

GENDER DISCRIMINATION AND ITS IMPACT ON PAKISTANI WOMEN MARRIED TO AFGHAN REFUGEES (1980-2018)

Bushra Manzoor* & Muhammad Daniyal Khan**

Abstract

Gender discrimination in nationality law of Pakistan not only undermines women's equality in citizenship but also violates their right and results in hardships for their families. State's Nationality law that discriminate women to have equal rights of citizenship undermines them to access healthcare, education, employment, family unity, inheritance, mobility and property rights. The current research highlights the problems faced by the women married to Afghan refugees through thematic and discourse analysis of the interviewees using CAQDA, i.e., MAXQDA-2022 software. The study is qualitative in nature and the analysis is based on a coding model. The sample is taken through snowball sampling of the population under study. The research shows how unequal nationality laws violate women right to get citizenship and obstruct their equality in the family. The Pakistani law of citizenship also impacts the enjoyment of women right by them as well as their children and spouses.

Gender equality in nationality laws is not only fundamental to equal citizenship of women but it also support families' wellbeing, children rights to identity and sustainable development. Thereby, it will benefit the society as a whole.

Keywords: Citizenship Laws, Human Right, Patriarchy, Gender Discrimination, Refugees, identity and Statelessness

* Ph.D. Research Scholar, Area study Centre (Russia, China & Central Asia), University of Peshawar, Pakistan. Email: itzmebush@gmail.com

** Lecturer, Department of History, University of Peshawar, Peshawar, Pakistan. Email: daniyalkhan@uop.edu.pk

Introduction

Background of the Research

Of all the people and social groups, the woman still experiences discrimination and oppression for no reason other than her gender. Even in the 21st century, the plea for eliminating discrimination and granting rights, increasingly symbolizes with the woman. For a long time now, the woman continues to be at the forefront of the struggle to confront social, political and economic systems that tend to produce or sustain discrimination. Recently, gender discrimination has turned into a global concern, both in the developed and underdeveloped societies, due to observable gender inequalities in the laws and in facts¹. In many cases, even if laws are gender neutral, it is the patriarchal culture and a political attitude of the government towards gender discrimination that sustains and encourages it. In such societies, the woman gets less opportunity compared to her male counterpart, in getting education and to contribute in socioeconomic and political life. In this way, society singles out the woman and put limits on her choices, even in vital decisions regarding life, such as, nuptial relations and selection of the husband. Gender discrimination even influences their post marriage life, when state laws and practices are grounded in patriarchy. The case of Pakistani women married to Afghan refugees is a tip of such an iceberg of patriarchy. The Government denies their husbands and children citizenship of Pakistan despite a provision in Pakistani nationality law². On the contrary, the same law allows Pakistani husband to obtain citizenship for his counterpart. Thus, the state of Pakistan implements nationality law, regarding Afghan refugees in a gender-biased fashion and denies, unfairly, Pakistani women, the very basic right enjoyed by their opposite gender, i.e. Pakistani male. Whatever legal documented literature available in Pakistan, related to Pakistan citizenship laws and specifically regarding the marriages of host female to refugees is sketchy³. The number of such marriages, consummated between Pakistani women and Afghan refugees, are in thousands since the arrival of Afghans in Pakistan in 1980s.

In Afghanistan, during the peak period of Afghan resistance against the Soviet invasion (1979-1990) and subsequent civil war (1992-1996), Pakistan accommodated an estimated 2.4 million Afghan refugees. Even by a fresher

¹Ann Oakley, “*Sex, Gender and Society*.” (London: Temple Smith, 1972)

²Umer Gillani, ‘*Afghan Refugees*’, *The Daily News*, (oct 27, 2016), available at: <https://www.thenews.com.pk/print/160207-Afghan-refugees>

³Asad Khan, “Afghan refugee repatriation threatens to tear marriages apart”, *The Daily News*, (August 26, 2016), available at: <http://www.newslens.pk/afghan-refugee-repatriation-threaten-to-tear-marriages-apart/>, retrieved September 07, 2020

figure, June 2019,⁴ there were 1.4 million registered refugees from Afghanistan were present in Pakistan. It has been claimed by the official sources of Pakistan that about 68 percent of Afghan refugees had assimilated in mainstreaming Pakistani society⁵. This integration has assumed many forms, including the speculation that a large number of marriages between Pakistani citizens and Afghan refugees took place. However, Pakistani women who married to Afghan refugee, compared to their male counterparts, fraught them with miseries.⁶ Their Afghan husbands are not legally entitled to acquire the citizenship of their Pakistani wives. This study is an in-depth attempt to explore the problem of denying citizenship right to Afghans married to Pakistani women and situate it in larger cultural and political context of Pakistan that increasingly encourage gender discrimination in implementation of nationality law. Whether the patterns of gender discrimination observed in application of nationality law, is because of patriarchal culture, nationality law, or it is politically motivated, are the questions going to be explored by this study. In addition, the study uncovers the impacts of the discrimination on the victims and their families suffer.

Justification and significance

The universal declaration on the '*Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women*', stipulates equality, equally for women and children, and Pakistan law of citizenship is not in accordance with this basic human right.⁷ A liberal political model guarantees a woman all her rights, social, political and economic, at par with male, clearly absent in the legislation in Pakistan.⁸ Historically, the roots of discrimination are due to socio-cultural and economic structures of these societies being patriarchal. Men are social and political influencers and decision agents and women are subjects of discrimination from antiquity.⁹ This discrimination is evident not only in the collective behavior of the

⁴UNHCR, *Refugee Data Base*, (UNHCR, June, 2020), available at: <https://data2.unhcr.org/en/country/pak>, retrieved July 14, 2020

⁵ Sana Jamal, "Pakistan extends stay of Afghan refugees", (June 28, 2019), available at: <https://gulfnews.com/world/asia/pakistan/pakistan-extends-stay-of-afghan-refugees1.64901634#:~:text=One%20of%20the%20world's%20largest,statistics%20by%20UN%20refugee%20agency>. Retrieved July 14, 2020

⁶ "Afghan refugee repatriation threatens to tear marriages apart", *The express tribune* (August 26, 2016), available at: <http://www.newslens.pk/afghan-refugee-repatriation-threaten-to-tear-marriages-apart/>, retrieved September 07, 2020

⁷Faryal Nazir, "Report on Citizenship Law: Pakistan," (Edinburgh: Edinburgh University Law School, 2016)

⁸ Mubina Agboatwalla, "Women's development in Pakistan: issues and challenges," 2000

⁹Linda Alston, "Women, Political Struggles and Gender Equality in South Asia," (Palgrave Macmillan, 2014)

society, but also in certain laws of the state.¹⁰ The rights of a Pakistani male marrying a legal refugee female are protected under law, but legal obstacles confuse a Pakistan woman marrying a legal refugee. Under such a discriminatory legal regime female confronted a host of immediate and long-term problems. In the short term, she is under stress to acquire citizenship for the spouse and in the longer term the anxiety of naturalization of children, are worries that impact her individually as well as her family. Hence the scope of the topic is larger and important that needs research and analysis to address the research gap and to dig out the context of gender-based attitude and injustice in awarding citizenship.

Research Questions

1. Where does the current Pakistani nationality law stand in terms of gender discourse?
2. What are the streaks of patriarchy; legal, cultural, or political, influencing the current documented nationality law of Pakistan?
3. What are the specific patterns/impacts of discrimination affecting Pakistani women marrying Afghan refugees?

Literature Review

Billet comments that not only the woman faces domestic violence, but also, she is forced /raped with impunity, at times forcefully sterilized, ritually mutilated, sold as a sex slave and even killed by relatives in the name of family honor. In countries, where governments fail to protect the woman, then the society treats women like an alien and a refugee. A number of studies from diverse fields have evaluated the cases of women¹¹.

Viewing from anthropological setting peter explains that inequality experienced by women exists not only in social and economic spheres, but also politically and legally been marginalized both in the West and in the developing countries. According to the Peters, Human right is a gender-biased term, where rights are determined purely through a male prism. The writer points out glaring social injustice to women, mainly due to discriminatory cultures¹² and discriminatory legal regimes, particularly in the developing world. The author cites a case in India where women are

¹⁰Fareeda Banda, "Project on a Mechanism to Address Laws that Discriminate Against Women," (Office of the High Commissioner for Human Rights –Women's Rights and Gender Unit, 2008)

¹¹Bret L. Billet, "Cultural Relativism in the Face of the West: The Plight of Women and Female Children," (New York : Palgrave Macmillan, 2007)

¹² Peter defines discriminatory laws as 'laws that is silent or promotes gender inequality and regard to right to citizenship, not allow children to acquire their nationality from their mothers (p.114).

outcast for marrying outside the society's caste boundaries. In this case, though the law protects the marriage,¹³ but is incapable of changing the cultural beliefs of society that opposes such marriages. The work highlights both the discriminatory culture and discriminatory implementation of laws as a source of women suffering¹⁴.

Emerton validates Peter's findings. She evaluates the problems of local women in the Middle East and in Central Asia married to refugees. The author cites the case of Kirgizstan, in Central Asia, where local culture forces women to do an abortion, in cases the child conceived from aliens living or working in Kirgizstan. Such like cases, writer opines, have psychological side effects and treatment of such illness have its own impacts on the victim and her family life. In case of Middle East, the tribal norms and culture dominate and, in many instances, shape citizenship laws in states like Qatar. For example, if a father of a child is not Qatari, he or she is not recognized as a citizen of Qatar, even if her mother is Qatari. The reason for such discrimination and injustice according to Emerton is 'tribal barriers' in the Middle East. However, in case of Central Asia, Kirgizstan, the reason is political, the sense of insecurity of being dominated by a non- Kirgiz race dictates the social and cultural attitudes¹⁵.

Islam bestows an equal status on the woman along with the man, and effectively denounces maltreatment and societal inequality tendencies prevailed in pre-Islamic period. Islam honors the woman by giving her the right to choose a spouse. However, the writer quoting the case of Pakistan, holds that the local culture exercises much influence over gender specific issues than religion; despite the overwhelming population is Muslim¹⁶. In this context, Malik briefly analyzes the situation of Pakistani women marrying Afghan refugees. She recounts the experiences and difficulties faced by Pakistani women married to Afghans. The investigation takes place through a feminist lens relating the problems such as the deportation of their spouse (Afghan refugee). Their spouses despite marrying Pakistani women are not eligible to get citizenship right or integrate into Pakistani society as citizens. The report is similar to the subject of this study as it focuses sufferings of Pakistani women married to Afghan refugees. However, the report is brief and does not touch upon the deeper reasons of the problem,

¹³ Article 21 of the Indian constitution does not bar its citizens to marry outside their caste.

¹⁴Peters, J. S. & Wolper, Andrew, ed., "*Women's Rights, Human Rights: International Feminist Perspectives*," (New York: Routledge, 1995)

¹⁵Robyn Emerton and Kristine Adams, ed., "*International Women's Rights Cases*," (Routledge-Cavendish, 2016)

¹⁶ Jamal Badawi, "*Gender Equity in Islam: Basic Principles*," (American Trust Publications, 1995)

legal, patriarchal, political, or failure to implement laws, supporting gender equality, by government of Pakistan¹⁷.

Gillani also adopts a similar brief approach towards the problem. However, he writes that awarding citizenship to Afghan refugees is not a matter of Pakistan's hospitality and kindness, but an issue of application of the law¹⁸. He points towards a number of ways, available in the Act of 1951, to get Pakistani citizenship. He further holds, when citizenship is not awarded on any other consideration, the Act has ample space for Afghans to get a naturalization (birthright) either by decent (citizenship after parents) or marriage. Here, the writer is very clear that space is available, in law, for the subject case, but it is not employed to female citizens of Pakistan when it comes to practice. Thus, the issue is of implementation.

Robert Schuman Centre for Advanced Studies, in collaboration with Edinburgh University Law School, documents briefly about the different laws of citizenship in Pakistan. Citizenship by birth or *jus soli* (term used for by birth 'citizenship') is the right of every person to be a citizen of Pakistan who born in Pakistan after the commencement of the Act 1951. The citizenship by descent allows the child born outside Pakistan if his/her parent is a citizen of Pakistan¹⁹. In this case, citizenship can be acquired if birth of the child is registered at the Pakistani consulate. On other hand, to get citizenship through naturalization, a person must get a naturalization certificate from the federal government under the naturalization Act of 1926. The applicant must live in the country for a continuous period of one year before applying for the certificate of residency. The document reflects a fact that despite provision of law, as mentioned above, the state follows gender-biased policies and laws subjectively²⁰.

Further evidence of the sociological and psychological impact of discriminatory laws, on Pakistani women marrying Afghan refugees, mirrored in interviews from Ali Toorzai unpublished works "From Pakistan with Tears (translated from Pashto)." Ali interviews a number of Pakistani women, who chose to live with their husbands, following their repatriation, since the Pakistani government would not recognize or grant their spouse citizenship. The women expressed their ordeal and agony by not treated fairly by the society as well the absence of the legal regime for protecting their rights. The work focuses on legal vacuum, but does not address the issue through a thick description, contextual reality and holistically in terms

¹⁷ Misbah Malik, "Afghan refugees get integrated into Pakistani society with fading memories of homeland, (2018)

¹⁸ Umer Gillani, "Afghan Refugees", (Oct 27, 2016)

¹⁹ Robert Schuman Centre for Advanced Studies, in collaboration with Edinburgh University Law School, 2016.

²⁰ Faryal Nazir, "Report on Citizenship Law, (Pakistan, 2016)

of what constitute the rights of refugee? He highlighted subject of Pakistani women but does not dig out the deeper reason for gender-based implementation of laws and sketchy documented literature on the matter²¹.

After the analysis of the current literature, three main patterns emerge from the review, responsible for gender discrimination. First, the sources of discrimination and unfair treatment to the woman lay in laws and social customs of societies that dictate gender-specific treatment²². Second the failure of government to implement equal or gender-neutral laws, specifically in Pakistan²³. Third, the existence of legal vacuum, sketchy documents on nationality laws to address the problems of women married to Afghan refugee.

Moreover, the previous research on the topic revolves around the traditional approaches of 'push' and 'pull' factors²⁴. The lack of security and prospects had generated 'push factors' against Afghans while job opportunities and foreign attractiveness had led to its appeal with a 'pull factor'. These approaches ignored the deep-seated reasons, such as, lack of legal framework, overarching patriarchy in Pakistan, political use of gender discrimination to Afghan refugees and more state centric approaches that tore apart families in many respects.

Problem statement

A gender biased application of nationality law is encouraged by the government of Pakistan where the woman is discouraged to acquire for her husband's citizenship of Pakistan. On the contrary, the same right allows the male Pakistani to obtain citizenship for his foreign refugee wife. This study is going to explore the deeper reasons; legal, cultural, political that are hidden in the patriarchal manner implementation of nationality law and to uncover the impact of this discrimination on women.

²¹ Ali Toorzai, *کډوالو افغان له چې ردوي حقونه ميرمنو هغو د پاکستان ولي: څخه پاکستان د سره اوښکو د*, کوي واده سره [trans: From Pakistan with Tears: Why Pakistan Denies the Rights to Pakistani Women married to Afghan refugees] Thesis, (University of Kabul, Faculty of journalism, 2017)

²²Peters, J. S. & Wolper Andrew, ed., "Women's Rights, Human Rights: International Feminist Perspectives." and Bret L. Billet L., "*Cultural Relativism in the Face of the West: The Plight of Women and Female Children*," (2007)

²³ Umer Gillani, 'Afghan Refugees', (oct 27, 2016) and Faryal Nazir, "*Report on Citizenship Law*, (Pakistan, 2016)

²⁴ Nasreen Ghufra, "*The Politics of Repartriation: A case study of Afghan Refugees Repartriation from Pakistan 1999-2003*. Doctoral Dissertation, (University of Peshawar, 2004).

Research Methodology

Epistemologically, the category of the current study falls under the interpretive sciences; hence, the predominant research approach employed is the qualitative one. Employing the case study, Pakistani women married to Afghan refugees (1980-2018), which is a qualitative style strategy is more appropriate to investigate the Questions and achieve the Objectives of this research problem.

Sources of Data

The study derives primary data from the correspondents, Pakistani women married to Afghan refugees during the period: 1980-2018. The data collection tools are written questionnaire, interview and focus group discussion, mostly, semi-structured and open-ended, framed in light of appropriate indicators of gender discrimination. The purpose is to capture the patterns of discrimination and patriarchy. The three data collection tools are also sprinkled with questions that mirror impacts on the woman life, married to Afghan refugee, and her immediate family.

The secondary source includes, published works, research thesis both published and unpublished, research articles, research abstracts, newspaper, use of internet, reputed research journals, authorized think-tank reports, national and international published summaries and editorials on the subject.

A rich data provides base for a deeper understanding of both explicit and implicit meanings (reasons) of the victims attached to the patriarchy embedded either in application of nationality law or lack of proper-documented law, are assessed within legal, cultural, and political context. Moreover, this study is cross sectional (1980-2018), that involves conducting the study in respondent's natural setting that helped the researcher to grasp the profound meanings of patriarchal patterns rooted in the data source itself²⁵.

Research Population

The sample selected is mainly Pakistani women married to Afghan refugees since 1980s.

Sampling

The sampling technique used in the study to generate a sample was snowball chain referral. In the chain referral sampling, researcher gets information regarding the next respondents from the available source²⁶. The type of

²⁵Creswell, "Qualitative research designs: Selection and implementation," *The counseling psychologist*, 35(2), (2007), 236-264

²⁶A potential problem of getting a more representative sample, comprising Pakistani women married to Afghans, may arise, but it is going to be addressed through snowball-

sampling is based on referral that allows researcher to get more representative sample. The technique extensively used by the researcher where the research population is hard to find.

Data Analysis

The data collected from the primary and secondary sources has been analyzed by the researcher through discourse analysis technique, considered as the most common tool of qualitative data analysis for interviews and focus group discussion. Discourse analysis aims at identifying dominant discourses that show, how reality is constructed and promoted subjectively. However, the data collected by questionnaire is subject to sorting and analyzed through thematic analysis, a form of qualitative data analysis. The themes extracted, were coded by the application of Computer-assisted qualitative data analysis software or CAQDAS, i.e. MAXQDA 2022 that interpreted in the light of feminist theory.

chain-referral technique discussed above to generate a more representative research sample.

Interpretation

Defining Pakistani Women

The set of data generated from interviews reveals that Pakistani women suffer from both cultural and social inequalities. Though women in Pakistan are marginalized due to their gender, however, women married to Afghan refugees experience more social marginalization and insecurities or they can be categorized as a “vulnerable group” with an emphasis on personal vulnerability. These social and cultural inequalities are brought about by the patriarchal system dominant in Pakistan. One interviewee describing her sense of social inequality remarks:

Though my marriage with my husband (Afghan refugee) was arranged, however, there remains a somewhat resentment to the marriage by my extended family. I am now not offered the same level of social acceptance as before. I am now rarely invited to my relative’s marriages or any other social occasion.

Other interviewees concurred with the description, with one adding: Most of the marriages are contracted through arranged marriages, and yet, we are subjected to social alienation? This social alienation remarks another interviewee “puts us through a psychological crisis”. Most interviewees also regretted that the state does not offer them a legal identity which further consolidates their social alienation. Alongside social alienation, Pakistani women also suffer gender inequality, particularly evident from the fear of being divorced or even depreciated of their children if they don’t agree to return with their Afghan husbands. This is according to one interviewee, “the decision is always one-sided- that too forced by the male members of the family”. In other words, the important decisions within the family, in this case on repatriation, are solely the prerogative of male members, i.e. husbands.

These statements are crucial as they help in constructing the identity of Pakistani women. The Pakistani woman is, hence, are ‘objects’ deprived of human rights and autonomy, further marginalized by the law of the land.

Status of Pakistani Women

Gender as a social construct impacts both males and females; however, the code model reveals that Pakistani women are more marginalized and vulnerable because their status is considered as subordinate. The discrimination is somehow because of the deeply rooted societal and cultural gender norms. The model also reveals that Pakistani women are deprived of their rights, decision making and autonomy that affect their life prospects. The discriminatory law reinforces their vulnerability to the violation of other human rights as well. Women rights are not seen as being of primary

importance and they are particularly in a weak position when they try to gain redress.

Assessing the Impact of Law on Pakistani Women Married to Afghan Refugees

This section will discuss only the citizenship laws of Pakistan on Pakistani women married to Afghan refugees. As Pakistani women cannot pass facilitate their Afghan refugee husbands in the acquisition of citizens nor pass their citizenship to their children born of wedlock with Afghan refugee husbands²⁷ this brings a host of issues and problems that hampers the life and psyche of Pakistani women. The code model reveals the following thematic areas of impact: -

- i. Personal identity dilemma
- ii. statelessness
- iii. Conflict and Dilemma of Separation
- iv. Family disintegration
- v. Displacement Crisis & Problem of assimilation
- vi. Psychological aspects
- vii. Children identity dilemma and services

Explanation

i. Personal Identity Dilemma

This legal and social discrimination and the prospects of statelessness faced by Pakistani women, has given rise to legal and social identity crises. According to one interviewee, they have become “invisible people” marginalized not only by the society but by the legal apparatus of the state”. Their sense of belongingness and identity to their state of origin, and of being important to that state, are overlooked and disregarded because they have reduced status within the country, they always called their home.

²⁷Prior to the Pakistan Citizenship (Amendment) Ordinance 2000 (Ordinance XIII of 2000) promulgated on April 18, 2000, only the father of the child could confer citizenship by descent to his children. After the said amendment, a person acquires the citizenship of Pakistan by descent if either of his/her parents is a Pakistani national. The said amendment is not retroactive and is not applicable to children born before the year 2000 to a Pakistani mother and a foreign father.

ii. Statelessness²⁸

Pakistani laws prohibit or limit women to pass their citizenship to their children and foreign husband particularly those children who cannot get nationality from either parent or become stateless. A child of a stateless father may be at risk to become stateless because he/she can get nationality from his father in most situations. As a result, these families may be missing without identity documents and access to healthcare, education and employment.

iii. Conflict and Dilemma of Separation

The force repatriation of Afghan refugees has become a source of conflict/tensions for Pakistani women. As international laws dictate that “there should not be coerced and forced repatriation or security threats to the refugees. They must have the right to live with their families and able to return at their own pace.”²⁹ The prospects of forced repatriation have produced tensions within families. Illustrating this subject, an interviewee remarks “my husband allowed me to live here in Pakistan alone without my sons when I refused to go to Afghanistan with him.

iv. Family Disintegration

The prospects of Pakistani women unwilling to migrate with their Afghan refugee husbands factor contribute and may result in family separation and increase in the rate of divorces. This is evident from a number of interviews. As one Afghan husband of Pakistani women remarked “I am left without any choice because my wife is local, and she would prefer divorce over going to Afghanistan with me. Moreover, higher tensions due to cultural differences, social disapproval of intermarriages, threats to heterogamous marriages³⁰ and lower socioeconomic resources are account part of increase in the rates of divorces.

²⁸ ‘Statelessness’, in a strictly legal sense, describes people who are not considered nationals by any state. Although statelessness is prohibited under international law, UNHCR estimates that there may be as many of 12 million stateless people worldwide. The existence of stateless populations challenges some of the central tenets of international law and the human rights discourse that has developed over the past sixty years. Most importantly, the concept of statelessness is at odds with the right to nationality.

²⁹Crisp, The plight of refugees and immigrants in developing countries, *Social Science Review*, 144(6), (2019)

³⁰Heterogamy, which is a marriage between two individuals who are culturally different. Heterogamy is contrasted with Homogamy, which is marriage between partners who are culturally similar.

v. Displacement Crisis & Problem of assimilation

The problems of social and cultural assimilation are experienced by Pakistani women in case of repatriation with their Afghan refugee husbands. Interviewees expressed their state of emotional and intellectual agitation due to their lack of a sense of compatibility with the new society.

vi. Psychological Aspects

When asked about her psychological state in event of being relocated to a country other than her native homeland, one participant said, “I am confused and stressed. I feel suffocated as there is nothing (no parents and other opportunities) there in Afghanistan that gives me ease of mind.” Another woman said, “I wonder why the Pakistani government is so cruel to us in this way — there is nothing to please us.” The women’s statements show that they were suffering from a state of hidden agitation that they were trying in vain to overcome. The lives of such participants had been shaped by this state of agitation and other negative feelings. They have started experiencing a depth of grief that they had not been familiar with before the repatriation prospects.

vii. Children Identity Dilemma & Social Services

Identity and belonging are defined as transformative and meaningful experiences in which people elicit both their identities and their emotional connections to the social and physical world. References to basic psychological needs require having a social place in the world to which you belong. The experience of deportation of parents and the threat posed by them can have formidable impacts on children and families, both emotionally and physically. In this context, children born out of wedlock between Pakistani women and Afghan refugees also experience marginalization in terms of denial of the right to citizenship and unavailability of social services including state education and medical services.

Research Discussion

Historically, Feminism has been associated with and relied upon the gendered matter of women and the debate on what constitute a woman is a significant feature of feminism discourse. In this context, discourses are differed from feminist theorists to capture the experiences of the women oppressed on gender and sexual basis by patriarchal powers. Feminism must be grounded in a well-defined and stable category of identification if feminist want to fight for the emancipation of outranked subject. We cannot ground a feminist politics that deconstruct the female subject when the definition and outlines on the subject are not decidable. If the outlines and definition of the female subject are undecidable, “how can we ground a

feminist politics that deconstructs the female subject?"³¹. This study shows that women's identity is constructed across a wide spectrum of variables. Though the social marginalization of women is evident from the patriarchal tendencies, however, discrimination against Pakistani women has been perpetuated through the laws of the land. Legal discrimination is effectuated through the denial of citizenship to pass on to the children and spouses of Pakistani women married to Afghan refugees. This has resulted in the distortion of the basic identity that Pakistani women have experienced. The distortion is in fact produced identity crises for Pakistani women. Through the identity crises, Pakistani women married to Afghan refugees have been relegated to sub-human subjects. Women's cognitive and emotional state of mind can be affected by these identity conflicts. Hence, the study identifies that the laws in Pakistan have in fact produced identity dilemmas central to the first philosophy of the first wave of the feminist movement. The focus of the first wave was to create opportunities to the women who faced suffrage, or in other words, this movement was directed to attain acceptance of their political identity as equal members of society. However, in the context of Pakistani women married to Afghan refugees, the focus is on the acceptance of the same rights and privileges granted to their male citizen counterparts.

Like the first wave of the feminist movement, Pakistani women married to Afghan refugees have constant recourse from protests to filing constitutional petitions at the courts of law.

Conclusion and Recommendations

After the findings of the research it is concluded that gender discriminatory law can have very substantial impact on mothers and their children. Almost every aspect of their lives has been impacted included health care, education and economic and political rights. They people who suffer from discrimination have emotional impact and in the long run the feeling of despair affect their mental health. The law generates the problem of statelessness for the children who lose their identity and live on the margins of society. Most of the families who suffer are economically marginalized and vulnerable. The recommendations will help towards the elimination of gender discrimination law that contains manifold discrimination, together cause and consequences of the rejection of nationality. This will also help to meet the international commitments and to compliment the global action plan³².

³¹Linda Alcoff, "Cultural Feminism versus Poststructuralism: The Identity Crisis in Feminist Theory." *Signs Journal of Women in Culture and Society*, 13, 1988, 405-436

³²UN Sustainable development goals by 2030, retrieved from <https://sustainabledevelopment.un.org/>

Following are the factors that are important in establishing a stateless determination process.

Institutional Framework

To resolve the problem of discriminatory nationality law, there is a need to appoint a centralized independent authority with the necessary expertise in nationality matters and other key players should support these specialized persons. Mobilization and identification of relevant stakeholders is required both at national and international level in developing a partnership and to view the capacities and interest of each potential actor. The awareness programs should involve the affected families and manage advocacy programs through public events traditional and social media on the need of the forms.

Resolving Reasons of Causes of Discriminatory Law

Through eliminating the discriminatory law, state will promote a greater stability, economic development, more engaged citizenry, prosperity and good health.

It is the duty of the state to work actively in reforming the already prevailing nationality law to eradicate the discrimination in the nationality law in accordance with international law. State should also make sure that the children of citizen mothers can acquire nationality without suffering the consequences of citizenship denial. State should ensure the reform is enacted with retroactive effect and the procedure is simple and accessible.

Global Action Plan 3 and Action Plan 4

Article 2 of CEDAW can be utilized to ensure to meet the obligations at an international level³³. The general undertaking of the Article 9³⁴ acknowledges the duty of the state to eliminate the discrimination against women in all its forms. It also requires understanding about women perception in all walks of life about discriminatory laws, policies and practices.

Programmatic Reforms

These reforms will involve a plan in the procedure through changing the policy and development program and to develop the essentials goals such as elimination of gender discrimination in the laws. To meet these reforms state is responsible for the provision of training and information to all its relevant

³³Article 2 states will pursue policy of eliminating discrimination against women, undertaking to take concrete steps to eliminate discriminatory laws, policies and practices in the national legal framework.

³⁴ Article 9 states shall grant women equal rights with men to acquire, change or retain their nationality and also equal rights in respect of their children's nationality.

staff members to assure the fair application of the current law and its existing provision that enable offspring to have their mother's nationality.

Eradicating Gender Biased Nationality Law

States should develop a constitution in which all citizens should be equal and have the right to have citizenship without any discrimination. For the rule of law, the transparency is needed every time when any new law practice is introduced. Clear demonstrations about the platform of specific laws are needed for those individuals who may have privileged under the law.

Many nationality laws are confused by using the word spouse or parent when refer to gender, and it creates a space for those administrators who are biased formerly and provide their own interpretation of the law in practice. The chapter on principles of general information should have clarity to understand all the provisions of the laws.

Implementation through Monitoring

Monitoring and assessing are required for the successful implementation from the authorities after the law is reformed. Understanding of Implications is also required for the eradication of the discriminatory law. There should be awareness to educate the targeted men and women about the social cost of the discrimination in the society by involving civil societies, women organizations and media. The possible benefits of reforms for affected families need to be explained to the concerned people by providing adequate information and training. The amendment in the nationality law should also be publicized in the general population.

State should organize gender sensitive training of public official, community leaders and judges for the necessary insight. A majority of women should be involved to enforce reforms that are the victim of discriminatory law and are well informed about decision making process and government procedures.

Grievance of Discriminatory Nationality Law

Before dealing at international level, internal grievance should be deal internally first, as it has been a rule of law that human right violation has various levels of authorities. According to the CEDAW Article 24³⁵, to achieve the equality of goals, states prefer to adopt the method that suit its political customs, legal resolution and distinctiveness of their legitimate and political orders. State ought to create a body at local level to deal the problem of gender discrimination in law in a participatory manner and make

³⁵ Article 24 is related to procedure and the relationship between CEDAW and national and international legislation and the obligation of States to take all steps necessary to implement CEDAW in full.

sure that women rights are essential to understand the legal progression by the state. Many countries organized their advisory bodies that promote an effective application of the law at national and international level and responsible for developing necessary skills in the field with an authority to explain the provisions in their laws.

Structural Reforms

Structural reforms are needed to develop an effective and reachable procedure. It can be achieved through changing the state institutions such as judiciary, government ministries and state institutions. When the problem will be understood and respected by the higher authorities and they will work to deal with it will also help to eradicate the stigma and penalties attach to it.

Role of Civil Society

Civil society should also play its role to support the reform in the discriminatory law by campaigning for reforms and advocacy to remove discrimination in the nationality law. Civil society should also raise the issue and its impact at national and international level through collaboration with the worldwide campaign for the rights of nationality and the organizations in work on the issue. and with the worldwide campaign for equal nationality rights. Civil society should also work with the government to reform the law and to make sure the equal access to nationality without gender discrimination by highlighting the positive social impacts of reformed nationality laws from other countries.

References

- Alston, M. "Women, Political Struggles and Gender Equality in South Asia." Palgrave Macmillan, 2014.
- Agboatwalla, M. "Women's development in Pakistan: issues and challenges," 2000.
- Alcoff, L. "Cultural Feminism versus Poststructuralism: The Identity Crisis in Feminist Theory." *Signs Journal of Women in Culture and Society*, 13, 1988: 405-436.
- Banda, F. Project on a Mechanism to Address Laws That Discriminate Against Women. Office of the High Commissioner for Human Rights –Women's Rights and Gender Unit, 2008.
- Billet L. B. "Cultural Relativism in the Face of the West: The Plight of Women and Female Children." New York : Palgrave Macmillan, 2007.

- Badawi, J. "Gender Equity in Islam: Basic Principles". American Trust Publications, 1995.
- Creswell, W.J. "Qualitative research designs: Selection and implementation." *The counseling psychologist*, 35(2), 2007: 236-264.
- Crisp, M. The plight of refugees and immigrants in developing countries, *social science review*, 144(6), 2019.
- Emerton, R. & Adams, K. ed., "International Women's Rights Cases". Routledge-Cavendish, 2016.
- Farhat, S. Nazir. "Citizenship Laws of Pakistan: A Critical Review". *Policy Perspectives*, 16(2), 2019: 59-85.
- Gillian, Umer. 'Afghan Refugees', oct 27, 2016. Retrieved September 2019, from The news : <https://www.thenews.com.pk/print/160207-Afghan-refugees>
- Ghufran, N. "The Politics of Repatriation: A case study of Afghan Refugees, 2004". Repatriation from Pakistan 1999-2003. Doctoral Dissertation, University of Peshawar, 2004
- Jamal, S. *Pakistan extends stay of Afghan refugees*. June 28, 2019. Retrieved July 14, 2020, from gulfnews: <https://gulfnews.com/world/asia/pakistan/pakistan-extends-stay-of-afghan-refugees-1.64901634#:~:text=One%20of%20the%20world's%20largest,statistics%20by%20UN%20refugee%20agency.>
- Khan, A. *Afghan refugee repatriation threatens to tear marriages apart*, August 26, 2016. Retrieved September 07, 2020, from <http://www.newslens.pk/afghan-refugee-repatriation-threaten-to-tear-marriages-apart/>
- Malik, S. Misbah. "*Afghan refugees get integrated into Pakistani society with fading memories of homeland*, 2018"
- Nazir, F. "Report on Citizenship Law: Pakistan". Edinburgh: Edinburgh University Law School, 2016.
- Oakley, A. "*Sex, Gender and Society*." London: Temple Smith, 1972.
- Peters, J. S. & Wolper, A., ed., "Women's Rights, Human Rights: International Feminist Perspectives." New york: Routledge, 1995.
- Call for justice: Pakistani women married to Afghan men protest, *The express tribune* September 6, 2016. Retrieved July 14, 2020, from The Express Tribune: <https://tribune.com.pk/story/1176645/call-justice-pakistani-women-married-afghan-men-protest>

Toorzai, A. له چې ردوي حقونه ميرمنو هغو د پاکستان ولي: څخه پاکستان د سره اوبنکو د. کوي واده سره کډوالو افغان [trans: From Pakistan with Tears: Why Pakistan Denies the Rights to Pakistani Women married to Afghan refugees] Thesis, University of Kabul, Faculty of journalism, 2017.

UNHCR. Refugee Data Base, June, 2020. Retrieved July 14, 2020, from UNHCR : <https://data2.unhcr.org/en/country/pak>