

Caught In Between: The State of Hindu-Pakistani
Refugees Living in Jodhpur

11 July 2010

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Acknowledgements

We would like to thank a number of people who volunteered their time to make this report possible: Kishore Kumar, Purusha Tam, Kishan, Prem, Gamand, and Malooka Ram for their time and effort in conducting the household surveys; Pushpa Jangid and Madhu Vaishnav, our interpreters, without whom we would be lost in translation; Smita Sawant for her assistance with logistical coordination; and Arun Kumar, for his support in the research design and methodology.

Lastly, we would like to especially acknowledge Hindu Singh Sodha and Neelu Shek-hawat of PVS for the work they do on a daily basis. As the sole advocates for the Hindu-Pakistani population, they face incredible hardship in their fight for refugee rights. Not only did they welcome us openly into their organization and homes, their continued support throughout the project has enabled us, we hope, to produce valuable information to further guide their future efforts.

1. Introduction

For decades, India has played host to thousands of refugee groups, recognized and otherwise, fleeing oppressive, persecuting, and sometimes war-torn home countries. According to the 2010 World Refugee Survey, the majority of those seeking shelter India come from neighboring South Asian countries, including China, Sri Lanka, Myanmar, Bhutan, and Afghanistan (See Chart 1).

The influx of refugees into India is perhaps not surprising given that it is the largest country in the region, and shares a relatively porous border with most of its neighbors (Trakroo, Bhat and Nandi 2008). In addition to its geography, India's diversity, stability and relatively well-established rule of law have made it an attractive and natural destination for people experiencing persecution in their own countries (Bhairav 2004). India also is well known for the multi-ethnic makeup of its society, liberal constitution, and secular government, which has historically aided refugee integration into Indian society (Bhairav 2004).

Complicating the refugee situation in India, however, is the fact that India lacks a uniform, national law regulating their legal status. Additionally India is not a signatory to the 1951 United Nations Convention Relating to the Status of Refugees which provides a foundation to facilitate the equal protection and treatment of refugee populations worldwide. As a result, India's refugee record is ripe with contradictions and unequal treatment.

Of the refugee populations in India, Hindu-

Chart 1: Refugee populations in India

Sri Lanka, conflict-induced refugees of Tamil origin:	120,000
China, Tibetan refugees & asylum seekers:	110,000
Myanmar, ethnic Chin refugees & asylum seekers:	100,000
Afghanistan, mainly Hindus & Sikhs refugees:	35,000
Nepal, refugees & asylum seekers:	25,000
Bhutan refugees, mainly ethnic Nepalese	25,000

Data from 2010 World Refugee Survey, United States Committee for Refugees and Immigrants.
<http://www.refugees.org/countryreports.aspx?id=2330>

Pakistani's are perhaps the most neglected and vulnerable. This report is intended to shed light upon the status of the Hindu-Pakistani refugee population living in Jodhpur, Rajasthan. The research was conducted on behalf of Pak Visthapit Sangh (PVS), a non-governmental organization that has advocated for the refugees since 1999.

The report begins with a brief background description of the population, including historical information, push and pull factors, and their current living conditions. Sections 3 and 4 provide a detailed outline of the legal frameworks that guides state action regarding the treatment of refugees, and will highlight the harsh disconnect between international human rights norms and how those norms translate (or don't) on the ground in India. Sections 5, 6, and 7 provide an in-depth analysis of the major issues faced by the Hindu-Pakistani communities in the areas of livelihoods, education, and health, respectively. Lastly, recommendations are provided to inform future PVS and state action.

1.1 Methodology

Data for this report came from both primary and secondary sources. Primary data was collected during a six-week period between May and July of 2010. A team of three master's students from New York University, with the help of local translators, carried out the data collection and research. Secondary data was gathered through a review of available literature pertaining to international refugee laws and rights and Indian law, as well as information on the history of the Hindu-Pakistani community.

The Hindu-Pakistani refugees have settled in five different areas surrounding the city of Jodhpur. Three areas are well-defined communities where multiple households have settled; the other two comprise a few scattered homes in a similar geographical area. Therefore, due to accessibility, only the three established settlements were chosen for the research and data collection. The three settlements are: Kali Beri, Dali Bai and Banar. The data collection included observations of the three settlements, teen focus groups, a Household Report Card using the Participatory Rural Appraisal method, and individual household interviews.

During the first visit to each of the three settlements a community meeting was held in which the settlement was informed of the study and the various components that might be requested of them. At this time, it became clear that all three settlement-communities were eager to participate in the study. Additionally during those first visits, observations were made about the infrastructures, social interactions and the accessibility of government services. These observations then informed the questions asked on the Household Report Card.

In an attempt to capture a diversity of perspectives from the communities, the research team conducted teen focus groups in two of the three settlements with youth ranging in age from 11 to 20. This was also an important decision because youth voices are often neglected in the discourse surrounding the lives of refugees. We sought to avoid the general tendency to label impoverished youth as lacking the ability to understand the complexity of their circumstances and articulate their needs. In the first settlement, Kali Beri, we conducted two focus groups with boys, and one focus group with young women. The first group was comprised of six boys ranging in age from 13 to 15, the second, four boys aged 15 to 18. There were three girls in the final group, aged 11 to 15. At the second settlement, Dali Bai, two focus groups were held, one for each sex. The first group was five boys aged 11 to 20, and the second five young women aged 11 to 14. Due to logistical constraints, teen focus groups were not conducted in the Banar settlement.

Due to the high illiteracy rate in the communities, it was necessary to create a survey that contained few words. For this purpose the researcher team used the Participatory Rural Appraisal approach, which relies heavily on visual cues in order to reach as many people as possible. The researchers created a Household Report Card that used primarily pictures and checkboxes to gather information from a variety of categories.

On the first page, information pertaining to each family member was requested, topics included: work, schooling, citizenship and health. The second page contained questions about household information, in addition to a ranking of various community and personal needs (See Figure 1).

After the card was completed a training session was held for two community leaders from each settlement in order to teach them the proper way to conduct the survey in their respective communities. The household surveys were carried out by the community leaders of the course of 12 days, with a totally number of 192 being collected. This method overall was quite valuable; however during individual interviews the research team discovered that there were some discrepancies in responses due to translation difficulties and different cultural understandings. To ensure quality control, the research team then conducted a follow up meeting with the leaders to ensure the accuracy of the data.

The research team gathered and analyzed the Report Cards and from the findings chose five households from each settlement for interviews. The families were chosen in order to shed light upon their responses to specific survey questions and, additionally, to cover a broad range of demographics within the interview pool, including: family size, age of members, school attendance, citizenship, and the household's rankings of various needs. In total 15 semi-structured interviews were conducted, 12 with men and three with women, two of whom were widows.

Despite the desire for individual household interviews, due to the strong sense of community, the interviews often began as a community event with multiple people adding their own stories. Whenever possible the researchers interviewed both the male and female head of household, but often it was just the male due to social restrictions and because the women were often unaware of issues surrounding their citizenship and government services.

2. Background

2.1 The Hindu-Pakistanis

In 1947 British India was divided into India and Pakistan. The partition lines were based upon religious demographics, however not entirely successful; they created a massive refugee problem, forcing millions of people to flee across the newly created border between India and Pakistan (Hasan 1993; PVS 2006).

Initially after the Partition, the Thar Parkar district was unaffected. The mixed Hindu Muslim populations that occupied the area for centuries and had peacefully coexisted were able to continue their traditional practices of season migration (PVS 2006). This changed dramatically after the second Indo-Pak war in 1965 and the construction of a fence along the border of India and Pakistan. The erection of the fence not only separated the two nations, but also effectively split families on either side of the divide; (Kothari 2007) some 10,000 people migrated in the wake of the 1965 war (PVS, 2006).

The Indo-Pak War of 1971 resulted in a second and even larger wave of refugees. 90,000 Hindus from the Thar Parkar district sought refuge in India during the 1971 war. The Shimla Agreement of 1972 orchestrated their return as many were Pakistani nationals, but few wanted to go back. Continued religious persecution and discrimination has caused

migration to continue. More recently, the 1992 destruction of Babri Masjid further intensified the deterioration of the relationship between Muslims and Hindus in Pakistan causing many to flee (See Box 1). The impact of these events is still felt today; in the last five years alone some 5,000 Hindu Pakistanis have relocated and sought shelter in India (Uprety 2010).

2.2 Push and Pull Factors

For many Hindu Pakistani immigrants living in India, and specifically Jodhpur, the biggest push factor was the religious persecution and discrimination experienced by living in Islamic Pakistan. Hindu and Muslim relations are poor, and many do not feel secure.ⁱ They fear for their family's safety, particularly for the women—harassment, beatings, torture, abductions, rape, and death are all common occurrences in an attempt to make them convert.ⁱⁱ

For Hindus in Pakistan, life is a daily challenge with few freedoms. Children cannot attend school because the only schools available to them are Muslim schools that practice forced conversion. Many refugees expressed that women's freedoms are heavily restricted in Pakistan and they are essentially not allowed to leave the house. Young men are forbidden to serve in the military because they do not practice Islam.ⁱⁱⁱ In an attempt to live peacefully, some Hindus in Pakistan have even

Box 1: Babri Masjid

In 1992 Hindu zealots, who claimed the Babri Masjid was built on a Hindu shrine, destroyed the Muslim mosque in Ayodhya, India. The backlash in Pakistan was powerful; some 100 Hindu temples were destroyed throughout the country, and the discrimination of Hindus intensified.

taken Muslims names to hide their true identity (Mahurkar, 2009).

Box 2: Nowhere People

The Udaram family living in Dali Bai is an excellent example of a divided people. Three generations live under one roof; the first was born in India, the second in Pakistan and the third again in India. They reject Pakistan and want to live in India, yet there they are seen as immigrants, enemy-state citizens.

The fear reaches beyond religious differences. Dacoits are a common problem in Pakistan for both Muslims and Hindus. These gangs run rampant due high poverty and lackadaisical law enforcement.^{iv} Dacoits steal and kill, and people live in constant fear.^v

However it is not just fear that brings these people across the border; they feel a strong attachment to Mother India. Almost all of the refugees interviewed articulated that “Hindustan is their country.”^{vi} Their forefathers were born here and it is a Hindu country; they came so they could openly practice their religion. Even without citizenship, the refugees feel at home in India, there is less tension, more security and a greater sense of freedom.^{vii}

2.3 The Refugee Settlements

Three defined settlements of Hindu Pakistani immigrants surround the city of Jodhpur. Since India is not a signatory to the 1951 UN Convention Relating to the Status of Refugees, the Hindu Pakistanis are not formally recognized as refugees, nor are their settlements considered legitimate refugee settlements or camps.

Each of the three settlements, Kali Beri, Dali Bai, and Banar, have distinct differences in terms of demographics and amenities.

Kali Beri is a settlement of roughly 120 households that are majority Bhils or Tribal caste, and is approxi-

mately 15 km north of the city center.^{viii} Dai Bai is comprised of 200 households of mixed castes, including Kumhars, Bhils and Meghwal.^{ix} Dali Bai lies 10km northwest of the city center. Banar is the smallest settlement with 75 households that are mostly Meghwal caste. It lies 15 km northeast of the Jodhpur city center.^x

Kali Beri

Picture 2: Kali Beri water source



Of the three settlements, Kali Beri is the least equipped in terms of amenities. Off a rocky and treacherous road the homes are constructed from stone, and no household has electric-

Picture 1: The road to Kali Beri



ity, running water, bathrooms or even latrines. To cook their meals, families must gather firewood as only one home has a gas burner. The community gets water from a spigot in a waterline about a half kilometer from the settlement; they wash their clothing in the puddle created underneath.

A government primary school was built in the settlement a few years back, but most days the teachers do not show up. When they do make an appearance, they stay only long enough to serve the midday meal and request a massage from the children; little learning takes place.^{xi} The combined middle and high school is two and a half kilometers away.

Government hospitals and doctors are not easily accessible for Kali Beri residents. At fourteen and seven kilometers respectively, many people opt to go to the closer private hospital and doctor that are only four kilometers away.

Dali Bai

An unpaved road leads to the Dali Bai settlement. At the end are homes haphazardly constructed of stones and straw. A few houses

Picture 3: A Dali Bai home



are made with cement, but this is an exception rather than the norm. Many households have electricity that they use to run a single light bulb or the rare air cooler in the summer, and a good number have gas burners with which to cook. Most homes or clusters of houses have latrines, but there is no running water in the homes, it is gathered from a central spigot in the middle of the settlement.

Picture 4: Dali Bai water source



There are no government schools near Dali Bai, so if families want to send their children to school, they must pay to send them to the private school. The private primary school is located within the settlement and the private high school is one kilometer away.

Like Kali Beri, government doctors and hospitals are not as easily accessible for Dali Bai residents as the private health care. Both the private hospital and private doctors are less than a kilometer away, but to go to the less expensive government hospital the refugees must travel three kilometers.

Banar

A railway track runs through the middle of

Picture 5: Homes of Banar



This description is intended to provide a small glimpse into the lives of the Pakistani refugee community residing in Jodhpur. Indeed, life in the refugee settlements is a daily struggle for survival, but to fully understand the complexities of their circumstances and the daily challenges they face, it is first important to unpack the complex political and legal limbo in which these communities live.

the Banar settlement. It is more than just a physical divide, the two sides are also drastically different in amenities the households have. On one side many homes are half constructed with no electricity and they all stand in the middle of a vast expanse. On the other side, the area resembles a neighborhood more than any other settlement. The homes are well built and most have electricity and gas burners. Many homes have basic plumbing; however water availability is an issue for homes in Banar on both sides of the tracks. Many households must have water delivered to a tank at their home twice a month.

The residents of Banar may choose between a government and private primary school as both are nearby. They are one and a half kilometers and one kilometer respectively. However for middle and high school it is a different story. The private school is only one kilometer away, whereas the government school is nine kilometers.

For primary health care, there are private and government doctors near the settlement; both are one kilometer away. Likewise, both the private and government hospital are not close; both are 8 kilometers away from the settlement.

3. The Legal Framework

The precariousness of life in the Hindu-Pakistani refugee community living in Jodhpur is further complicated by the fact that India lacks a uniform, national law regulating the legal status of refugees in India. Unfortunately, without such legal recognition at the national level refugees are not entitled to protection under international law. In other words, because India is not a signatory to most of the international statutes concerning refugees it is not obligated to ensure and promote refugee rights. Instead, the Indian government chooses to treat incoming refugees based on its policy toward their country of origin and other political considerations, questioning the uniformity of rights and privileges granted to refugee communities (Nair, 2007).

In recent years, heightened national security concerns and terrorism fears, particularly directed toward Pakistan, has resulted in genuine Hindu-Pakistani refugees paying an unfortunate price. Ultimately, the restrictions and unequal treatment imposed by the Indian government on Pakistani refugees and others is discriminatory and tarnishes its human rights record (Nair, 2007). The historical precariousness of India-Pakistan relations makes an understanding of the Indian approach to refugees especially relevant to the crisis facing the Hindu-Pakistani community residing in Jodhpur.

3.1 International Law Regarding Refugees

Since the end of World War 1, the international community has recognized that the task of caring for refugees is a matter of international concern. In 1951, as refugee situations became more specialized and numerous, the Office of the United Nations

High Commissioner for Refugees (UNHCR) was founded to facilitate and manage refugee protection globally. The landmark 1951 Convention Relating to the Status of Refugees remains today the touchstone of international policy in defining who is a refugee, their rights and the legal obligations of states.^{xii} According to the convention, a refugee is anyone who:

Owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside of the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.^{xiii}

In the case of the Hindu-Pakistani communities residing in Rajasthan, fear of persecution (which is comprised of both a subjective element in the perceptions of the refugee claimant, and an objective element which may be assessed from the general situation in the country of origin, Trakroo, Bhat and Nandi 2008) is a recurring reason for coming to India. Based on this definition, it can be assumed that these populations meet the criteria for gaining legal status as refugees, and as such are entitled to certain rights and protections under the 1951 Convention.

The Refugee Convention outlines the legal rights-enabling obligations of states to refugees. It includes provisions relating to their protection from physical harm and unlawful detention, access to courts, freedom of movement and residence, and the right to earn a livelihood.^{xiv} Fundamental to the Convention is the principle of *non-refoulement*, which protects refugees from

forcible return or deportation back to their country of origin where their life or freedom would be threatened. But, because India has repeatedly declined to join the Convention, it is consequently not bound to uphold these entitlements.

3.2 India's Human Rights Commitments

Interestingly, India has accepted a number of United Nations and World Conventions on Human Rights, including the Universal Declaration of Human Rights (1948), the UN Declaration on Territorial Asylum (1967), the International Covenant on Civil and Political Rights as well as its counterpart on Economic, Social and Cultural Rights (1974), and most recently the Convention on the Rights of the Child (1986) (Ananthachari 2001). It is from these conventions and norms that India's international commitments to refugees arise (Ananthachari 2001).

For example, the Declaration of Human Rights affirms rights for all persons, citizens and non-citizens alike, and shares many of the principles stipulated in the 1951 Refugee Convention (See Figure 2). What is different, however, is that the Declaration is not, in fact, a treaty so it is not legally binding at the national level. Ironically, India is also a member of Executive Committee (ExCom) of the UNCHR, which approves and supervises the agency's material assistance programs; all this without actually supporting or acknowledging the role of the UNHCR in its own territory (Nair 2007).

Taking these examples into account, it is clear that Indian policy is guided by a desire to comply with international norms while at the same time to avoid specific legal obligations that impinge upon its own discretion to regulate the entry and treatment of

foreigners on its territory (Bhairav 2004). However, without the meaningful incorporation of human rights principles into national legislation they hold little meaning in practice.

To make matters worse, current Indian law governing the entry, stay, and exit of foreigners are not only archaic and inefficient, but lack the kind of legal boundaries needed to ensure equal and fair treatment of refugees. In reality, the legal framework supporting the Indian approach stands in direct contradiction to the international human rights norms it claims uphold. A closer examination of India refugee policy reveals a number of such contradictions.

3.3 Indian Law Regarding Refugees

In the absence of a uniform, national law concerning refugees, and without the 1951 Convention as a framework to guide action, protocol concerning refugees in India is set by normal laws governing foreigners' legal and illegal entry into the country. The main body of legislation that is consulted by Indian authorities is the Foreigners Act of 1946 and the accompanying Registration of Foreigners Order of 1939.

The most significant cavity in these laws is that they make no distinction between 'refugees' and other types of foreigners.^{xv} While the Government of India (GoI) has the freedom to grant refugee status to immigrants, it does so seldomly and selectively. As a result, most refugees in India are treated on par with illegal immigrants and tourist, without any special protection being accorded to them.^{xvi}

Both the 1939 Order and 1946 Act vest the

Central Government with unfettered discretion to issue orders to control foreigners in India, including executive wide powers to detain and deport foreigners without judicial review or a reason for the deportation (Bhairav 2004). Under the legislation, to Gol also has absolute power to restrict the movement of foreigners inside India, to bar foreigners from leaving the country (which requires an exit permit), to mandate medical examinations, to limit employment opportunities and to control the opportunity to associate (Nair 2007). The Refugee Convention, however, bars all these actions (See Figure 2).

In the 1967 Passport Act, the Gol is granted the power to issue passports and other travel documents to persons who are not citizens of India but “on whom it is in the public interest to confer such documents”(Trakroo, Bhat and Nandi 2008). Such legislation has earned India points for complying with part of the 1951 Convention, but to do so only when is convenient not only shows a blatant disregard for equal treatment, it gives those awarded authority tremendous room to discriminate against and arbitrarily act upon individual refugees and refugee groups (Trakroo, Bhat and Nandi, 2008).

Pakistani refugees are, perhaps, the most vulnerable to the inconsistencies embedded within the law; not only are they denied refugee status, they are labeled oustees, overstayers and in some cases, enemies of the state (Trakroo, Bhat and Nandi 2008). The historical aggression and distrust of Pakistanis by Indians, combined with a recent surge of terrorism, has led to a hardening of these attitudes within the general public as well as in regards to government policy. The hidden strategy behind Gol policy towards Pakistanis is one of discouragement; India has enabled

internal controls, such as measures to prevent migrants from overstaying beyond the visa limits and from working without proper work permits, facilitating their forced entry into low-class jobs such as daily wage labor and mining work (Partha 2004). Indeed, the experiences of the Hindi Pakistani refugees in Kali Beri, Dali Bai, and Banar expose the discriminating and selectively implemented loopholes and restrictions of the out-dated policies used by the Gol in place of actual refugee legislation.

Figure 2:
Comparative Analysis: 1951 Refugee Convention,
Universal Declaration of Human Rights & the Indian Foreigners Act

<p>1951 Convention Relating to the Status of Refugees</p> <p><i>The touchstone international document in defining who is a refugee, their rights and the legal obligations of states.</i></p> <p><i>The 1967 Protocol removed temporal and geographical restrictions from the original Convention.</i></p> <p>X Not Signed By India</p>	<p>1948 Universal Declaration of Human Rights</p> <p><i>Proclaimed basic rights for all human beings irrespective of their nationality or citizenship.</i></p> <p><i>By providing an essential framework for monitoring human rights abuses, the Declaration is especially relevant for refugees who face unique hardships and are particularly vulnerable in foreign countries.</i></p> <p>✓ Signed By India</p>	<p>1920 Passport Act 1946 Foreigners Act 1967 Passport Act</p> <p><i>The chief legislation for the regulation of foreigners in India, without specific provisions for refugees.</i></p> <p><i>Confers upon the Central Government absolute power to deal with foreigners as it sees fit.</i></p> <p>✓ Indian Law</p>
<p>Principle of Non-Refoulement Physical Protection</p> <p>Government cannot forcibly deport refugees. Government is required to facilitate a fair and efficient process to determine refugee status.</p> <p>Entitles refugees to protection from government harassment, physical risk, and violence.</p> <p>Freedom from Unlawful Detention Access to Courts</p> <p>Government cannot impose penalties on account of illegal entry.</p> <p>Government is required to issue identity documents to refugees attesting to their right to be in the country.</p> <p>Refugees should have adequate access to courts to enforce their rights. Judicial review required.</p> <p>Freedom of Movement & Residence</p> <p>Government required to allow refugees to travel freely throughout the national territory and reside where they choose.</p> <p>Government required to issue international travel documents.</p> <p>Right to Earn a Livelihood</p> <p>Government required to allow refugees to work and practice professions legally.</p> <p>Refugees entitled to labor legislation on par with nationals.</p> <p>Entitles refugees ability to open bank accounts, acquire land, including farmland, homes, businesses and other capital assets.</p>	<p>Article 3: Everyone has the right to life, liberty and security of person.</p> <p>Article 14: Right to seek and enjoy asylum from persecution in other countries.</p> <p>Article 15: Everyone has the right to nationality.</p> <p>Article 9: Everyone has the right to life, liberty and security of person.</p> <p>Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.</p> <p>Article 13A: Everyone has the right to freedom of movement and residence within the borders of each state.</p> <p>Article 13B: Everyone has the right to leave any country, including his own, and to return to his country.</p> <p>Article 23A: Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.</p> <p>Article 23B: Everyone, without any discrimination, has the right to equal pay for equal work.</p>	<p>Foreigners Act of 1946: Confers upon the Central Government the power to expel and enforce the expulsion with force of any foreigner residing inside Indian territory.</p> <p>1920 Passport Act: Allows the Central Government to make rules requiring persons in India to be in possession of a passport or face arrest.</p> <p>1967 Passport Act: Grants the GoI power to issue passports and other travel documents to persons who are not citizens of India but only when it is in the public interest to do so.</p> <p>Foreigners Act of 1946: Places restrictions on a foreigner's movements to places specified in their visa and requires foreigners to register at the FRRO office upon entry and exit.</p>

4. Citizenship: the Challenge of Accessing Rights & Services

In the context of such a complex legal environment, Hindu-Pakistani refugees live in an unfortunate political limbo. Without technical status as refugee they are not entitled to protections under international law. Their statelessness, combined with the general hostility of the GoI towards them, has created a toxic cocktail of challenges that impede upon their ability to access basic rights and services and improve their quality of life. Interestingly, however, when asked, many of the refugees maintain a positive outlook about coming to India.

In addition to their historical connection to the land, they view India as the key to ensuring their religious freedom, better lives for their children, and improved livelihood and educational opportunities. In keeping with this attitude, obtaining Indian citizenship is among the highest concerns for the refugee population. Without refugee status, Indian citizenship is the only viable option for them to access basic rights, freedoms and services. Unfortunately, the process of gaining citizenship is riddled with so many loop-holes and takes so long that many refugees end up living in limbo for ten years or more before receiving citizenship, if indeed they acquire it at all.

4.1 Challenges in Gaining Citizenship

The refugees articulated a variety of challenges in gaining citizenship (See Figure 3). First among them is the inability to pay rising citizenship fees, which have been significantly inflated by the government over the past several years in an effort to discourage migration from Pakistan. The average fee for citizenship is approximately \$10,000 INR per passport, an exorbitant

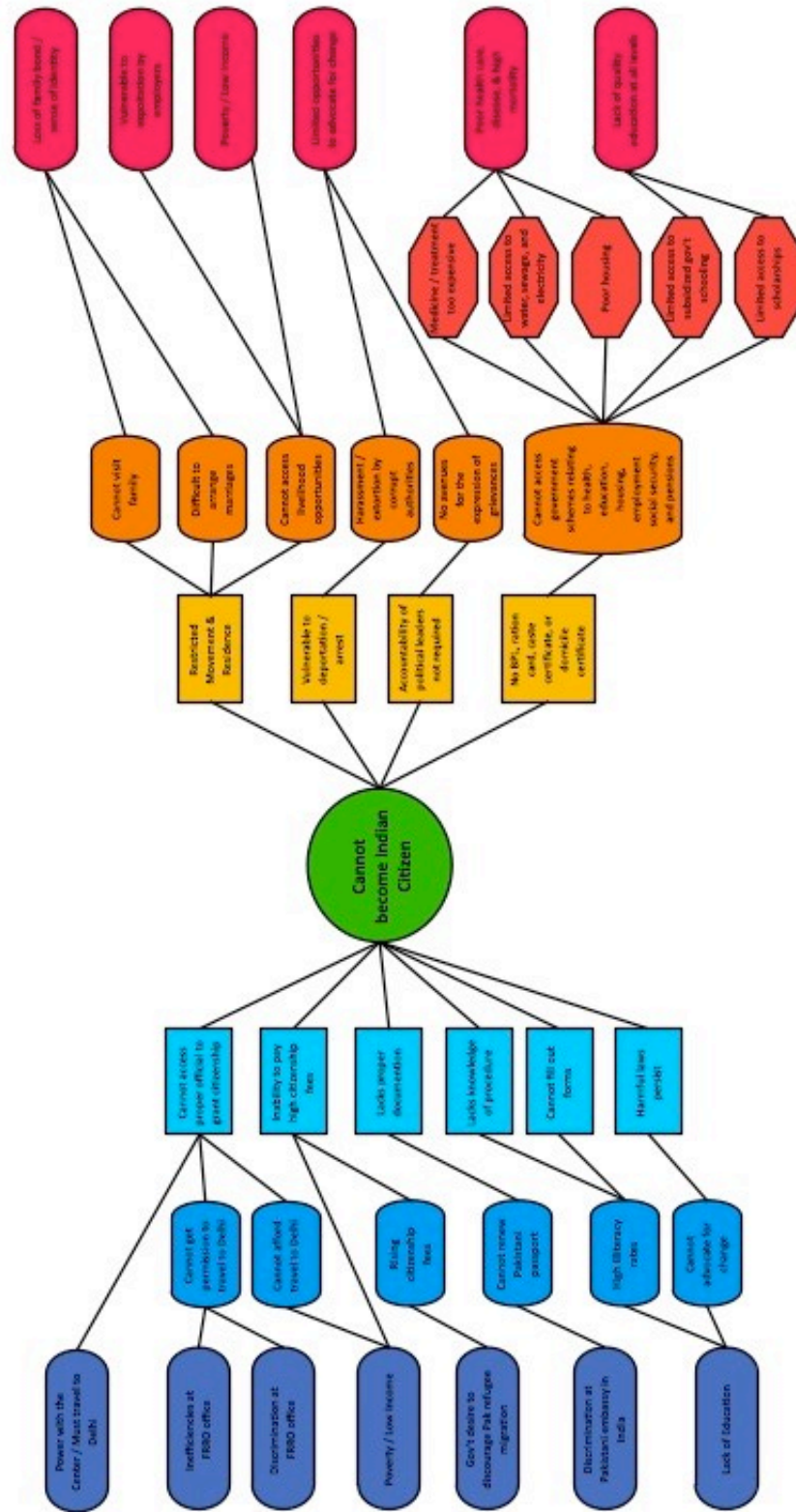
amount for a population that on average makes less than one third of that in a month.

Secondly, the legal framework surrounding citizenship lends itself to a time-consuming and complicated application process. Before leaving Pakistan, a person must have a valid Pakistani passport and a visa from the Indian government allowing him or her to stay. Visas are issued for whatever amount of time the government allots, and places special restrictions on the cities and towns in which one can stay or visit. Visas are usually granted for stays between 3 and 6 months, requiring multiple renewals over the course of the seven years^{xvii} it takes to be eligible to apply for citizenship. Non-citizens are also required to ensure that their registration permit from the Foreigner Regional Registration Office (FRRO) is up to date so that they may reside in India for as long as it takes to get citizenship.

A glimpse at the disorganization of this process is evident in the fact that the FRRO office in Jodhpur lacks the authority to renew visas, issue travel permits, or receive applications for citizenship. Because the power to carry out such tasks resides with the Central Government, refugees must travel to Delhi to access proper officials. Ironically, however, this travel is prohibited by stipulations within the visa, and can therefore result in a person being charged with being in violation, thus validating deportation.

Even if a refugee's visa is up-to-date the application process also requires a valid, un-expired Pakistani passport, which can only be obtained at the Pakistani embassy. A number of the refugees articulated that they

Figure 3: Causes and Effects of the Lack of Citizenship



experience high levels of discrimination at the embassy, making it difficult for them to obtain the necessary documentation. It can be assumed that the hostile attitudes of embassy officials are caused by a deep-seated religious tension and historical clashes between Hindus and Muslims on both sides of the border.

Each of these factors is intensified by the fact that most of the adult refugee population in Jodhpur is uneducated and, as a result, highly illiterate. This leaves refugees exceptionally vulnerable to exploitation by government officials and reliant upon relatives or other community members for support in navigating the messy and complex citizenship process. Illiteracy also impacts the community's ability to effectively advocate for themselves during all stages of their displacement.

4.2 Benefits of Citizenship

Obtaining Indian national status affords one the opportunity to access a variety of freedoms and benefits. These benefits are especially relevant to the Hindu-Pakistani refugee population, which is beset by high levels of poverty, illiteracy, poor health, and caste-related subjugations. Most relevant to communities with these characteristics is the ability to access various government schemes and programs related to health, education, housing, employment, social security and pensions. Without citizenship it is impossible to obtain a Below Poverty Line Card, Ration Card, Schedule Caste or Schedule Tribe Certificates, or a Bonafide Certificate, each of which grants the holder certain reservations in education and employment, access to subsidized food ration and subsidized government housing or land grants, among others. Such documents are also necessary

when applying for driver's licenses, bank accounts, or insurance schemes.

4.3 Realities of Living with Citizenship

In 2005, Pak Visthapit Sangh organized a one-month citizenship camp, which has allowed a nominal portion of the refugee population to gain status as Indian nationals.

In Kali Bari, percentages of individuals with citizenship is the highest at 81 percent; percentages in Banar and Dali Bai fall significantly less than that, at 55 percent and 20 percent, respectively (See Figure 4). The citizenship camp allowed those who, at the time, had been living in India for at least 7 years to apply for citizenship at subsidized

Figure 4: Citizenship by Settlement

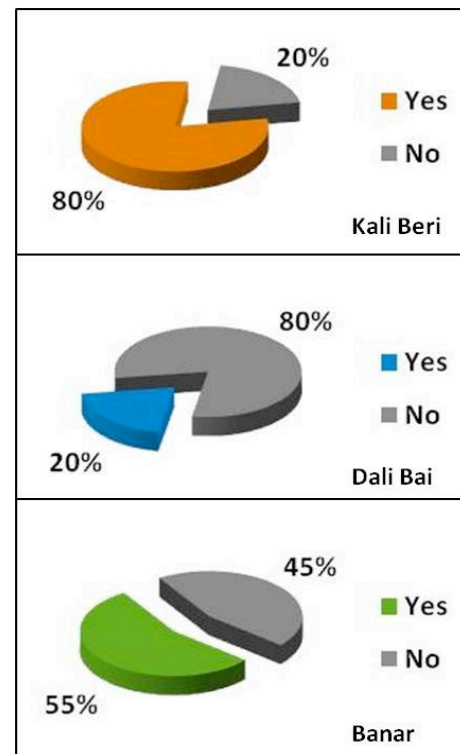


Chart 2: Citizenship Application Fees

	Normal Rate:	Camp Rate:
Father born before 1947	\$5,000 INR	\$200 INR
Married to Indian citizen	\$10,000 INR	\$700 INR
Father born after 1947	\$15,000 INR	\$1,800 INR

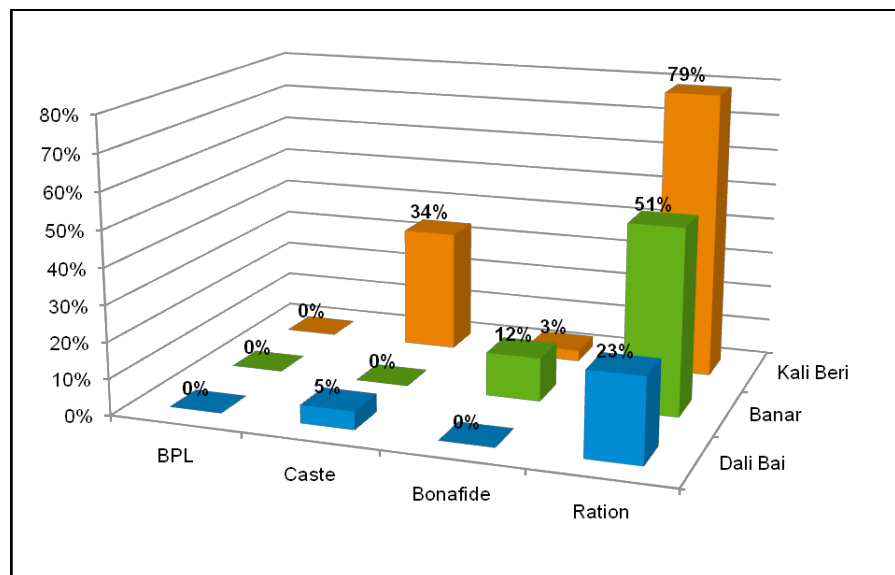
rates for a one-month period (See Chart 2). Nearly all of the refugees interviewed in the camps had obtained their national status as a result of these camps. The fact that a special advocacy campaign had to be arranged in order for these individuals to gain citizenship is a testament to just how ripe with challenges the process is in practice. One of the major differences separating those of who have citizenship from those who do not is their ability to move freely throughout the country. Most importantly, the freedom of movement permitted to nationals allows them access to important livelihood opportunities, including the ability to travel to cities with more consistent agricultural work and access to better markets where they can sell their handicrafts. Another major element of freedom of movement that was articulated by those with citizenship is their ability to access support networks

in other cities; this includes family as well as other community members who are highly valuable sources of knowledge and resources in vulnerable circumstances. Lastly, the interviewees indicated that they felt an important sense of relief and peace of mind after gaining citizenship. They can rest easy

knowing that they cannot be deported to the country of their persecution.

Of the refugees interviewed with Indian citizenship, however, almost all indicated that very little has changed in their day-to-day lives since obtaining national status and that life remains a daily struggle. The application process to obtain Rations Cards, Schedule Caste or Tribe Certificates, and Bonafide Certificates is again a tedious and long-winded one. Of the four categories, Ration Cards seem the easiest to obtain (See Figure 5), but unfortunately without BPL certification ration cards have little value.

Figure 5: Percentage of Households with Cards and Certificates



The end result of these factors is that, even with citizenship, most refugees still do not own their own homes or land, and cannot access higher paying jobs or educational opportunities. Indeed, in all areas of their lives, citizens and non-citizens alike face day-to-day challenges that keep them trapped in a cycle of poverty and increased vulnerability.

5. Livelihoods

5.1 Earning a Living

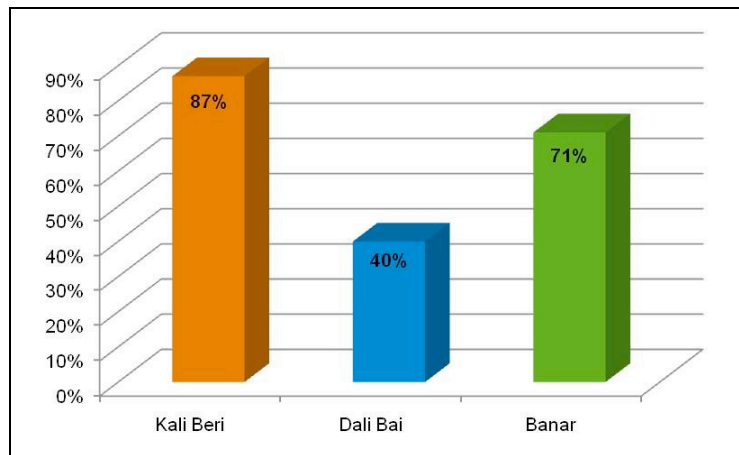
While each settlement differs in the kinds of work available to them, refugees across the settlements share in the common struggle to access quality livelihood opportunities. While each of the communities specializes in a certain trade, such as agriculture or handicraft work, few are able to work within it because of the harsh restrictions placed on their lives. The general feeling within the community is that there is a day-to-day struggle relying on whether work will be available. This attitude is confirmed by the data, which shows that daily wage laboring is the most common way that refugees earn a living across the settlements (See Figure 6). As daily earners, most households suffer from high levels of uncertainty and inconsistent income, which affects all other areas of their lives.^{xviii}

Kali Beri

Of the three settlements Kali Beri has the highest percentage of daily wage laborers. In total, 88 percent are involved in daily wage mining work, which brings in an approximate salary of about \$150 INR per day for men and \$100 INR per day for women. In addition to

low wages, the availability of work is also a huge concern. On average most refugees can only find work 15-20 days per month making the average monthly household income \$3294 INR.

Figure 6: Percentage of Daily Wage Earners by Settlement



Compounding the issue further, mining also poses serious health issues to the workers. Many of the refugees cited concerns surrounding Tuberculosis and other respiratory issues as well as other injuries at work as a result of their manual labor.^{xix} Accessing health care under these circumstances is both a challenge and quite costly. To make matters worse, as the health of the earners deteriorates health care costs in the household skyrocket. In order to pay such costs, some workers are forced to take loans from their employers that they then

Box 3: The Risks of Mining

Gomand Lal, a refugee who currently works in farming, was once a daily wage laborer in the mines. He contracted TB and was in the hospital for eleven months. For two years he was powerless; he was unable to work and incapable of providing for his family. After his recovery, Gomand decided it was time to leave mining, and now focuses on sending his children to school so they might have a chance at a better future.

must pay off over time in small increments or work for free for a set amount of time.^{xx} This indebtedness only further increases their vulnerability, keeping refugees trapped in a cycle of poverty.

In addition to mining, many refugee men and women also work as daily wage farmers during peak season for various agricultural landowners in the surrounding area. Kali Beri refugees tend to prefer this kind of work because it was their trade in Pakistan, but in Jodhpur this work is seasonal and highly dependent upon climactic factors. Those without citizenship have it the hardest; harsh movement restrictions hinder their ability to travel to cities where the climate is more conducive to agricultural work. With few options, refugees are left to the mines. At the complete behest of their employers who can exploit, under pay, and over work them without restriction the Kali Beri refugees struggle to make ends meet.^{xxi}

Dali Bai

Picture 6: A Waste Seller in Dali Bai



In Dali Bai, the refugees are involved in a range of work including daily wage laboring tailoring, mechanic work, carpentry and driving. Additionally, a number of refugees are self-employed buying and selling waste like paper, wire and other electronic parts. Dali Bai refugees seem to work most days of the month and therefore have relatively steadier incomes, albeit less, than those in Kali Beri. This is an interesting finding: although Kali Beri has higher levels of citizenship than Dali Bai, work is less reliable and household incomes more volatile. This is just one example of many that shows how gaining citizenship has had little impact on the ability of refugees to improve their quality of life and move out of poverty.

Banar

As for the third settlement, Banar, the workers there are mainly involved in shoe making, embroidery and tailoring. A wholesaler will usually buy a few hundred pairs at a time and resell the shoes at the market for a much higher price, but this seems to provide stability for the shoemakers in spite of the low cost they have to sell the shoes for. The median monthly income for Banar households is \$3000 INR.

Women & Youth

The majority of the women in the communities are involved in housework, and water and firewood collection. Their daily routines involve preparing meals for their family and cleaning, which, because of the poor infrastructure of the homes, takes up a large portion of their time per day, especially where water and fuel sources are at a far distance.^{xxii}

In Kali Beri, women are sometimes also active

outside the household as daily wage mining or agricultural laborers, but earn about a third less than the men for the same work. In Banar, many women are also involved in shoe making, embroidery, and stitching.

Young girls tend to stay home after completing a few years in primary school (if they attend at all) to help their mothers with household chores and meal preparations.

While all refugees hope for better futures for their children, many young boys and men in these communities must follow in their fathers' footsteps, often times leaving school in order to earn money for their families. While citizenship does not affect whether the refugees will find work, it is a general concern that they might face discrimination in the Indian community since most feel that they are not welcome here despite their own connection and ancestry. Some have to work great distances from home.^{xxiii} Due to high transportation costs or commute time, some

Box 4: Making-it-big Abroad?

Some refugees seek employment abroad in hopes of "making-it-big," and bringing home money to their families in India. Once such case is that of Maluka Ram, a young, newly-married man who heard of an opportunity to work in Oman. He was told that he needed \$70,000 INR in order to acquire the visa for work and he could pay it back through working. Once he arrived, he was told it was actually \$150,000 INR and it took him two years to pay back the money which did not allow him to save or send money to his wife and baby boy. He decided to come back to India after much pleading from his wife with no money to show for the two years spent abroad and away from his home and family.

Picture 7: Young Girl Collecting Water



workers live near work, which places them away from the households for a week at a time or more. A few refugees opt to seek employment abroad in hopes of higher wages, however because of the easy exploitation of foreign workers in some countries, many end up returning with little if any savings.^{xxiv}

5.2 Loans and Assets

Land

One of the problems faced by these communities is that they have no rights to the land they inhabit. Most have built their homes on land that does not belong to them and feel the constant threat of living in limbo because they could be evicted at any time.^{xxv}

Other Assets

Other assets that the refugees have are bicycles, motorcycles and scooters that help them move around the city and provide transportation to work. Some refugees, particularly those in Kali Beri, have goats that

provide the families with milk and an extra source of income if money is scarce.

Bank Accounts and Loans

Because of their lack of citizenship status, most of the refugees are unable to open bank accounts. This affects their ability to apply for legitimate loans from the government or a bank because one must provide a show of assets in order to qualify. In the face of such challenges, community loaning and the sharing of resources is one of the main coping mechanisms utilized by the community when they are in need of financing.^{xxvi} Generally everyone in the community will chip in to provide a pool of money that a particular household might need to cover health care needs, including doctors visits a serious surgery if needed, or other costs.

Another way for them to access immediate money or loans is through borrowing from their employer. The employer will provide the money to the worker and he will pay it back with some interest, depending on what the money was borrowed for. For instance, one refugee said that when he needed money for to cover the costs of his father's burial, his employer did not charge interest. In many cases, however, employers are less benevolent and tend to make workers continue without pay until the loan has been repaid.^{xxvii}

5.3 Life Cycle Issues

Another major livelihood concern within the settlement is that of death. In Kali Beri and Dali Bali, the community practices cremation while in Banar it is burial. Due to lack of land and ownership, all the communities expressed grievances with accessing appropriate cremation sights or burial grounds. The costs involved in these

processes are also exorbitantly high and tend to affect household incomes drastically, which sometimes leads to having to borrow money from employers or others in the community. Fortunately for all the refugees, there is a strong sense of community and responsibility towards one another.^{xxviii}

6. Education

6.1 Attitudes and Access

Education is one of the top concerns in all of the communities. When asked to rank needs, most households placed education as one of the top four needs after basic necessities such as food, water, land or citizenship (See Figure 9). While very few adults received much education in Pakistan due to fears of forced conversion (See Figure 7), they feel it is one of the most important things that their children should have because they believe it is the only way they will live a better life in the future.^{xxix}

They understand that their illiteracy affects every aspect of their lives and severely hinders their ability to navigate the challenges they face. They do not want their children subject to the same vulnerabilities. Unfortunately, the communities face real challenges in regards to obtaining access to

quality educational opportunities.

Like most poor communities, the difficulties of living in poverty force them to prioritize their needs. While almost all the refugees articulated the importance of education, their ability to support that attitude relies on many factors, most of which are out of their control Figure 8 shows the percentage of children out of school by settlement; these numbers are

high, especially for girls. Because families are unable to send all their children to school, and since boys are responsible for caring for their parents later in life, their education is more valued. What is more alarming from this data is the number of our of school children who have never been to school. With no schooling it will be impossible for these children to break the cycle of poverty.

Figure 7: Percentage of 18+ with No School Completed

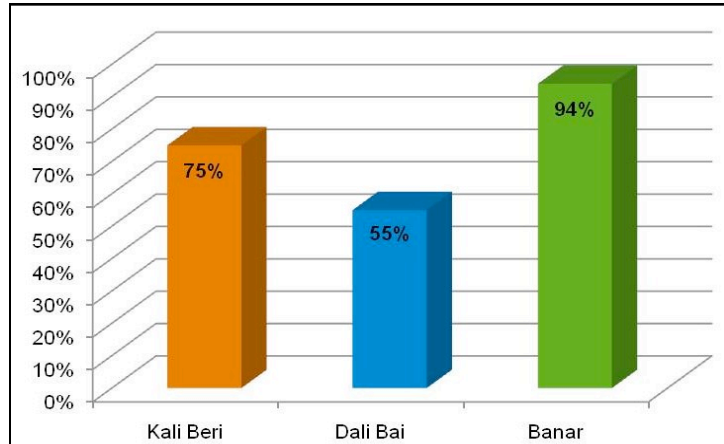


Figure 8: Percentage of Children Out of School by Settlement

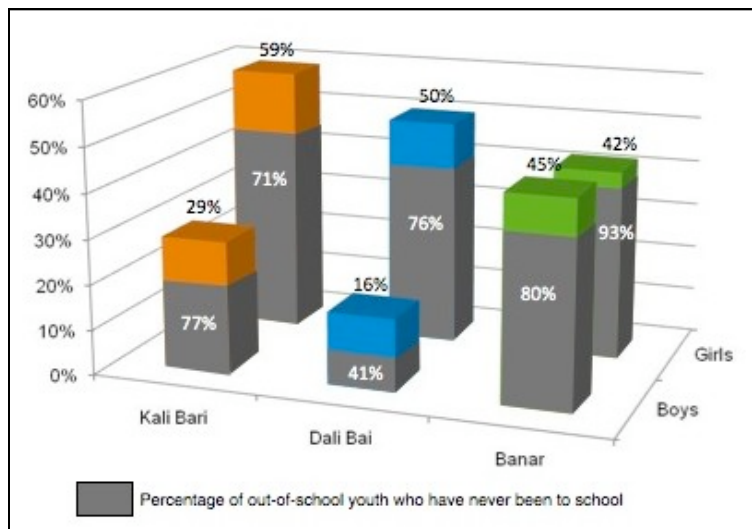
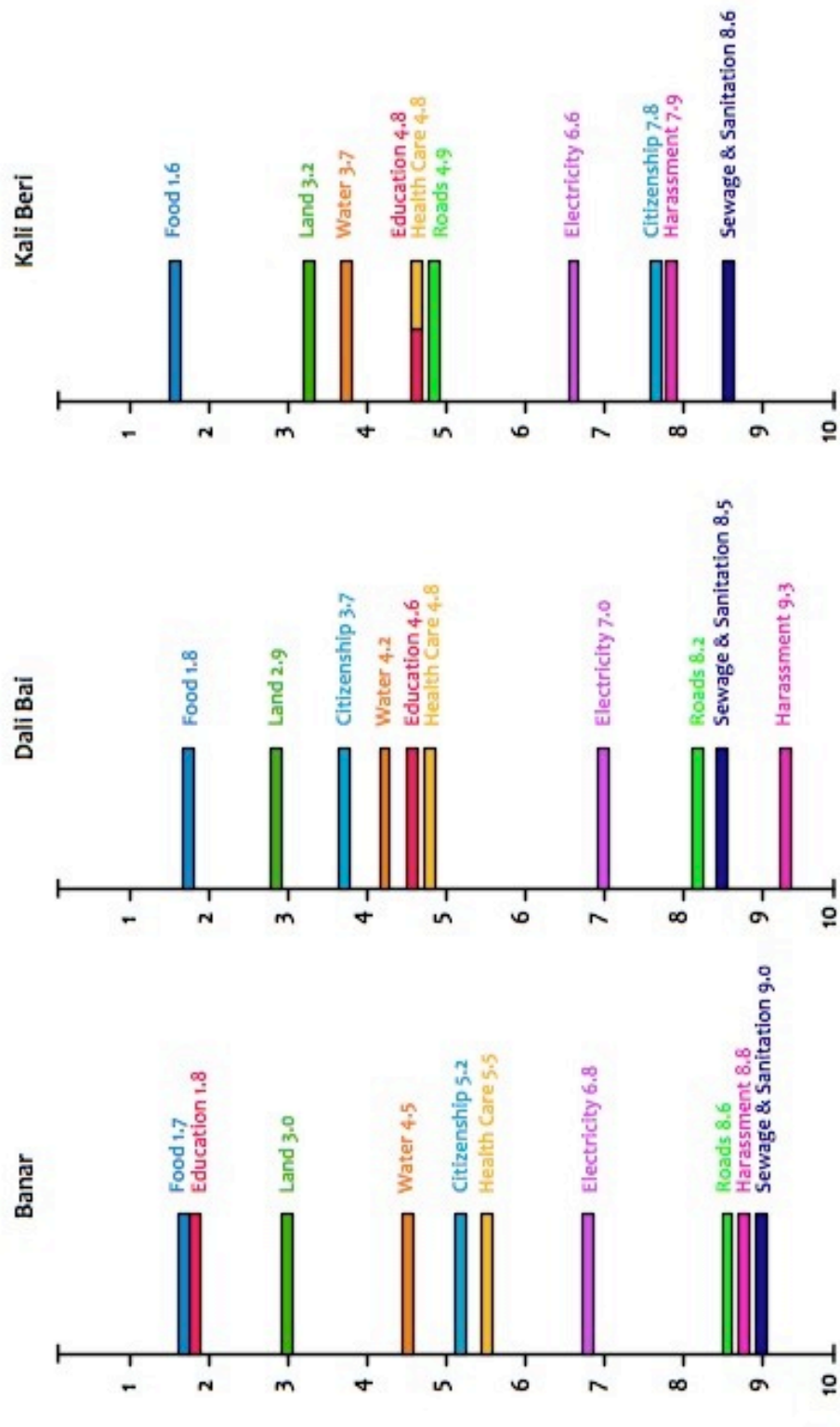


Figure 9: Needs Ranking



In additions to issues of access, quality education is also a concern. For example, in Kali Beri, a government school was built on the settlement a few years back. It is supposed to have two government teachers that are expected to come daily, but because there is very little accountability, the teachers have made an agreement among themselves to alternate days. Moreover, the teachers only stay long enough to feed the children the requisite midday meal and then the children are sent home.^{xxx} The result of this is students get clustered together, regardless of age or class level, and receive little to no education. If children make it to 5th grade, most leave with a reading comprehension of a much younger child, and then struggle to catch up in secondary school, if they go at all. The poor quality of the government school in Kali Beri contributes to an attitude of indifference. Lacking the resources to send their children to private school, which tends to be of better quality, many parents believe that their children’s time may be better utilized helping out around the home or working in the mines.^{xxxii}

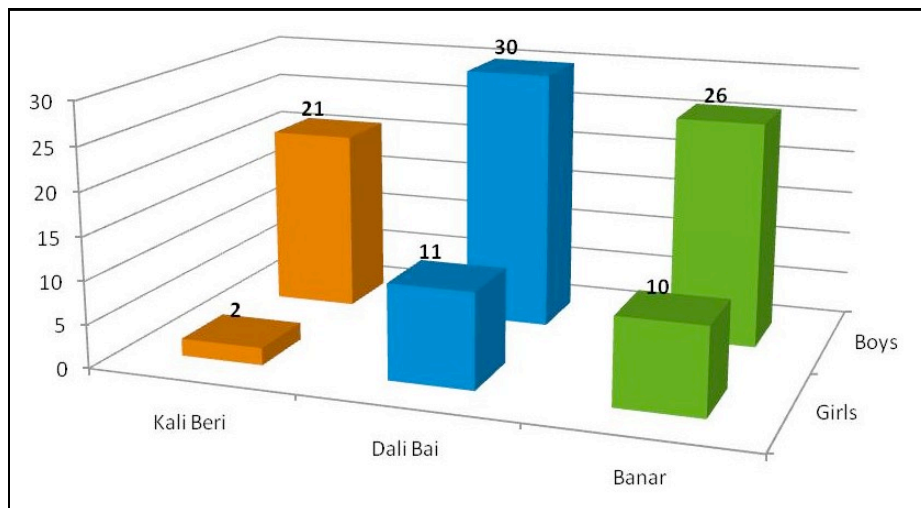
Box 5: Higher Education

Kishore is a 21 year-old resident of Dali Bai. He is currently the only refugee in any of the three settlements attending college. He is studying computer applications at a private university. He is not an Indian citizen, so therefore is not eligible for funding. His lack of citizenship will also hinder him once he graduates as he will only be able to procure a job with a private company.

becomes even more difficult. Distance to school is a factor hindering attendance. Such as in Banar, the government high school is over eight kilometers away. The fees are another factor; they are higher than elementary school making it increasingly difficult for families to afford to send their children. Furthermore, as teenagers they are more capable and therefore often leave school to help out the household, either through outside employment or working in the home.^{xxxii} This is evidenced by the larger enrollment gap between girls and boys in secondary school (See Figure 10).

In terms of secondary education access

Figure 10: Number of Adolescents in Secondary School by Settlement



7. Health Care

7.1 Access

Many obstacles stand between the refugees and decent health care. Government-sponsored health care is cheaper, and therefore more desirable for the refugees, yet because of their lack of citizenship, is not always available to them. Government medical facilities will not turn patients away, but without proof of a BPL card, they will not prescribe them the cheaper medication options. The medicines prescribed are often quite expensive requiring the refugees to borrow money from their community to be able to purchase them.^{xxxiii}

The location of the settlements and poor quality of the roads leading to them is also an issue for the refugees. In cases of emergency, ambulances are unable to reach the settlements due to the bad conditions of the roads.^{xxxiv} This is especially harmful as the

refugees have no cars to transport their sick or elderly.

The lack of cooperation from government facilities, forces many refugees to seek the medical attention of the private doctors and hospitals. The private facilities base-line fees are more than those of the government facilities thus causing the refugees much distress.^{xxxv}

7.2 Major Health Concerns

Diseases

While the three settlements are on the periphery of the city and tend to be mostly arid land, there still is a large risk of malaria, caused by open sewage, and tuberculosis. Since bathrooms are nonexistent and garbage removal is also absent, potential health hazards are ubiquitous. Lack of running water is also contributes to poor health, making the community more susceptible to disease.^{xxvi}

Injuries at Work

Another major health concern is the occurrence of work related injuries, especially in regards to manual labor. Those without citizenship have the dual challenge of not being protected under labor laws and lacking access to health insurance. This means that if they are injured at work, they are completely reliant upon the benevolence of their employer to finance their medical recovery. This is yet another example of the precarious nature of life without citizenship.^{xxxvii}

Child Birth

One piece of information that stood out from the data was the percentage of home births (92%). It is unclear whether or not the reasoning behind this is due to lack of access

Box 6: Specialized Care



Meeting the needs of handicaps is even more of a challenge because of the exorbitant costs of care. Naank Ram's son was born with a leg deformity making him unable to walk. He is now ten years-old and has never received treatment.

to hospitals or cultural preference. It is also unclear if home births pose more health risks to mother and child than hospital births. This area warrants further research to determine the potential causes and consequences of this phenomenon.

8. Conclusion and Recommendations

Indeed, of the various refugee groups residing in India, Hindu-Pakistanis are among the most vulnerable. Many have faced suffered from widespread harassment, discrimination and government negligence as a result of their displacement. The data collected has illuminated a multitude of struggles that hinder the communities' ability to access adequate livelihood, educational, and health care opportunities and services. For those who lack citizenship, gaining national status is an important first step in the battle for recognition and having their voices be heard. But as the analysis shows, obtaining citizenship has meant very little in real terms.

This study was conducted for Pak Visthapit Sangh, a non-governmental organization that has been working closely with the Hindu-Pakistani refugee populations in Rajasthan since 1999. Hindu Singh Sodha, the executive director of PVS, has been the sole person working to advocate for citizenship and rehabilitation rights for the Pak refugee communities in Jodhpur and beyond. We hope that this data will help to inform how the organization moves forward with its advocacy and programmatic initiatives in the future.

8.1 Recommendations to PVS

Bolstering Your Advocacy Initiatives

The research team praises the success of PVS's citizenship campaigns, and encourages the continuation of such initiatives in the future. The overwhelming success of the 2005 citizenship camp (which registered more than 13,000 refugees) is a perfect example of how collective social action can

be mobilized to hold the government to account in meaningful ways. The fact remains, however, that more Pakistani refugees arrive each day, so without a specialized governance structure to facilitate their integration, the Hindu-Pakistani refugees will continue to be marginalized. We recommend that PVS continue to focus its efforts on assisting refugees in gaining citizenship by situating its citizenship 'camp campaigning' under a broader movement to pressurize the government to develop a systematic approach applicable to all refugees on its soil. This includes the development of a uniform, national law, guided international human rights norms as well as the 1951 Refugee Convention that provides specific protocol for fair and equal treatment for all refugees.

Targeted advocacy initiatives focused on worker/labor rights and the right to a quality education can be mobilized to assist certain sections within the Hindu-Pakistani refugee population. In carrying out such initiatives we recommend that PVS link up with specialized international and national movements and organizations focused on similar issues. Creating vertical as well as horizontal partnerships will put more muscle behind the movement, and bring voice, recognition, and legitimacy to the struggle of Hindu-Pakistanis in India.

Making Citizenship Matter

For those with citizenship, the inability to obtain BPL cards is a main challenge that leaves many unable to access basic rights and services. Pressurizing the government to conduct a second assessment of BPL status (which is already overdue) is a first step to

making citizenship mean something. In addition, making citizenship matter involves strengthening ties between those with citizenship and their political representatives. Improving the community's ability to advocate for themselves is essential for ensuring that any government action taken to improve life in the settlements is sustainable in the long-term. We recommend that PVS work with the ward representatives in Kali Beri and Dali Bai, as well as with the Panchayat leaders in Banar, to ensure that they are available, accountable and give voice to the communities they represent.

Eradicating Adult Illiteracy

The high percentage of adult illiteracy within the refugee population exacerbates all other challenges facing the communities, and severely increases their vulnerability in an already highly chaotic and complex environment. Illiteracy and lack of schooling not only hinder a refugee's ability to access jobs, it negatively impacts community health as well as their ability to advocate for themselves and their rights. Literacy for women is especially important and will give them a sense of agency and empowerment both inside and outside the home. A focus on improving adult educational opportunities, through literacy classes and certificate programs, would, therefore, not only increase livelihood opportunities but give refugee adults and children the tools they need to learn and grow in healthy ways.

Building Accountability in Government Schools

Improving quality in government schools is an issue that must be address in order to ensure that the refugee children are armed with the tools they need to learn and grow in healthy

ways. Quality schooling will also help youth contribute peacefully to Indian society and participate as active citizens in the democratic life of the country. Key to improving quality is building administrative mechanism to ensure the accountability of teachers and schools. The fact that the teachers in Kali Beri get away with the kinds of indiscretions they do, is an indication that the Indian government is falling seriously short of its duties to provide adequate levels of teaching and learning to the people living within its borders. Improving accountability also has the added benefit of increasing enrollment rates; as children become more engaged in their learning and can see the benefits of it, they become more intellectually invested in their education.

8.2 Recommendations to the Government of India

The Government of India has expressed a desire to comply with international human rights norms, but up to this point has only given lip service to its international commitments. If the GoI is serious about improving its human rights record, it must:

- Immediately sign the 1951 Convention on the Status Relating to Refugees and take the appropriate steps to incorporate its principles into a uniform, national law regarding refugee protection and equal treatment.
- Remove the exorbitant restrictions attached to visas; allow refugees the freedom of movement and employment they are entitled to under international law.
- Lower citizenship fees and move the power to grant citizenship from the

Centre to District Magistrates.

- Improve the accountability of government schools and teachers at all levels. Institute more efficient and more frequent mechanisms of oversight to ensure that the money it spends on education produces meaningful outputs.
- Streamline the overly complicated and messy process it takes to obtain BPL, Ration Cards, Schedule Caste and Tribe Certificates, and Bonafide Certificates, without which the population cannot access important government programs that will improve their quality of life.
- Lead by example: Hindu-Pakistanis residing in India believe it to be their home and wish nothing more than to live in peace and to have access to basic rights and services. They wish India no harm, and want to contribute peacefully to all aspects of Indian society. Favorable recognition by the GoI of the Pakistani's right to live in peace and harmony, free from persecution and marginalization, will help all people, on both sides of the border, look forward instead of back.

Endnotes

- ⁱ Kali Beri. Personal Interview. June 2010.
- ⁱⁱ Dali Bai. Personal Interview. June 2010
- ⁱⁱⁱ Ibid.
- ^{iv} Banar. Personal Interview. July 2010.
- ^v Banar. Personal Interview. July 2010.
- ^{vi} Banar. Personal Interview. July 2010.
- ^{vii} Kali Beri. Personal Interview. June 2010.
- ^{viii} Volunteer Meeting. June 2010.
- ^{ix} Ibid.
- ^x Ibid.
- ^{xi} Kali Beri. Teen Focus Group. June 2010.
- ^{xii} 2010 World Refugee Survey. <http://www.refugees.org/countryreports.aspx?id=2330>
- ^{xiii} Ibid.
- ^{xiv} Ibid.
- ^{xv} Article 2 of the 1939 Registration of Foreigners Act defines a foreigner as “a person who is not an Indian citizen”.
- Ibid.
- ^{xvi} The law stipulating the number of years a person must have lived in India before applying for citizenship changed from 5 to 7 years in 2004.
- ^{xvii} Kali Beri. Personal Interview. June 2010
- ^{xviii} Ibid.
- ^{xix} Banar. Personal Interview. July 2010
- ^{xx} Kali Beri. Personal Interview. June 2010.
- ^{xxi} Ibid.
- ^{xxii} Dali Bai. Personal Interview. July 2010.
- ^{xxiii} Kali Beri. Personal Interview. June 2010.
- ^{xxiv} Ibid.
- ^{xxv} Banar. Personal Interview. July 2010.
- ^{xxvi} Dali Bai. Personal Interview. June 2010.
- ^{xxvii} Banar. Personal Interview. July 2010.
- ^{xxviii} Volunteer Meeting. June 2010.
- ^{xxix} Ibid.
- ^{xxx} Kali Beri. Personal Interview. June 2010.
- ^{xxxi} Ibid.
- ^{xxxii} Dali Bai. Personal Interview. June 2010.
- ^{xxxiii} Kali Beri. Personal Interview. July 2010.
- ^{xxxiv} Ibid.
- ^{xxxv} Volunteer Meeting. June 2010.
- ^{xxxvi} Kali Beri. Personal Interview. July 2010.
- ^{xxxvi} Ibid.

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