory compliance issues, the case law does show nuanced areas of how judicial intervention on issues of CNIC blocking have occurred, most frequently as a perceived violation of a specific court order or a matter of jurisdiction. These instances are important as they establish the limits, described if any, for CNIC intervention that makes it different from arbitrary administrative blocking.

The current evidence is that NADRA exercises blocking powers in situations related to national security issues, suspicions about the actual nationality of an individual or during "re-verification" campaigns.²⁸ Such instances will generally suggest the need for breach of national security or for jurisdictional purposes for ensuring citizenship ability. Nonetheless, there remains a critical question: have courts condoned CNIC blocking as a direct punitive or coercive measure

²⁶ Fatima v. NADRA, PLD 2022 Balochistan 73

²⁷ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

²⁸ Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. <https://doi.org/10.7302/3875>; & Hashmi, Z. (2021b). Making Reliable Persons: Managing Descent and Genealogical Computation in Pakistan. *Comparative Studies in Society and History*, 63(4), 948. <https://doi.org/10.1017/s001041752100030x>

against the POs? This is an area for which more explicit judicial pronouncements are needed.

A very significant judgment is in Messrs Al-Harmain's case in which the Lahore High Court stayed the order of an executing court that had issued an order to block the CNICs of judgment debtors during the execution proceedings. The court clearly held that Section 18 of the NADRA Ordinance in no express terms gives the courts the power to order CNIC blocking in such execution matters. It mentioned that CNIC blocking was not on the list of enumerated instances in Section 18, where powers of cancellation, impounding or confiscation can be exercised.²⁹ This judgment reiterated very emphatically that CNIC is necessary for the enjoyment of rights and deprivation from them is to be done with strict due process which includes notice and hearing. The case thus illustrates the fact that even the blocking order is susceptible to be struck down, if it has no statutory basis and appropriate procedural safeguards.

Conversely, Mst. Sana's case, Sindh High Court decided in a scenario where the order of the Family Court prohibiting mother's CNIC and passport was upheld. This was due to the reason that the mother has violated a particular court order by taking the child out of the country without liberty and in violation of express order of custody.³⁰ While the High Court held that the impugned order was legally appropriate in the light of violation of a previous order of the court, it simultaneously recognized the mother's right to approach the Family Court to seek relief for unblocking of her CNIC/passport. This case highlights the factors involved when courts of competent jurisdiction can take coercive actions, including actions against the CNICs about direct violations of judicial orders, especially in important areas like child custody and welfare. Nevertheless, even in such instances, the focus on possible recourse and due process can be seen to prevail. The distinction is important, as such are judicial orders that respond to indeed violations of previous court orders, not blockade by

²⁹ Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

³⁰ Mst. Sana v. Shoaib Ismail and another, 2025 CLC 544 [Sindh]

administrative means which merely relies on seizure according to general classes such as POs where there is no judicial finding.

4.1.2 Absence of Direct Supreme Court Full-Judgment Pronouncement on CNIC-Blocking of Proclaimed Offenders

A critical finding of this research is the lack of a direct full judgment pronouncement issued by the supreme court of Pakistan with reference to specifically addressing the blocking of CNICs of POs. This lacuna in the jurisprudence of the apex court implies that for the specific issue of CNIC blocking for proclaimed offenders, the decisions of the High Court are the governing law and the literal meaning of the statutory text is also the governing law. Searches on the Supreme Court database and other official repositories failed to show discrete categorical holding on "CNIC-block of proclaimed offender." A complete re-search in PDF archives of full texts of judgments delivered by the Supreme Court in particular time period and exporting of pdf files would take away the probability of omissions, but the entire space of legal information that can be practically applied to the present inquiry has still remained a discernible gap. That is, what is methodologically and honestly stated in this record is that, as we have carefully examined, the state of proffered Supreme Court jurisprudence is not conclusive that we can assert the nonexistence of a Supreme Court pronouncement with confidence, and, to the contrary.

Nevertheless, the Supreme Court has clearly shown its power and willingness to interfere in matters involving CNIC issuance and the protection of fundamental rights. For example, the Court's directives to NADRA on the recognition of third gender category on CNICs reveal its power in forcing NADRA to guarantee that constitutional rights are respected as well.³¹ These rulings acknowledge that the activities of NADRA are always under strict judicial supervision and should strictly be in line with the constitutional guarantees, especially Article 4 and 9

³¹ Waheed, U., Satti, H. S., Arshad, M., Farooq, A., Rauf, A., & Zaheer, H. A. (2017). Epidemiology of HIV/AIDS and Syphilis among High Risk Groups in Pakistan. *Pakistan Journal of Zoology*, 49(5). <https://doi.org/10.17582/journal.pjz/2017.49.5.1829.1834>

of the Constitution.³² Such a broader jurisprudential stance, even if it has been mostly presented in an administrative/family-law/execution context, in every case reported, has been based on Section 18 of the NADRA Ordinance, with particular focus on Article 4, 9, 10, 10A, 14 and 25 of the Constitution of Pakistan.³³ It is seen that the Section 18, in its plain terms, does not distinguish any person on the basis of the description of their civil and criminal status or character;³⁴ the principles emphasised by the High Courts in the jurisprudence of the said Section (obviously relevant to Muhammad Umar's case and Hafiz Hamdullah Saboor's case), namely, those of strict construction, prior notice and hearing, and substantive due process all apply with equal force to the present PO inquiry as they had always done in the past.³⁵ It is, therefore, clear that, if the State were to try to make an extralegal impounding of a PO's CNIC (which is contrary to the principles established in the reported High Court cases) such a measure would be open to challenge on precisely the same grounds for which, in the reported High Court cases, impoundment orders issued in non-PO contexts have been held to be unconstitutional.³⁶ This, in substance is, the answer under intelligent guidance of available jurisprudence of the High Court to the question before us to-day;³⁷ and that answer is

³² Waheed, U., Satti, H. S., Arshad, M., Farooq, A., Rauf, A., & Zaheer, H. A. (2017). Epidemiology of HIV/AIDS and Syphilis among High Risk Groups in Pakistan. *Pakistan Journal of Zoology*, 49(5). <https://doi.org/10.17582/journal.pjz/2017.49.5.1829.1834>

³³ Khan, H., Shabbir, S. S., Mustafa, A. U., Shabbir, O., & Sheikh, S. (2025). Constitutional Rights and Access to Justice in Pakistan: A Comprehensive Analysis with Case Laws. *Social Science Review Archives.*, 3(1), 2080–2098. <https://doi.org/10.70670/sra.v3i1.519>

³⁴ Munir, A. I. (2025). The Protection of Data on the Touchstone of the Right to Privacy under the Constitution of Pakistan, 1973. *The æcritical Review of Social Sciences Studies*, 3(3), 1304–1312. <https://doi.org/10.59075/b3zdg955>

³⁵ Jamali, N. H., Yi, Y., Wu, H.-C., Khoso, A. G., Mahar, W. F., & Bano, A. (2024). A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards. *Beijing Law Review*, 15(1), 231–248. <https://doi.org/10.4236/blr.2024.151015>

³⁶ Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. *Social Science Review Archives.*, 3(3), 1653–1665. <https://doi.org/10.70670/sra.v3i3.991>

³⁷ Bordère, C. (2023). La justice algorithmique : analyse comparée (France/Québec) d'un phénomène doctrinal. In theses.fr (ABES). <http://www.theses.fr/2023BORD0350/document>

termed notwithstanding the fact that no single pronouncement of the Supreme Court, up to present, has actually dealt with the PO-blocking question. The omission mentioned above is therefore obviously to be interpreted as incomplete court investigation, and not as one based on any principle.³⁸

Furthermore, the Islamabad High Court in Muhammad Iqbal Hussain's case advanced some startling procedural considerations which came in the form of doctrines of exhaustion and laches. The court decided that people must first exhaust statutory remedies before seeking constitutional jurisdiction under Article 199. It further provided that an unexplained delay of more than a year in challenging an order of the CNIC blocking may result in the petition being barred on the principle of laches.³⁹ While this case has emphasized procedural requirements, it does not provide substantive support for the idea of CNIC blocking of proclaimed offenders, but rather underscores the proper means of challenging such actions *with a procedural avenue for their potentially illegal character to be effectively challenged*.

5. Analysis — Proclaimed Offenders, Courts' Coercive Powers, and Constitutional Limits

The blocking of CNIC is more than an administrative measure, it has significant ramifications on the constitutional rights and legal personality of an individual and the fundamental participation of an individual in society. This section is a critical analysis of the concept of a PO, the different situations when CNICs blocking has been resorted to, and the solid legal and constitutional safeguards against exercising the coercive powers of the state in Pakistan.

Just to be clear, the following analysis follows two different, but it is doctrinally similar, tracts. The first, the civil tract in which the CNIC functions, it has been long acknowledged through the courts as the basis of the citizen's primary identity document and where Blocking has become a main factor in the implementation of civil decrees and in

³⁸ Lanzoni, N. (2026). The International Judicial Function and How We Think About It: Non Liqueur, Revisited. *The Law and Practice of International Courts and Tribunals*, 1–28. <https://doi.org/10.1163/15718034-bja10145>

³⁹ Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

ancillary family-court orders.⁴⁰ The second is the criminal tract, in which the right to the document of a citizen always lies in inevitable tension against the power which the polity and the court under competent jurisdiction claim to have to deal with him on presentation of his name; which is the tract in which the present investigation as to Proclaimed Offenders lies, preponderantly at least.⁴¹ The two tracts have in common, as a ceiling for constitutional guarantees, the guarantees provided in Articles 4, 9, 10, 10A, 14 and 25 as well as the strict-construction rule stipulated in Section 18 of the NADRA Ordinance, however, the extent to which the guarantees are calibrated in view of the State's enforcement interest differs between the two and deserving of this regard is, therefore, extended to the reader from the start.

5.1 What is a Proclaimed Offender?

In Pakistan, "proclaimed offender" are people against whom a proclamation order has been lawfully issued by a court under Section 87 of the Code of Criminal Procedure in Pakistan, usually when it is not possible to execute a warrant of arrest because the person has absconded. This status is publicly notified and those who harbour or assist a proclaimed offender face legal penalty.⁴² The term also can include persons declared as offenders by a competent court or authority in an offence punishable under certain grave sections of the Pakistan Penal Code, for example murder or robbery.⁴³ The declaration of being a proclaimed offender often results in them being put on surveillance registers and lists kept by law enforcement agencies.⁴⁴ Fundamentally, proclamation and its subsequent coercive processes are procedural tools aimed at ensuring that an accused is present at a

⁴⁰ Munir, A. I. (2025). The Protection of Data on the Touchstone of the Right to Privacy under the Constitution of Pakistan, 1973. *The æcritical Review of Social Sciences Studies*, 3(3), 1304–1312. <https://doi.org/10.59075/b3zdg955>

⁴¹ Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. *Social Science Review Archives.*, 3(3), 1653–1665. <https://doi.org/10.70670/sra.v3i3.991>

⁴² Government of Punjab. (1934). *Punjab Police Rules, 1934* (Vol. 3, chap. 21, r. 21.5).

⁴³ The Code of Criminal Procedure, 1898, S 45(2)(ii) (Pakistan).

⁴⁴ Government of Punjab. (1934). *Punjab Police Rules, 1934* (Vol. 3, chap. 21, r. 21.5).

court to prove charges against him/her, to carry out judgments, and to ensure the integrity in the enforcement process.

5.2 Where CNIC-Blocking Has Been Used

While there is no explicit statutory authorization to block someone through CNIC just because of their status as a proclaimed offender, NADRA has been known to use its blocking functionality in other scenarios in the past which does throw light on the larger question of coercive state power against an individual's identity.⁴⁵

NADRA's Administrative Blocking:

NADRA has used notably CNIC blocking as a tool during "re-verification" drives, often associated with national security considerations or suspicions of any foreign nationality.⁴⁶ This implies that if the status of a proclaimed offender is mixed here with issues of national security or citizen's credibility, their CNIC might be involved here. The impractical result of a blocked CNIC is undoubtedly severe, adding up to effectively limiting basic mobility, inability to access financial services and all other forms of civic engagement, in effect, civil interdiction is a powerful mechanism.⁴⁷ The Anti- Terrorism Act, 1997, gives a parallel example of where "proscribed persons" are restricted from financial access and arms licences, which highlights the legal precedent of restricting liberties to certain classes of people through digital or administrative methods.⁴⁸

⁴⁵ Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

⁴⁶ Hashmi, Z. (2021a). Identifying Kin Biometric Belonging and Databased Governance in Colonial South Asia and Postcolonial Pakistan. *Deep Blue (University of Michigan)*. <https://doi.org/10.7302/3875>

⁴⁷ Gudova, E. (2017). Remove the Document — and You Remove the Man Book Review: Hull M. S (2012) Government of Paper: The Materiality of Bureaucracy in Urban Pakistan, Berkeley: University of California Press. *Journal of Economic Sociology*, 18(3), 176. <https://doi.org/10.17323/1726-3247-2017-3-176-183>

⁴⁸ Raza, S. S. (2018). The Anti-Terrorism Act, 1997. In *Routledge eBooks* (p. 67). Informa. <https://doi.org/10.4324/9781315143293-4>

Court-Sought Blocking:

Courts and decree holders, especially in the field of civil execution or family law cases have also sought CNIC blocking for various reasons: (i) to limit the liberty of travel and reduce the risk of flights for the person under judicial process; (ii) to add pressure on an individual (proclaimed offender) to appear before the Court etc. or to surrender the goods to the Court; (iii) to help investigation agencies to trace or identify and verify the identity of the person; and (iv) to enforce custody or any other order in family law. Pragmatically, CNIC blocking is often viewed as an appealing coercive mechanism because of the immediate and pervasive effect it has on daily life (e.g. banking, travel, utility access) and the potential that it may be a faster means of action than traditional modes of enforcement (i.e. arrest or attachment to property).

Three of those four heads of judicial recourse, (i) (to the extent that it issues from an executing court or a family-court order) and (iv) (by its nature, family-law enforcement of custody orders) clearly fall within the civil tract, while (ii) (pressure upon a proclaimed offender to appear and then to surrender) and (iii) (investigational identification and tracing) constitute the criminal tract into which the prime concern of the present Article, the Proclaimed Offender inquiry, falls. The purpose of this bipartite scaffold at the threshold of 5.2 is not to break this doctrinal unity which has been manifested in 3–4 above, but rather to provide the reader — and any future activity in the area — with a readily available navigational tool for finding in this Article where any given civil or criminal enquiry is to be found.

Trial Court Realities and the Corresponding Obligations of the Absconder

The topic of the previous subsection has now a natural flow so to speak, in a frank admission of the pragmatic situation of the trial and execution courts in the grassroots. In most instances, before the court could resort to placing the accused under proclamation under Section 87 of code of Criminal Procedure, the traditional methods of coercion such as putting out the arrest warrant, attachment of property and public announcement have obviously proved to be ineffective in

producing the accused in the court. From a practical point of view, the menu of coercive options available to a trial court is rather limited;⁴⁹ and once arrest and property-attachment have proven futile, the blocking of an identity document (through suspension of the absconder's financial, travel, telecommunications and other aspects of civic life) is readily at hand of the trial judge as a weapon of rather potent compulsion. Not to acknowledge, let alone discount, such realities in operations is to ignore the very context in CNIC-blocking has set in.

However, all these are the direct results of a similar default on the part of the alleged perpetrator himself. In setting at nought the lawful process of the court which has invoked its jurisdiction over him, he has by the same abuse made himself an outlaw and traitor to the first law of the land, the law of the land itself. To that degree the doctrine of one who comes to the threshold of equity a debtor in his own debt, which has been planted for a long time in the equity maxims, is pertinent to the subject at hand.⁵⁰ A PO whose disappearance has brought about the most drastic investigation in the very teeth of the Chilean life-threatening offensive cannot, without further proof, demand the unhampered enjoyment of the constitutional solicitude pertaining to such a citizen; he has subjected himself to the jurisdiction in good faith. This imbalance based on 'just' balancing and not a loss of right itself, must be openly acknowledged.

However this recognition does not and cannot make the trial court a lawless body and similarly NADRA given the auxiliary function to execute any such order is not given any enhanced powers to do so.⁵¹ The PO's defiant attitude toward the court does not loosen the procedural and substantive protections which, as we have seen in the sections above, the superior courts have resisted even more than

⁴⁹ Nawaz, B., Naseer, S., & Saba, S. (2025). Beyond X Ban: PECA 2025 and Constitutional Speech Standards under Articles 14, 19, 19A. *ACADEMIA International Journal for Social Sciences*, 4(4), 827–838. <https://doi.org/10.63056/acad.004.04.0938>

⁵⁰ Shaukat, Z. (2026). Fundamental Rights under Constitution of Pakistan 1973. *International Journal of Law and Policy*, 4(3), 44–62. <https://doi.org/10.59022/ijlp.474>

⁵¹ Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. *Social Science Review Archives.*, 3(3), 1653–1665. <https://doi.org/10.70670/sra.v3i3.991>

moderately and have been careful to ensure.⁵² It has, therefore, regard the very safeguards as a topic of analysis again, in the following lines.

5.3 Legal Limits: Statutory & Constitutional Guardrails

The Constitution of the Islamic Republic of Pakistan, 1973, lays down a strong structure of fundamental rights that measure as indispensable rails of the causation of arbitrary action by the state. Articles 4, 9, 10, 10A, 14, and 25 are a collective set of rights that ensures no individual can be deprived of life or liberty except according to law and all acts that impact on the rights of the individual must be established on the basis of explicit law and must abide by due process.⁵³ Specifically, Article 4 states the "inalienable right of every citizen." "every citizen has the right to enjoy the protection of law and to be treated in accordance with law." This cardinal principle requires that any action of the state, such as the blocking of a CNIC, should not only have an express statutory foundation allowing it, but should also comply strictly with rigorous procedural and substantive due process.⁵⁴

Statutory Fence: The NADRA Ordinance's Scope

NADRA's powers are circumscribed by the enabling statute i.e., NADRA Ordinance. As elaborated under the "Statutory and Normative Foundations" section, Section 18 contains a list of specific grounds for the cancellation, impounding or confiscation of the CNICs. Crucially the Ordinance currently does not contain a specific provision under statute which expressly authorizes the blocking of CNICs only as a method of punishing or coercing POs as a stand-alone punitive or coercive

⁵² Jamali, N. H., Yi, Y., Wu, H.-C., Khoso, A. G., Mahar, W. F., & Bano, A. (2024). A Comparative Analysis of the Right to a Fair Trial in Pakistan in Context with ICCPR's Set out Standards. *Beijing Law Review*, 15(1), 231–248. <https://doi.org/10.4236/blr.2024.151015>

⁵³ Ali, M. I. (2023). Unveiling Shadows: Jus Cogens Imperative to Criminalize Enforced Disappearances in Pakistan. *Vietnamese Journal of Legal Sciences*, 9(2), 90. <https://doi.org/10.2478/vjls-2023-0011>; & Khan, H., Shabbir, S. S., Mustafa, A. U., Shabbir, O., & Sheikh, S. (2025). Constitutional Rights and Access to Justice in Pakistan: A Comprehensive Analysis with Case Laws. *Social Science Review Archives.*, 3(1), 2080. <https://doi.org/10.70670/sra.v3i1.519>

⁵⁴ Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756

measure.⁵⁵ The lack of such explicit legal support to such blocking of CNICs on one's status of PO found no law in the NADRA Ordinance or the laws connected with the same raises a lot of constitutional questions. Any such action, made without unambiguous statutory provision and procedural safeguards, however, is *prima facie* vulnerable to challenge as a violation of due process and of the fundamental right to legal identity, a right which is buttressed with further support from both international human rights law⁵⁶, and from the Structure of Basic Human Rights.⁵⁷

Due Process: The Imperative of Notice and Hearing

The principle of *audi alteram partem* (hear the other side) is one of the cornerstones of due process and it is a basic tenet of the Pakistani constitutional law. Where CNIC blocking affects fundamental rights then prior notification and consequential chance to be heard are required. This is not just a formality, but a substantive requirement, to ensure that there is fairness and to ensure that decisions are not arbitrary. Judicial precedents uniformly show administrative action, including by NADRA, being nullified if they do not allow sufficient notice of allegations, an opportunity for the affected individual to position his or her case, and reasoned decision-making. The contention that intelligence report or mechanisms of "District Committee" escapes these checks and balances has been categorically rejected by the High Courts.⁵⁸

Citizenship Jurisprudence: NADRA's Limited Role

The High Courts have made number one clear that NADRA has limited jurisdiction in the matter of citizenship. NADRA is an identity registration authority, and it is not adjudicatory body regarding the

⁵⁵ Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

⁵⁶ Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, 139, 105343. <https://doi.org/10.1016/j.worlddev.2020.105343>

⁵⁷ Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. <https://hal-cnrs.archives-ouvertes.fr/hal-03961388>

⁵⁸ Hafiz Awais Zafar v. Judge Family Court, Lahore and 2 others, PLD 2022 Lahore 756; & Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

disputes of citizenship. If the effective outcome of blocking by the CNIC results in questioning or suspending the status of a person's citizenship then, this too is outside the statutory ambit of NADRA and can only be brought about through the express procedures set in the Pakistan Citizenship Act. Any efforts by NADRA to adjudicate citizenship by NADRA's blocking de facto (administrative) procedure without formal referral to and determination by a competent authority under the Citizenship Act is ultra vires and unconstitutional.⁵⁹

Proportionality and Nexus: Connecting Means to Legitimate Ends

Any forceful action by the state and particularly one affecting fundamental rights should meet the principles of proportionality and nexus. That is, the measure must be (i) Rationally connected to a legitimate enforcement aim; (ii) necessary to meet that aim (i.e. there are no less restrictive means available) and (iii) proportionate to the harm caused to the individual's rights. CNIC blocking cannot be used as a generalized punishing tool, nor as an extrajudicial device to take a short-cut to circumvent established legal procedures. In matters of execution, for example, courts are to exhaust the remedies in the nature of property and other coercive personal measures (such as warrants of arrest) in strict conformity with the Code of Civil Procedure before contemplating measures involving the violation of severe personal rights.⁶⁰ The use of blocking by means of CNIC should provide a clear and justifiable nexus with the specific enforcement objective, and the severity of the test should not outweigh the legitimate aim that it is aiming to achieve.

5.4 Special Problem: PO Declared Abroad or Absconding

The circumstance of a proclaimed offender, who is proclaimed abroad or absconding, introduces a complex international dimension, pertaining both to the national law enforcement effort, as well as to

⁵⁹ Fatima v. NADRA, PLD 2022 Balochistan 73; & Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

⁶⁰ Muhammad Umar v. Federation of Pakistan, PLD 2017 sindh 585; & Messrs Al-Harain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

the international human rights normative outcomes. International human rights legal frameworks create at a fundamental level a universal "right to legal identity" and to be recognized as a thing before the law, principles that are embedded in other international human rights laws (e.g. Article 6 of the Universal Declaration of Human Rights and article 7 of the Convention on rights of the child).⁶¹ While states retain the sovereign prerogative to regulate entry, departure, and the presence of foreign nationals⁶² the arbitrary cancellation or blocking of identity documents of their own citizens even if they're absconding can work out what has been termed a "humiliating paradox." Such actions can conflict with the established international norms and are associated with possible de facto statelessness or can seriously undermine an individual's ability to claim his or her rights in other countries.⁶³ The precariousness of being a stateless person or having a nationality whose status is "under verification" dramatically highlights the important role of a clear and consistently maintained legal identity.⁶⁴

This issue can be viewed comparatively, adding to these concerns.⁶⁵ The UNHCR, under its responsibility in relation to stateless persons, has made it a constant observation that denial of rights to legal identity, failure to provide identity documents or invalidation of identity documents can be a direct cause of statelessness and has encouraged States to take measures that would ensure that denial of access to legal identity is based on a clear legal principle, subject to established due

⁶¹ Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, 139, 105343. <https://doi.org/10.1016/j.worlddev.2020.105343>; & Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. <https://hal-cnrs.archives-ouvertes.fr/hal-03961388>

⁶² Foreigners Act, 1946, S 3 (Pakistan).

⁶³ Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a Case in the Courts. *HAL (Le Centre Pour La Communication Scientifique Directe)*. <https://hal-cnrs.archives-ouvertes.fr/hal-03961388>

⁶⁴ Kingston, L. N., Cohen, E. F., & Morley, C. P. (2010). Debate: Limitations on universality: the "right to health" and the necessity of legal nationality. *BMC International Health and Human Rights*, 10(1). <https://doi.org/10.1186/1472-698x-10-11>

⁶⁵ Yusufu, D. (2026). Constitutional Protections for Digital Identities and Personal Data. *Next Generation.*, 10(1), 63–65. <https://doi.org/10.62802/hd0bqr75>

process safeguards, and open to an effective remedy.⁶⁶ Legal identity is put on a different normative plane by the so-called “legal identity for all” in Sustainable Development Goal target 16.9, by 2030, which views legal identity as a public good that continues to have global impact.⁶⁷ These “international” points of view are not mandatory for municipal courts, but they do provide a ‘normative’ context, from which the framework of CNIC blocking (even against alleged criminal offenders) should be evaluated.⁶⁸ They also demonstrate that the issues that emerge when someone is deprived of a legitimate national identity document are not unique to Pakistan, but are growing more widely recognised between jurisdictions, especially when the digital identity system isn't backed by robust constitutional and procedural protections.⁶⁹

For a proclaimed offender located outside Pakistan, such a person may be lawfully sought out by a court through other means among which, but not limited to, using Interpol's Red Warrants or by imposing immigration and passport controls. While the blocking of CNIC seems to be viewed as a mechanism to aid these international efforts⁷⁰, the legality of such blocking is still strictly conditional to the lawfulness, proportionality and careful adherence to all applicable domestic procedural avenues and protections of the originating court order. The invocation of international cooperation does not negate the constitutional imperative for due process and proportionality at the national level.

⁶⁶ Affairs, U. N. D. of E. and S. (2024). Peace, justice and strong institutions. In *The Sustainable development goals report* (pp. 40–41). United Nations. <https://doi.org/10.18356/9789213589755c019>

⁶⁷ Bank, W. (2026). Building Statelessness-Sensitive ID Systems. In *The World Bank Open Knowledge Repository* (World Bank). World Bank. <https://openknowledge.worldbank.org/entities/publication/5d920f70-3080-448b-acf8-a82c9dc33056>

⁶⁸ Zaib, H. U., Shaheen, M. B., & Chaudhary, H. K. (2025). Constitutional Validity of Surveillance Technologies in Pakistan: Reconciling National Security with Individual Privacy Rights in the Digital Age. *Social Science Review Archives.*, 3(3), 1653–1665. <https://doi.org/10.70670/sra.v3i3.991>

⁶⁹ Karmwar, M., & Kunwar, D. (2025). The Dilemma Between Digital Identity and Privacy in Modern Governance: Comparing South Africa and India. *Journal of Asian and African Studies*. <https://doi.org/10.1177/00219096251352368>

⁷⁰ Mst. Sana v. Shoaib Ismail and another, 2025 CLC 544 [Sindh]

6. Practical Rule Distilled for POs

Based on the above statutory analysis and jurisprudential review, a discernible rule can be discerned from the practical standpoint on the lawful employment of the use of blocking employing CNIC as the related notion to POs. Any judicial/administrative measure that aims to limit the mobility or access of a PO to essential services through the manipulation of his CNIC must strictly follow the following principles:

6.1 Lawful Authority and Jurisdiction:

The order must be expressly based on express statutory provisions or inherent jurisdiction of competent court to make ancillary enforcement orders. These are orders that advance the object of the main judicial activity (i.e. appearance, the effects of the judgment, the preservation of the assets) through other lawful means (for example, by issuing arrest warrant, freezing bank accounts, prohibiting the departure) and not directly prohibiting the CNIC itself. General administrative directives or intelligence reports, in the absence of special legal delegation, are not sufficient.

6.2 Necessity and Proportionality:

The action must be accompanied by some detailed reasons which show the action is necessary and proportional to the lawful enforcement objective. It must be demonstrated that less restrictive means is not available to achieve the outcome in question.

6.3 Due Process and Opportunity to be Heard:

Crucially, the subject should be given a strong chance to be heard, especially where statute, such as Section 18 of the NADRA Ordinance, or its equivalent, provides for the same. This should make up prior notice of allegations and right to present a defense.

6.4 Strict Compliance with NADRA Ordinance:

NADRA, being an administrative body, is not legally allowed to block a CNIC in digital form solely on the basis of the reports of intelligence agencies or standard "District Committee" mechanisms unless

compliance is strictly followed with the grounds and procedures laid down in Section 18 of NADRA Ordinance.⁷¹

This rule insists on the fact that CNIC blocking cannot be a shortcut procedure for law enforcement, but should be a well-thought-out, legally authorized and procedurally robust measure of last resort.

7. Policy and Jurisprudential Implications

The controversial practice of CNIC blocking, especially as applied to the proclaimed offenders, has deep and manifold implications for public policy and jurisprudence of the law in Pakistan. This part explains the wider implications of the legal ambiguity that exists nowadays and suggests a framework for a more coherent and rights respectful approach.

7.1 Erosion of Public Trust and Administrative Inefficiency

From a policy perspective, the lack of explicit legislation specifying CNIC blocking policies, and inconsistent implementation of such a policy⁷² combine to create an environment ripe for abuse, and this has the significant impact of eroding the public's trust in such important State institutions as NADRA. When identity documents, which are the foundation of civic life, can be arbitrarily manipulated, a sense of insecurity is created in the people. This ambiguity also contributes to administrative inefficiency, since NADRA and law enforcement organs are operating without making explicit guidelines and creating a patchwork of practices and periodic judicial confrontations. A clear and legally-sound framework not only would create more transparent operations but would also firm the legitimacy and effectiveness of the state functions.

⁷¹ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

⁷² Abbu Hashim v. Federation of Pakistan, PLD 2021 Sindh 492

7.2 Balancing State Security with Fundamental Rights: A Jurisprudential Tightrope

Jurisprudentially, the balancing of legitimate security needs on the part of the state (e.g. catching offenders) versus fundamental rights to individuals (e.g. right to identity, due process) is a delicate balancing act. The courts, in their role as guardians of the Constitution, possess the all-important responsibility to ensure that the actions of the Executive are not only proportionate and legally justified but are strictly faithful to constitutional guarantees. Consistent High Court jurisprudence, reaffirming the "right to identity" and compelling strict obedience to the basic principles of due process, is a telling sign of a solid structure of the judicial establishment in its unwillingness to give in to perceived exigencies.⁷³ This evolution in case making decisions is felt has been in the interest of refining the legal philosophy of state power such that it requires a higher level of accountability and precision in the exercise of power.

7.3 Risk of De Facto Statelessness and Cascading Rights Deprivation

A particularly grave implication of arbitrary CNIC blocking is the risk of unintentionally creating scenarios equivalent to de facto statelessness, a circumstance that the Islamabad High Court⁷⁴ has itself forcefully observed: Blocking a CNIC without explicit legal power or due process begins a snowball of lost rights that leaves a person unable to receive healthcare, education, employment, and banking services, or even able to prove one's citizenship. This not only defeats and violate the constitutional guarantees at the national level but also departs deviation in the certain norms of international human rights laws, which highlight the universal right to legal identity and recognition before the law.⁷⁵ Such policies are in contradiction to Pakistan's

⁷³ Messrs Al-Harmain & CO. through Sole Proprietor and 2 others v. M.C.B. BANK LIMITED, 2025 CLD 543

⁷⁴ Hafiz Hamdullah Saboor v. Government of Pakistan, PLD 2021 Islamabad 305

⁷⁵ Manby, B. (2020). The Sustainable Development Goals and 'legal identity for all': 'First, do no harm.' *World Development*, 139, 105343. <https://doi.org/10.1016/j.worlddev.2020.105343>; & Weil, P. (2014). Citizenship, Passports, and the Legal Identity of Americans: Edward Snowden and Others Have a

approval of international conventions and may stigmatize individuals such that they are marginalized in society as a result and may hinder them from reintegrating into society even if circumstances surrounding their legal status are eventually cleared. The precariousness experienced by people whose nationality is "under verification" or whose identity is functionally suspended vividly underlines the need for clear, humane and legally sound policies on identity management.⁷⁶

7.4 Imperative for Legislative Reform: Codifying "Digital Embargo"

The repeated judicial invitations to a clear procedurally robust scheme to be legislated by Parliament or the Federal Government to block CNIC note a significant gap in the current law. If the state wants to use "digital embargo" measures, such as the use of CNIC blocking, as a routine coercive means to be used, especially against POs, it is an absolute imperative that such powers are regulated in a clear, exhausting and constitutional manner by statute. This proposed regime on the statute of limitations needs to define precise grounds, the utmost safeguards of due process, independent mechanisms for review as well as time limits, to be able to offer the legislature and courts legal certainty and to avoid an arbitrary exercise of power.

7.5 Comparative Context and Emerging Challenges:

The issues encountered in Pakistan on digital identity and its juncture with law enforcement are not peculiar. In India, for example, the prospects of the new legislation keeping pace with the time, the Criminal Procedure Act, is stated to be for modernizing criminal investigation, however it has sparked a lot of concern over its compatibility with the Constitution of India's personal liberty and

Case in the Courts. HAL (*Le Centre Pour La Communication Scientifique Directe*). <https://hal-cnrs.archives-ouvertes.fr/hal-03961388>

⁷⁶ Kingston, L. N., Cohen, E. F., & Morley, C. P. (2010). Debate: Limitations on universality: the "right to health" and the necessity of legal nationality. *BMC International Health and Human Rights*, 10(1). <https://doi.org/10.1186/1472-698x-10-11>

privacy due to the extensive powers vested on the police.⁷⁷ Similarly, the application of "know your customer" standards, although required by international standards for the prevention of financial crimes, has been criticized as being prescriptive, potentially excluding people from financial markets.⁷⁸ The use of advanced technologies such as live facial recognition is also a subject that sparks debate about the implications upon fundamental rights.⁷⁹ These international parallels point to a fundamental tension between state security/enforcement objectives while the right of individual data, privacy and legal identity, on the other, in which the fundamental rights of individuals may give way to the imperatives of enforcement.

7.6 Judicial Restraint and Separation of Powers

The principle of judicial restraint is one of the pillars of the separation of powers. Competent courts, especially on the trial or family level, should exercise caution and avoid turning administrative databases, such as NADRA's, into an instrument of coercion in the absence of an express legal authorization.⁸⁰ As jurisprudence will show, High Courts are disinclined to uphold orders which do not have explicit statutory power to block identity documents. This merely reinforces the point that while judicial creativity is vitally important to justice, there is a limit to it, that the judiciary must not attempt to usurp the legislative role by constructing powers that are not vested in the statute.

These implications show the need for an urgent revaluation of the practices of CNIC blocking. Only through explicit legislative action, judicial vigilance and commitment to human rights principles, can the above evoked principles of Pakistan ensure that its identity-

⁷⁷ Panigrahi, S. C., & Ghosh, S. (2025). *Fingerprinting Freedom: A Case of Over-Policing Under the Criminal Procedure (Identification) Act, 2022* (p. 235). https://doi.org/10.1007/978-3-031-83173-7_15

⁷⁸ Bailey, R., Goyal, T., Sané, R., & Varma, R. (2021). Analysing India's KYC Framework: Can We Do Things Better? *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3776008>

⁷⁹ Mustafa, F., & Leo, U. (2021). On Facial Recognition and Fundamental Rights in India: A Law and Technology Perspective. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3995958>

⁸⁰ Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

management systems can serve two purposes i.e., state security and fundamental rights of its citizens.

8. Conclusions & Recommendations

This paper highlights that the administrative or judicial barring of CNICs of the persons declared as POs in Pakistan lies in an area which is legally vague and constitutionally weak. For example, although the NADRA has general authority over identity management, there is also lack of explicit statutory sanction for them to suspend the issuance of CNICs solely based on the reason that the individual is a PO. The High Courts of Pakistan repeatedly support fundamental protections under the constitution including the due process, a right to legal recognition, and one of the most basic human rights, the inalienable right to identity. These provisions in the aggregate form a strong basis for challenging arbitrary suspension of CNIC, which has a devastating impact on the life of an individual in terms of deprivation of basic rights of citizenship and deprivation of essential economic rights which may resort to arbitrary deprivation of identity and other fundamental rights without clear legal foundation and due process.

Under the present framework the suspension of CNIC for proclaimed offenders is required to be carried out with extreme care. It is only legal and constitutional if (a) done in strict compliance with Section 18 of the NADRA Ordinance, involving legitimate grounds for impounding or cancellation; or (b) pursuant to a lawful judicial order issued by a court of competent jurisdiction to make such ancillary enforcement directions.

While collaborators seek to deprive citizens by re-suspension of CNICs as an unlawful shortcut without dis-proportionality, statutory authority and due process of law, this illegal administrative move is unconstitutional and subject to challenge. NADRA, therefore, cannot suspend a CNIC through digital means solely by virtue of intelligence reports or "District Committee" mechanisms without meeting the

conditions and safeguards very strictly prescribed under Section 18 of the law.⁸¹

Based on these conclusions, the following comprehensive **recommendations** are made, with the view to reconcile state security and fundamental rights and orbit legal certainty, etc.

- It is necessary for Parliament to enact clear and specific legislation (either by amending the NADRA Ordinance or by enacting a separate statute for the same) to explicitly contain the grounds, procedure, duration and method of appeal for suspension of CNIC. If digital suspension is to be used as a routine method of coercion, it is imperative that there is a constitutionally compliant statutory scheme in place allow for legal certainty and to prevent arbitrary exercise of power as well.
- It is highly necessary that the cases of suspension of CNICs, especially those of the POs, are subjected to a process of proper and timely judicial review, to ensure their compliance with constitutional rights and statutory requirements. Courts must be sure that orders are clearly rooted in statutory or inherent powers with concrete grounds of necessity and proportionality to guarantee the individual the possibility of a meaningful opportunity to be heard in places where statutory jurisdiction is established under Section 18 and has established inherent court powers.
- Topmost is the enforcement of high due process requirements that comprise being given prior, sufficient notice of the allegations, a fair chance of being heard and having a chance to embody a defence, and an explicit, independent appeals process. The right to identity is fundamental; no one should be deprived of this right without due process being totally followed.
- The Courts should exercise restraint using existing enforcement measures as a preference. They must not turn the administrative databases into the tools of coercion without clear rights given to them by law.

⁸¹ Muhammad Iqbal Hussain v. Ministry of Interior, 2025 CLC 1328 [Islamabad]

- Pakistan should bring its laws and practices regarding the issuance of identity documents in line with the norms and standards of human rights at the international level, as well as uphold the principle of the universal right to legal identity. Courts and agencies should proactively ensure that their policy does not have unintended, de facto stateless consequences: the arbitrary suspension of a person's CNIC without a clear statutory basis, may have catastrophic and internationally condemned consequences.

By resolving these ambiguities, through forceful and decisive implementations in legislation; efficient judicial awareness and through an absolute respect for due process and human rights international standards, Pakistan could not only consolidate its constitutional framework but also ensure chronicles of guaranteed rights of the individual while promoting the legitimacy and transparency of state actions regarding the mana