

Citizenship and Gender Equality in Pakistan: A Constitutional and International Law Perspective

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Abstract: *The research presented herein critically examines gender-based disparities embedded within Pakistan's citizenship laws, with particular attention paid to Section 10 of the Pakistan Citizenship Act, 1951. Although the Constitution of Pakistan and its international legal commitments underscore equality, the legislative framework permits foreign wives of Pakistani men to acquire citizenship, yet it denies the same entitlement to foreign husbands of Pakistani women. Through a multifaceted exploration grounded in historical, legal, and international perspectives, the study unpacks the complexities that surround this gender-specific legal inconsistency. In highlighting this imbalance, especially as it persists in Section 10, the analysis identifies clear evidence of ongoing legal discrimination that warrants comprehensive evaluation and reform. By offering insights into the barriers imposed by current legal provisions, the research adds to the growing discourse on gender equity and human rights. Its conclusions are intended to support not only scholarly understanding but also to assist policymakers, legal professionals, and academics in aligning domestic law with international human rights norms—thereby advancing gender justice and the protection of core citizenship rights.*

Keywords: Citizenship, Constitutional Law, Gender Equality, Human Rights, Legal Reform, Pakistan,

Introduction

This research explores the historical evolution of citizenship and gender equality, tracing their development through philosophical, legal, and constitutional lenses. It examines classical and modern theories, human rights frameworks, and constitutional provisions in Pakistan, with a focus on gender-based disparities and legal reforms needed for equality. International conventions and landmark case laws are also reviewed to highlight Pakistan's obligations and challenges in achieving gender parity in citizenship rights.

Historical Perspectives on Citizenship and Gender Equality:

The notion of citizenship which originated in ancient Greece and Rome was a formal official status of membership in legal and political institutions associated with specific rights and certain obligations. However, the concept of citizenship evolved in the era of the Renaissance and was reformed during the time of the French Revolution (Black, 2016). In consensus, citizenship is the notion of privileges,

responsibilities, and promotion of civic equality, despite the difference of opinion surrounding the concept of citizenship (Heater, 2002). The following; explores the evolution of the complex concept of citizenship and its contemporary manifestation.

Two Classic Perspectives and Gender Biases:

Aristotle's *Politics* that has been written between 323 and 335 BC shows the importance of citizenship in a political society. He was of the view that only a few selected who meet the criteria like being head of the family, having a family lineage, being only male, and overseeing slave labor get the privileges of getting a-citizenship

According to Aristotle, in the democratic city-state of Athens which was a mixture of monarchical and aristocratic elements, citizenship was much more comprehensive with short-term political careers. Similarly, Sparta's only focused on the military and public services (Miller, 1997).

The Greek model of citizenship that finally led to democracy was not always the same. The privileged minorities faced a lot of tensions and executions in influencing the government. Nevertheless, the critics argue that the same was corrupt, oppressive, and linked with civic participation only (Minogue, 2000).

The Greeks city-states concept highly influenced the Empirical Rome so the concept of the two was almost the same. The Empirical Rome however allows people to maintain their local governance by giving them citizenship to the conquered population. Furthermore, they even originated the concept of dual citizenship by the name of "civitas sine suffragio" allowing private interest protection but the same had its advantages and disadvantages (Wasson & Cartwright, 2024).

Citizenship in the Paths of Liberalism and Realism:

Studies evident the conflicts between the religious and secular authorities during the evolution phase of republicanism and liberalism of the citizenship in the middle age. Conflicts between religion and secular communities' significantly shaped political thoughts during that age, leading to concept of separation of these both in the matters pertain to state. The integrates political, democratic, legal, and imperial perspective on citizenship, adopting the specific context of religion and secular conflict and city-state conflicts highlights the Emperor Louis of Bavaria's legal sovereignty worked as a foundation in shaping citizenship concept. Similarly the Machiavelli and Hobbes introduced citizenship concept based on the secular perspectives and popular sovereignty by introducing two classic concepts. Machiavelli acknowledged the role of law in safeguarding citizenship rights, arguing that true liberty is only achievable through republicanism. Hobbes on the other hand was of the view of mutual consent of the people and relinquishing sovereignty power to rulers (Carnichael, 2023)

The Roman experience emphasized the need for restraint of individual interest, leading to the establishment of a republic, argued by Hobbes and Machiavelli. Neo-Roman reject the Aristotelian concept of self-mastery and promoting equality sort of liberty concept priorities the balance between the public and private interest. Connection between liberty and political citizenship concepts are defended by them (Gardner, 2021).

In the transaction from a natural to a civic state as a social contract with self-defense, individual's needs to surrender their rights to establish an absolute sovereign to maintain social order and peace, argued by Hobbes (Gardner, 2021).

International law has been significantly influenced by the natural law particularly inhuman rights law and global citizenship. States and authorities are accountable to the act of constitution thus aligning with the liberal defense of the constitutional state. Critics argue that promoting self-ownership and commerce may lead to inequality in the society but may also promote economic growth and individual liberty, advocating for republicans social contract (Critchley, 2014).

Balancing Legal Citizenship and Republicans:

French and American Revolution in 1776 and 1789 devoted modern republican thoughts, constitution as an agreement among peoples. American constitution on the one hand represent nation while on the other the French declaration asserts sovereignty. Tensions between the republicans and legal citizenship are faced by the liberal democratic regimes in 19th and 20th century. Marshall 1950's view of social rights as key to citizenship has been challenged by the economic downturns, new right advocates questioning welfare as fundamental rights; hence the nation-state emerged as a pragmatic alternative, influenced by the state-building, commercial societies, and class conflicts. Sovereignty is deemed to be unjust where the popular sovereignty becomes tyranny without protecting minority's rights, argued by the critics (Critchley, 2014).

Interplay between Citizenship and Human rights:

In social and political theories rights to nationality is a vital concept, ensuring identity and protection. Rights those are essential for promoting social justice, and better governance comes with the recognition of citizenship status. Human rights such as life, residence, equality before law, etc are unchangeable and based on merely being as human protect human freedoms. Individualism and constitution of law in the new world order may be traced back to its origin in the French Revolution and Declaration of Human and Citizenship Rights in 70's. Furthermore, the United Nations declaration furnished those anonymously declared rights. Within a state, citizenship is a critical concept that recognizes human and fundamental rights within those state thus fundamental rights within the human rights is due to the reflection of recognizing the right to nationality or citizenship (Bellamy, 2008).

Nature of Citizenship Rights:

Citizenship is collection of freedoms that peoples of a society can enjoy while citizen is someone who understand and defends their private and social rights and is familiar with the law, applies it, actively engaged in the affairs of that society. This legal concept pertains to individuals, reflecting social interactions, certain rights, and responsibilities. In safeguarding individual and social/communities interest, citizenships comes with certain obligations, and duties, ensuring that one's freedom does not infringe right of other in balancing the societal order.

As citizen of a state or country, certain rights and duties are entitled with the title. These rights are recognize with in the human rights declarations and conventions, providing context of personal rights within the society. Law is crucial in safeguarding individual's rights, freedoms, and self-discipline. The law aims to address authoritarianism and promote social justice by recognizing citizenship right and to empower them to determine their destiny. These rights simply evolved from a strict order to a tool for freedom, grounded in rights, and moral self-discipline (Bellamy, 2008).

Distinguishing Human Rights and Citizenship Right:

Human rights are universally recognize rights that belongs to every individual being as member of global society, allowing them to enjoy those rights globally while on the other hand citizenship right is specific entitlement, declared as a human right under UN Declaration but not as universal right which could not be exercise around the globe and is restricted and specified to particular state. These both rights are based on the same principle and declared similarly nut citizenship right is often obstruct and ambiguous. Human rights emphasis all human beings in all societies while in contrast, citizenship right specifically address individual within the borders of the state (Katozian, 2007, p.381).

Determining Relation of Human Rights and Citizenship:

The relation of citizenship right and human rights may only be understood by looking into the history, and foundational concepts of these two. Human rights concepts, aims to secure an individual societal destiny, participation in a political society is crucial for achieving goals, and is important for human

development and a just society. They are derived from moral values and conventional practices based on state's responsibilities with individual as a claimant. Citizenship however support individual against the state but promoting balance of power. Such inalienable rights protect human existence against any injustice. Civic-political rights connect human rights and citizenship right, supporting, securing individual's wellbeing and prepare them for active participation in the society (Von Rutte, 2022).

Modern Citizenship and Relation of State and People:

Modern citizenship rights involve a mutually beneficial relationship between citizens and the state, rather than solely relying on the state authority. These relations allow citizens to participate in the matters where previously they had no right to participate or intervene. This modern concept shapes the relation of government with citizens to protect their rights and freedoms. Government acts as an arbitrator between these two, to make a just society and for their development. The state has to provide certain rights and freedoms but in some situations the state also provides limits on those freedoms and dependence. Liberal perspective of the citizenship is that it's an inherited human right while on the other hand the socialist are in the view that it only comes with the participation and belonging with a specific society. Furthermore, the welfare state concept priorities social welfare and security. In a nutshell, citizenship rights aims for social justice, and order, which is sometimes impossible to acquire at a time so the constitutional recognition and approvals of those rights further strengthen them. Thereby rights means guaranteed by ancestors and hidden in human nature (Voinea et al., 2022).

Gender Biasness in History of Citizenship:

Gender biasness may be traced back to ancient Greece and Rome. In the start citizenship established membership in political and other legal institutions, overtime evolve in the French and American Revolutions but it was not always the same. In the old classic concept of citizenship only few selected are privileged to get citizenship excluding women, children, immigrants, enslaves etc. Similarly, the Athens citizenship criteria were also tied to gender, race, and class, only male adults meeting the qualifications were to be allowed likewise the case of the extend and rights associated with citizenship were the same. In short women were relegated to subordinate roles and denied political participation within the state (Bellamy, 2015).

Citizenship was patriarchal in the imperial Rome too where citizenship were only to be allowed to some selected male free members fulfilling certain criteria moreover the transfer of citizenship were also restrained to only male free born members. Citizenship, throughout history has been marked with the disparity not only based on sex/gender but status, color, and class too. The modern era has been struggling with the elimination of discriminations but despite some international principles, norms and conventions our society still slow in this shift. However, gender bias persists; require institutional and individual efforts, legal reforms, policy interventions and cultural shift to curb discrimination (Burkett, 2024).

Constitutional Framework of Pakistan: Gender Perspective:

The constitutional framework of Islamic Republic of Pakistan serves as a foundation to the legal system of the country. It is a crucial legal system of utmost importance which governs the rights, governance, and social norms within the territory. It address gender-equality and promotes for equitable and a just society, however, to understand the true essence of this framework, it's important to look and analysis its history through gender perspective (Ali et al., 2023).

This part of the paper embarks on the detail examination of its historical contexts, including colonial rule, post independence struggles, and societal norms. This part will shed light on how constitution addresses issues pertaining to gender discrimination and women's rights. The historic emphasizing will provide insight into how gender perspective was incorporated, developed, relying on the groundwork.

Early Constitutional Framework:

Pakistan draft and constituted its first constitution after almost 10 years of its independence in 1956. The first own drafted constitution of Pakistan guaranteed fundamental rights to all citizens, including women but it contain limited contribution/provisions on gender equality. The 1956 constitution of Pakistan did not explicitly prohibit discrimination based on sex or equality of all citizens in every span of the society. It also did not provide any specific protection for women and their rights (Hameed, 2023).

The 1962 constitution of Pakistan however shows a reflection of shift towards Islamic principles and introduced significant changes, like separation of the electorate, moreover it recognize women role in public affairs and within the family (Talib, 2023).

Later Constitutional Framework: Landmark Shift toward Equality:

Pakistan's constitution, since its independence in 1947 undergoes significant changes, reflecting evolutionary perspective of gender-equality. 1973 constitution of Islamic Republic of Pakistan, by understanding, considering the patriarchal approach and women standing in the society, introduced progressive provisions to ensure women's protection, and gender equality. Through its long list of provisions of fundamental rights implacable to all of its citizens without any discrimination, in addition to the provisions that are designed and constituted to protect women's rights. Thus, 1973 constitution of the Islamic Republic of Pakistan marked as significant turning point in the country's approach towards equality, ensuring women equal status in the society (Bajoria, 2010).

The provisions that are set for promotion of the equality, elimination of discrimination, and protection of women's rights provides: equality before law, protection of families and marriage, protection of rights of women and children, and elimination of discrimination.

Examination of Key Articles Pertaining to Gender Equality and Rights of Citizens:

The 1973 constitution contains certain provisions that promote gender equality and advocate for a just society. Article 25 of the constitution, guarantee equality before law, equal treatment, prohibition of any discrimination, and protection for women's rights. It's essential for promotion and advancement of social justice and eradication of pre-judice. Similarly, Article 35 lay down duty of state for protecting family and guard fundamental social institution such as mother, child, and marriage, thereby providing security to social life. Article 3 furthermore mandates state toward social justice and eradication of injustice. Furthermore this provision strengthens the concept of sanctity of fundamental rights. Article 2A empower the court curb any discrimination in any law or provision of law which is against the Islamic principles or fundamental rights, thereby promoting a just social state (Constitution of Islamic Republic of Pakistan, 1973).

Article 25 of 1973 Constitution of the Islamic Republic of Pakistan:

When it comes to equality of citizens, article 25 of the constitution advocates for social justice. It foster diversity and social cohesiveness, considering the worth of human rights and dignity, by prohibiting discrimination on the base of sex, caste, race, and religion, thereby giving equal rights to every citizen. Furthermore it seeks to remove/curb barriers that exist in the past and develop a formal equality.

“Article 25 of the Islamic Republic of Pakistan states: (1) all citizens are equal before law and are entitled to equal protection of law. (2) There shall be no discrimination on the basis of sex. (3) Nothing in this Article shall prevent the state from making any special provision for the protection of women and children.”

Subtractive equality is the key goal of notion of equality, which aims to eliminate past obstacles, and create an equal environment where there is no disparity on any basis and everyone is dealt the same. Equality of all citizens, no discrimination on basis of sex, and furthermore strengthening and protecting

women's rights are the ideas that are embodied in this provision of law (Constitution of Islamic Republic of Pakistan, 1973).

Background of Article 25:

Article 25 got its start after with constituting the 1973 constitution after the war of independence. For the creation of a democratic and just society the law makers understood the need and importance of equality of all citizens. Furthermore, the Judiciary had played its role in the development and interpretation of this provision on several occasions over the years to bring it in compliance with the evolving societal needs and norms. The modifications reinforced the protection of equal rights which have also broadened the definition and scope of article 25 by including other discrimination in the same. The protection of equal rights has been reinforced in Pakistan by those processes (Amanullah, 2023).

Scope and Applicability:

The assurance of equality before law and elimination of discriminations is a crucial concept in modern world that is emphasized by the article 25 of the constitution. Its guarantee that peoples in any sector of the society especially in public shall not be subjected to any discrimination in any terms. All citizens of Pakistan are covered under this provision of law without any discrimination, equal protection of law is ensured, and discrimination is forbidden in all sectors. It goes for more beyond the border of public sectors and requires both state's and non-state's actors to guarantee equal treatment. Furthermore this provision of law also protects every citizen of the state against any discrimination by any mean, giving the ability to people to challenge any law, provision of law, and practice of any kind that goes against the guarantees embodied in this provision (1993 SCMR 1718).

This provision is of utmost importance for a number of reasons, as these provisions not only treated every single person/citizen of the state under this law but also protects and guard the same right in any other law embodied or to be enacted in the future. This provision of law empowers the peoples/citizens to challenge any law, practice of law that by any mean discriminate them by any means. Furthermore, the patriarchal approach has not only been eliminated with the enactment of this provision but it has also empowered the state actors and non-state actors to create any law, develop any practice that could protect the women's rights (Amanullah, 2023).

Article 35 of 1973 Constitution of the Islamic Republic of Pakistan:

Pakistan is ruled under the 1973 constitution. Article 35, "protection of family," establishes the state's obligation to protect essential social structures, including families, marriages, mothers, and children. The generalities of its provision and scope are elaborated upon in this Article.

"The Article 35 states; The State shall protect the marriage, the family, the mother and the child."

Overview of Article 35 of the 1973 Constitution of the Islamic Republic of Pakistan:

Article 35 of the constitution emphasizes the importance of families as social pillar by requiring the state to protect institutions like marriage, families, children, and mothers. State's dedication to maintaining family stability through social and legal measures is emphasized in this Article (Amanullah, 2023).

Furthermore, this Article focuses on special protections for women, children, marriage, and family. The state is required to uphold marriage as social and legal institution, support families, assist mothers, guarantee children's rights, and provides laws that provide legal protections to these in listed. This provision also highlights the necessity for state to enact laws to preserve these significant facets of society and the part that government action plays in preserving the stability and well-being of families (Constitution of Islamic Republic of Pakistan, 1973).

Article 3 of the 1973 Constitution of the Islamic Republic of Pakistan:

Although equality is recognized as a basic right the constitution as according to international principles, it is only applicable in welfare states.

“Article 3 stated; The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle, from each according to his ability to each according to his work.”

It states that the state shall gradually implement the basic deal of equitable treatment for all peoples and end all types of exploitation. This provision upholds an egalitarian society in which the distribution of resources and wealth is determined by the contribution of each individual. It also shows the state’s commitment to social justice by elimination of all kind of exploitation in dealing any matter in hand (Constitution of Islamic Republic of Pakistan, 1973).

Scope of Article 3:

Importantly, Article 3 of the constitution states that state must end all types of exploitation political, social, and economic, to guarantee that all people are treated equally and to stop discrimination and exploitation. This provision, which guarantees equitable resources allocation and income distribution based on individual contributions, is crucial for furthering social justice and ending national exploitation. It is duty of the state to defend the rights and interest of its people, shielding them from prejudice and exploitation. Nonetheless, the state frequently violates Article 3 provisions by assigning responsibilities to affluent people who then take advantage of the laborers, farmers, and the underprivileged. Legislation to protect individuals who engage in exploitation is still being passed, which emphasizes the need for a more equitable strategy for social advancement. All things considered, Article 3 of the constitution is crucial for advancing social justice and guaranteeing a more just and equal society (Amanullah, 2023).

Explanation of Article 3:

The goal of the state as per this provision of the constitution to end all types of exploitation and advance equality based on ability. In order to stop prejudice and exploitation, it will forbid political, social, economic exploitation and protect citizen’s rights as it is the responsibility of the state under this provision to prevent them from victimization in any manner.

Furthermore, it seeks to uphold social fairness and outlaw exploitation. It also give instruction to the government to establish an egalitarian society and require the state to uphold the rights and interests of its citizens, put an end to all types of exploitations, and guarantee that everyone is treated equally, regardless of their status in order to achieve social justice and end exploitation in Pakistan (Amanullah, 2023).

Article 2-A of 1973 Constitution of the Islamic Republic of Pakistan:

The 1973 constitution of Pakistan has been debated since the Objectives Resolution of 1949 become integral part of it. This provision of law require the Courts to enforce the existing laws in line with the Islamic rites and principle by making the Quran and Sunnah the highest law of the state (P.L.D. 2000, S.C. 225).

Objectives & Goals:

The Objectives Resolution in the constitution amended in 1949 to address perturb about minority rights. Within the Resolution principles the term “freely” in the Annex were amended with aim to enforce Quran and Sunnah. Article 2A of the constitution highlight the formation of a just and equal society by mandating Muslims to live in accordance with the teaching of Islam. Furthermore, for the protection of minorities, political justice, equality, and social justice, this provision provide adequate to provide equal opportunity and eliminate discrimination (Constitution of Islamic Republic of Pakistan, 1973).

Legal Interpretation:

Since 1985, this provision of law, objective resolution being part of the constitution has been subjected to judicial interpretation. In the eighteenth amendment the objective resolution has been made the substantive part of the Constitution through Article 2A. The supreme court of Pakistan is of the view that this provision of the constitution balances the Objectives Resolution's with other provisions, highlighting the dilemma of its supra-constitutional validity (P.L.D. 1973, S.C. 49).

Substantive part of the Constitution:

The court cannot invalidate the conflicting clauses however the constitution allows them to revoke and retract the legislation in violation of this provision. For the promotion of addressing public complaints and claims the judiciary must be organized, strong and independent. In the protection of rights of people and upholding the constitution the judiciary is the solely authorized institution for ensuring the rights and freedoms of individuals and groups (PLD 2022 SC 488).

Article 8 of 1973 Constitution of the Islamic Republic of Pakistan:

This Article of the constitution forms the obligations and rights of the state regarding the public order-related laws. This provision of law prohibits enacting laws that refute these rights and contravenes this clause. The Article 8 however does not apply to legislations relating to members of the Armed Forces or Civil Armed Forces. This Article states under;

“(1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void. (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void. (3) The provisions of this Article shall not apply to :- (a) any law relating to members of the Armed Forces, or of the police or of such other forces as are charged with the maintenance of public order, for the purpose of ensuring the proper discharge of their duties or the maintenance of discipline among them; or (b) any of the:- (i) laws specified in the First Schedule as in force immediately before the commencing day or as amended by any of the laws specified in that Schedule. (ii) other laws specified in Part I of the First Schedule; and no such law nor any provision thereof shall be void on the ground that such law or provision is inconsistent with, or repugnant to, any provision of this Chapter. (4) Notwithstanding anything contained in paragraph (b) of clause (3), within a period of two years from the commencing day, the appropriate Legislature shall bring the laws specified in [Part II of the First Schedule] into conformity with the rights conferred by this Chapter: Provided that the appropriate Legislature may by resolution extend the said period of two years by a period not exceeding six months.”

“Explanation: - If in respect of any law [Majlis-e-Shoora (Parliament)] is the appropriate Legislature, such resolution shall be a resolution of the National Assembly. (5) The rights conferred by this Chapter shall not be suspended except as expressly provided by the Constitution.”

This provision guarantees the fundamental rights by declaring any provision of law or law that violate or in contradiction to these rights including protection of life, liberty, and equality of all citizens, invalid (Constitution of Islamic Republic of Pakistan, 1973).

This provision of the constitution covers the prohibition of pre- and post-constitutional laws from infringing on a person's fundamental rights under the constitution, ensuring that laws of the state shall be in consistent with the principles outlined in the constitution.

Judicial Review and Article 8:

The principle set out in Article 8 of the constitution say that the courts can suspend and invalidate any law which infringes on the fundamental rights enshrine in the constitution. It is under the jurisdiction and authority of Court to check and look upon a law or provision of a law to interpret and to see if a

law happens to adhere to the rights under the constitution. A court can declare a law or provision of law unconstitutional, if the same is inconsistent with the fundamental rights that are provided by the constitution. Furthermore, this provision of law ensures that the legislature/laws remain within the Constitution's bounds and consistent with the principles so provided. Fundamental rights that are provided by the constitution are safeguard under this provision by preventing the enactment and enforcing of any law that can infringe on the rights provided by the constitution. The courts play the most important, vital, and significant role in protecting the fundamental rights so provided through the process of judicial reviews (Rizvi, 2021).

Challenges in Implementing Constitutional Guarantees:

The 1973 constitution of Islamic Republic of Pakistan specifies that all citizens of the state enjoy equal rights and protection of law but the ground reality is far different from the rights guaranteed under the constitution and the principles so drafted. Pakistan is too far in the run of true equality and protection of law as people are still prevented from using chairs due to fear of eviction in the social fabric of the country. Within the constitution, Articles 8 to 28 addresses every essential human right that Pakistani people are entitled to, but the stark reality is much different which exposes a continuous imbalance in the society. The disparity and discrepancy is evident in the Section 5 and 10 of the PCA, where the peoples not have only the fear of being exposed to be kicked out but also have an inferior status in the same society with the same rights under the same constitution. There has been a notable drain and imbalance in the social fabric and attitude of the state towards women despite the constitutional guarantees. The fact that peoples/citizens to be treated separately based on their sex seated by the society especially by legislation highlights the ongoing difficulties in the implementation of the rights and guarantees provided under the supreme law of the land. There has been a huge gap between the law and practice and constitution fails at this stage to provided same treatment and same rights without any disparity. This discrepancy shows the need of effort to be made to shorten the gap between the particle and law in the shape of rights that are promised to be protected by the state. A disparity like in the shape of PCA provisions raise questions on the constitutional framework and the power so conferred to the judiciary (Hamdani, 2023).

Gap in Law and Practice:

The constitution interpretational history of Pakistan has gone through a constant struggle due to the complex political arena of the state leading to numerous legal ambiguities and long-term litigations in regard of protecting and defending essential rights in the overreach of the executive. There has been a keen need of enlightening the censorships, discriminations and the limitations on law through a scholarly assessment of the same. Furthermore, in addition to the same, to specify the role of judiciary, its independence in dealing with the laws and provisions of law is also a challenging subject matter for the accountability. These elements aids to the ongoing struggle to maintain the supremacy of the law and build public confidence in the judicial system in Pakistan.

International Legal Obligations and Gender Equality:

As Pakistan is a party state to most of the international conventions and treaties, that way Pakistan is under an obligation to frame its policies, laws, and practices in lines with the gender- equality principles. Enactment of international conventions and treaties is a global attempt toward promoting gender-equality and empowering women to make a fair, just, and equal society. The basic and fundamental principles of international law protect the citizen's equality and the right to a nationality.

Universal Declaration of Human Rights:

Any debate atop the acknowledgment of the right to nationality as a fundamental human right under modern human rights law begins with the Article 15 of the UDHR. This Article states that:

“Every person has the right to citizenship. No one shall be arbitrarily deprived of his nationality nor

denied the right to change his nationality.”

Scope of Article 15 of UDHR:

Article 15 of UDHR guarantees the right to nationality as a fundamental right. Its provision of UDHR is divided into three parts: part 1 of the Article 15 of UDHR ensures generally “the right to nationality”, while part 2 of the same prohibits “the denial of nationality without cause”, similarly part 3 allows and grant “the right to alter one's nationality”. This is the framework and international principles that codify the right to have a nationality.

In this provision of the UDHR the deprivation from nationality and denial to access to nationality in 15(2) are prohibited literally. But still, this provision of UDHR does not specify the circumstances where one could be deemed arbitrary. Deprivation processes must adhere to basic standards for both substance and procedure (De Filippi, 2018).

The freedom under Article 15(2) of UDHR to change nationality includes adopting a new nationality, is regarded as an essential privilege under international laws and principles. But still, this interpretation is overly stringed, as it should be interpreted as the right to give up one's citizenship upon acquiring a new one. Article 15 of the UDHR lacks clarity and definition ignoring the fundamental nationality however it forms the core concept of nationality notion at national and international level (Universal Declaration of Human Rights, 1948).

Convention on the Rights of the Child:

When it comes specifically to nationality and rights within the same, the second comes on the list is CRC. This Convention not only recognize right to nationality but also recognize certain other rights that comes with the same and that also form the core element and essential in getting a nationality. This Convention recognizes the right to nationality, right to register one's birth that further formed the base of getting a citizenship, similarly protection of identity. Articles 7 and 8 of the CRC, specifically deal with the issue under discussion by prohibiting discrimination based on nationality and focusing on the child's best interests (Convention on the Rights of the Child, 1989). These Articles are given under;

“Article 7; every child has the right to be registered at birth, to have a name and nationality, and, as far as possible, to know and be cared for by their parents. Article 8; every child has the right to an identity. Governments must respect and protect that right and prevent the child's name, nationality or family relationships from being changed unlawfully. Article 2; The Convention applies to every child without discrimination, whatever their ethnicity, sex, religion, language, abilities or any other status, whatever they think or say, whatever their family background.”

Scope of Article 2, 7, and 8 of the CRC

These provisions of CRC grants and guarantee right to an identity by providing right to nationality to children around the globe this ambit falls within the boundaries of the member states, even including children who are stateless or non-citizens, refugees, and undocumented immigrants. The rights enlisted by this Convention are allowed to exercised by all child without any discrimination on any base under its Article 2. Article 7 parts 3, ensures children's right of entitlement to a citizenship, while Article 7 in general, lay down the responsibilities and obligation of the nations to make sure the right of child by allowing them to acquire nationality. The goal behind this provision of the Convention is to bar statelessness and enforce party states to ensure that each child born with a nationality. The state parties must cooperate actively to make sure that every kid can exercise their right to nationality. Furthermore, this provision also highlights the state of child by showing they are stateless through a statelessness determination procedure or by becoming a citizen of another nation only. Article 8 part 1 mandates party states to maintain and accomplish a child's nationality rights, including maintaining their identity, name, country, and familial relationships. When coupled with these provisions, the CRC clearly protects the right not to be denied one's nationality, going beyond Article 24 part 3 of the ICCPR (Von Rütte,

2022).

Convention on the Elimination of Discrimination Against Women:

The UNCEDAW that also known as “the Bill of Rights for Women”, have listed down party state’s responsibilities to protect and uphold human rights for half the world's population. Article 9 of the CEDAW stated under as;

“States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the wife's nationality, render her stateless or force upon her the husband's nationality. States Parties shall grant women equal rights with men concerning the nationality of their children.”

However, Article 9 of CEDAW does not grant nationality or put any obligation on the party state in assessing women in obtaining nationality. But still, it prohibits discrimination and disparity based on gender or sex in nationality acquiring and transfer, upholding the principle of equality rule (Convention on the Elimination of Discrimination Against Women, 1979).

Article 2, Prohibition of the Discrimination:

This Article of the Convention mandates party states to eliminate discrimination against women of all age by making such legislation and regulations that protect them and eradicate existing practices either based on a law or societal practices. Furthermore, it also requires party state to uphold and enshrine equality of male of all age and female of all age in country constitutions or other legislation (Convention on the Elimination of Discrimination Against Women, 1979, Art.2).

Convention on the Elimination of All Forms of Racial Discrimination (CERD)

The CERD prohibits unequal treatment based on race or nationality under the same legal framework. It protects the right to nationality and ensures that distinctions between citizens and non-citizens are not used to justify discrimination.

Article 2 obliges state parties to eliminate racial prejudice, avoid supporting discriminatory practices, and promote equality before law. It also permits temporary measures to uplift disadvantaged racial groups, provided such actions don’t create lasting inequalities (CERD, 1966, Art. 2).

Scope of CERD:

While CERD allows states to regulate citizenship, it discourages practices that bar non-citizens from acquiring nationality or accessing rights like healthcare, education, or employment. It calls on states to address discriminatory effects in cases of statelessness or succession (CERD, 1966).

Beijing Declaration and Platform for Action (BPFA), 1995

The BPFA, adopted at the Fourth World Conference on Women, is a key global framework for promoting gender equality. It affirms that women’s rights are human rights and urges equal participation of women in all sectors of life.

It encourages states to implement gender-sensitive laws, report progress, and dismantle systemic barriers through legal and institutional reforms. The BPFA has guided policy shifts worldwide and mobilized governments and civil society toward gender justice (Beijing Declaration, 1995).

Analysis of Compliance with International Legal Standards

Gender inequality remains a significant global concern, affecting human rights, development, and public health. In Pakistan, deeply rooted patriarchal norms complicate the implementation of international frameworks like CEDAW and the BPFA. Despite constitutional commitments and legal reforms, challenges persist in aligning national laws with global standards. While Pakistan has shown

progress through policy changes and anti-discrimination measures, the need for effective implementation remains critical (Tazeem, 2015).

Gender-based violence, especially against women and girls, highlights the urgency of these reforms. The country must enforce existing laws and promote intersectoral collaboration to fulfill obligations under international conventions. According to Article 15 of the UDHR, the right to nationality is fundamental, and arbitrary denial is prohibited. The CRC reinforces the child's right to a name, nationality, and legal identity, urging states to prevent statelessness. CEDAW guarantees equal nationality rights for women, prohibiting gender-based discrimination in legal status changes due to marriage. The CERD, meanwhile, mandates the removal of racial barriers in nationality matters and supports inclusive, non-discriminatory policies.

Together, these instruments underline Pakistan's responsibility to ensure equality in citizenship rights. Effective compliance depends not only on legal reforms but also on the political will and institutional capacity to implement them (Ali & Syed, 2017).

Case Laws towards Equality in Citizenship:

The denial of Pakistani citizenship to foreign husbands of Pakistani women under Section 10(2) of the Pakistan Citizenship Act (PCA) reflects a clear gender-based disparity. Unlike foreign women married to Pakistani men, alien males cannot claim citizenship or invoke constitutional jurisdiction, as held in *PLD 2016 Lahore 857*. While the Constitution ensures equality before law, *2013 SCMR 1687* clarified that equal treatment may not apply identically in every circumstance.

Nevertheless, *1993 SCMR 1718* reaffirmed that no citizen should face discriminatory treatment, and Article 25 allows legal challenges to any law violating constitutional protections. In *Mst. Rukhsana Bibi v. Government of Pakistan*, the court recognized a Pakistani woman's right to seek equal treatment for her foreign husband, reinforcing the principle of non-discrimination under Article 25.

The *Federal Shariat Court* in *PLD 2008 FSC 1* also declared Section 10(2) discriminatory and urged legislative reform. However, the government appealed the decision rather than amending the law. More recently, *Writ Petition No. 1536-P/2023* argued that the provision violates Articles 2-A and 25 and contradicts international gender equality obligations. The Peshawar High Court noted the state's failure to rectify this legal disparity.

Despite judicial recognition of the issue, appeals remain pending and reforms are stalled. Legal uncertainties persist regarding inheritance, property rights, and spousal status for Pakistani women married to foreign nationals—leaving fundamental questions about equality unresolved.

Conclusion:

This research highlights the intricate relationship between citizenship, gender equality, and legal frameworks at both national and international levels. While the constitutional provisions of Pakistan, particularly Articles 2-A, 3, 8, 25, and 35, aim to promote equality and eliminate discrimination, significant challenges are still in their practical implementation—especially in addressing gender-specific disparities such as those found in Section 10(2) of the Pakistan Citizenship Act. The gap between constitutional guarantees and real-life practices underscores the need for meaningful legal reforms, policy enforcement, and alignment with international obligations under instruments like the UDHR, CRC, CEDAW, and CERD. Addressing these issues is essential to build an equitable society where citizenship rights are protected regardless of gender.

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