

Research Paper

Gender and Politics of Exclusion: Permanent Resident Disqualification Bill in Jammu and Kashmir

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This paper analyses the process of gender-based exclusion whereby the women of Jammu and Kashmir (J&K) state face several forms of inequalities and injustice as a result of Permanent Resident Disqualification Bill that purports to deprive them on marrying to non-state subject of all kinds of rights. Since last few years, efforts have been made by some regional political parties of J&K to pass a Bill namely "Permanent Resident Disqualification Bill" (PRC Bill) which if passed, would exclude women married to non-state residents from their legal and fundamental rights of their identity, property and livelihood among other things. So this Bill in its content and intent is a serious cause of concern in a multi-cultural, multi-religious and multi-lingual state of J&K. This paper is an attempt to explore the issues of equality and gender justice and the whole politics of the state as it will deprive women of their citizenship, property, right to equality, freedom, life and personal liberty.

Statement of problem:

Jammu and Kashmir is the only state in India that enjoys special status under Article 370 of the India Constitution and grants its citizen several rights under its jurisdiction as 'state-subject'. The state-subject issued a special separate certificate that designate the 'state-subject' with special rights like: right to citizenship, right to inherit property and so on. The issue became controversial in 2002 when the State High Court gave the judgment that the state-subject certificate of female will not have on it 'Valid Till Marriage'. The underlying assumption was that in case she marries the state-subject, her certificate and citizenship would continue and if a woman marries a non state-subject she has to lose her status which also meant deprivation of all her rights. As the Bill introduced in 2004 and further introduced in 2010 intends to do the same, women will be deprived of their Fundamental Rights as well as of Human Rights.

In the state politics of Jammu and Kashmir (J&K) unlike in the other parts of the country, efforts are being made since last few years by the regional political parties and their leaders to pass the Bill known as 'Permanent Resident Disqualification Bill' which if passed would exclude women married to non-state subjects from their legal and fundamental rights. The hurriedness and eagerness shown for passing the Bill suggests a politics of exclusion that encapsulates several dimensions including gender. This research has attempted to understand the politics of exclusion in the context of Permanent Resident Disqualification Bill (PRC) in the state of Jammu and Kashmir.

The research looks in to the politics of exclusion, as it is understood that the supporters as well as the opponents of the Bill do not have 'women concern' as centre but their own political and personal agenda. The process has seen enemies becoming friends and standing together on the issue of PRC.

Exclusion is a complex and multidimensional concept having social, cultural, political and economic ramifications. These dimensions are interwoven and occur in various forms of exclusion that is built in hierarchical society whereby certain sections of people face discrimination, oppression and exploitation. Women in all the societies experience exclusion of various kinds that systematically block their

rights, opportunities and resources.

The present study "Gender and Politics of Exclusion through Permanent Resident Disqualification Bill in J&K" attempts to understand the social exclusion of women of J&K through PRC Bill. The objectives of the study are to highlight the gender discrimination perpetuated through Permanent Resident Disqualification Bill (PRC Bill), to analyze the extent of deprivation of women's legal and Fundamental Rights through the Bill, to explore the reasons and explanations of the people and representatives of the political parties regarding their support or opposition of the Bill and to examine the implications of the passage of the Bill on the society in general and on women in particular. The objectives were framed in a way to understand the kind of politics going on in the state which is ultimately leading to the exclusion of women.

Research Methodology:

Keeping in consideration the complexity and broadness of the study, a number of research methods have been applied. The Data is collected from both the primary and the secondary sources.

The secondary data is collected through various journals, books, newspaper, articles etc. The primary data have been collected through field work including structured interview and Open ended questionnaire methods. The structured interview method is used for representatives of the political parties of the state like: People's Democratic Party (PDP), Bhartiya Janta Party (BJP), National Conference (NC), Congress and National Panthers Party (NPP). This method is used for political representatives.

The other tool of data collection used in the research is Questionnaire. The questionnaire used in the research is open ended because it gives a chance to the respondents to express their views in a detailed way and they are free to give any additional information. It is used for Various academicians and intellectuals, Prominent lawyers of the state, Journalists or media persons, Social activist and feminists, Women of the state who are married to non-state subjects, Members of student's organization/Youth.

To realize the objectives, few of the questions asked to the respondents were:

Why do some political parties want to pass the Bill and other do not?

· What are the probable reasons for making such laws for women and not for the men of the state?

· What will be the fate of the property of those families who have a single daughter or who have only daughters and if they marry outside the state?

· How the identity of the 'daughter' of the state can be explained?

· What kind of anxiety is in the minds of the state regional political parties to pass such discriminatory Bill?

In the research, content analysis of the most popular circulated newspaper of the state "Daily Excelsior" been done. This method is used because the issue of PRC has been a debatable topic over the years in the state of J&K and is discussed in various sessions of State's Legislative Assembly and Council. The content analysis is done of the years when this issue was highlighted in 2002, 2004 and 2010. In October 2002, a landmark judgment was given by the State High Court in the favour of daughters of the state that they will not lose their identity if they marry non-state subjects. In August 2004, when Legislative Assembly passed a Bill to deny equal property and employment rights to women who choose to marry non-state subjects. In March 2010, the same Bill was moved by Abdul Rehman Veeri and Zulfikar Ali, both members of People's Democratic Party (PDP) in the Legislative Assembly and by its Member of Legislative Council (MLC) Murtaza Khan in the Legislative Council and on April 2, 2010, this Bill lapsed due to the absence of the Members of Legislative Assembly (MLAs) of People's Democratic Party and was also dropped in Legislative Council.

Sample: Young (1960)¹ argues that the most important consideration in selecting a sample is to see that it is closely representative of the universe. The size of the sample is no necessary insurance of its representativeness. Relatively small samples properly selected may be much more reliable than large samples poorly selected.

The total sample size is 50 consisting of different categories of respondents. Of total, 20 respondents are from political parties: People's Democratic Party (PDP), Bhartiya Janta Party (BJP), National Conference (NC), National Panthers Party (NPP) and Congress and 30 from different categories, selecting 5 from each. These are:

- Various academicians and intellectuals.
- Prominent lawyers of the state.
- Journalists or media persons.
- Social activist and feminists.
- Women of the state who are married to non-state subjects.
- Members of student's organization / Youth.

The Purposive sampling method has been used for sampling. The rationale behind this sampling procedure is to select such group of unit that will resembles universe and the samples chosen are those which are considered appropriate and had the characteristics required of the sample members, are thought to be relevant to the research topic. The purposive sampling method is chosen because here the universe is not known (the whole state of J&K). Interviews of the representatives of all the political parties of the state were done.

Literature Review:

Marshall (1950)² defines citizens as "full members" of a collective or community. Women have to generally struggle to be accepted as full members of a community or collectivity, starting from the domain of family to various other collectivities and the state.

Historically, women have been excluded from

power and decision making process, fostering ambivalence towards the issue of citizenship and national identity. Women's problematic relationship with the politics of exclusion of national identity struggle is epigrammatically expressed in Virginia Woolf's assertion 'I have no nation'. At a more pragmatic level, it is argued that Women, because they are excluded from 'politics' have less stake in the ideological or political positions on which conflicts thrives (Manchanda 2001)³.

After Independence, despite having a constitution, which embodies ideals like equity and equality, social justice could not be achieved so far. Even when India had a woman Prime Minister for quite a number of years, the situation of women at large did not change for the better. Women's participation in politics remained quite insignificant in India even after 59 years of self-rule (Nanda 2006)⁴.

The question of women's representation in politics in all over the world began to assume importance since 1975 when UN declared 1975 as the 'International Women's Year'. This was followed by the UN's decade for Women (1976-1985) with the theme "Equality, Development and Peace". In India, the question of women's participation in decision-making process got the attention of the committee for status of women in India (1974). It was the status report by the committee for status of women in India titled 'Towards Equality' (1974) which came as a shock to Indian women who realized that even after 27 years of independence, not only were they performing the traditional roles expected of them by men, but also had been characterized by illiteracy, poor health, marginalized employment, violence and had no role in the decision-making process in any spheres of life (Singla 2007)⁵.

Social Exclusion can be 'Constitutively a part of capability deprivation as well as instrumentally a cause of diverse capability failures' (Sen 2000)⁶.

Social exclusion describes a process by which certain groups are systematically disadvantaged because they are discriminated against on the basis of their ethnicity, race, religion, sexual orientation, caste, descent, gender, age, disability, HIV status, migrant status or where they live. Discrimination may be open, for example through laws and policies; or unofficial, such as through institutionalized discrimination reflecting social prejudices; or simply reflecting a lack of awareness of needs. (DFID 2005)⁷.

Over time, social exclusion has become conceptualized in many ways based on the relationships between poverty, deprivation and social exclusion. But, most of the literature defines and analyzes social exclusion through the multidimensional, relative, dynamic and accumulative aspects. It can be seen as a dynamic process, understood as a "spiral of precariousness" related to a broad range of aspects of deprivation, and also as a chronic deprivation state or "chronic cumulative disadvantage". Social exclusion has been approached in relation to the concepts of capabilities, functionings (Sen 2000)⁸ and employability. Social exclusion is also seen as a breakdown or malfunctioning of the major social systems that should guarantee full citizenship or as a common outcome of a varied pattern of social disadvantages, leading to a state of income poverty and deprivation.

Gender and Social Exclusion in India

Social exclusion and inclusion remain issues of Fundamental importance to democracy. Both exclusion and inclusion relate to the access to the participation in the public realm, public goods and services for certain groups of people

who are minorities, marginalized and deprived.

Who are we? We are deprived of our identity and we are lost (Chorus of voices, 1998)⁹. Social exclusion in India remains the grave challenge to India democracy and development. Communal clashes, ethnic riots, political secessionist movements and extremist violence takes place almost routinely and are outward manifestation of the entrenched culture of social exclusion in India. In India, exclusion takes on many bases but the major among them are Caste, Class and Gender.

Exclusion on the basis of gender is a common and long time practice in India owing to the particular sex. So, Women in India are excluded many spheres. Decision making is one such field from which women are excluded to a greater extent from men. They are not considered as important in the process of decision making and taking. They are regarded as unproductive category and are kept confined to only household tasks.

Women in India are also excluded from education. There was a period when education was considered as men's cup of tea and women were entirely kept far from it. It was a common belief that a woman has to perform traditional household tasks therefore; educating her was regarded as wastage of resources and energy. The complexity and the ambiguity of the women's struggle are evident in the arena of education. Education and Law were seen as the key factors in the social reform campaigns against child marriage, and those in support of widow remarriage and the abolition of sati. Everyone seems to agree that education was at the centre of women's emancipation, but this education was envisioned in Brahminical and elitist terms to enhance women's ability to serve the family and the nation more effectively (Krishna, 2007)¹⁰. Even today, deep inside many rural areas, women are excluded from attaining education.

Women are also discriminated in economic spheres. In many spheres, their entry is restricted and only men are allowed like: Army (Infantry), Navy, in many others. She is also a victim of unequal wages. She works like her men counterparts but is not paid equal amount of wages which again leads to their exclusion.

In the post independent period, the concern for women evolved through three phases: welfare, development and empowerment. Under the welfarist approach, the focus was on providing primary health care facilities like: maternity and nutrition but in 6th Five Year Plan, (1980-85), there was a shift from welfare to development as 6th plan has a full chapter on 'Women and Development' (WAD). And then the focus was laid on the question of empowerment. A number of acts have been enacted to provide for empowerment of women. Empowerment does not mean economic and political power; it is also a matter of change of values. Various strategies have been devised to change the culture of gender hierarchy which still has considerable hold over the common man (Sociological Bulletin, Vol.49, No. 1, March 2000)¹¹.

Causes of Social Exclusion of women

There are many causes of social exclusion of women from development. Some of them are discussed as below:

1.Culture/Patriarchy: Culture supported by Patriarchy is one of the major causes of social exclusion of women in most of the societies. Culturally a woman is known to be inferior to a man. Culturally, a woman leaves her home to join the home of the man for marriage.

Choice of a marriage partner is made by elders and relatives where a woman has no say at the home; all powers are left in the hands of men. . At the husband's home, she still

doesn't own property but is instead looked at as property herself. As a result society continues to look at a girl child as less valuable compared to a boy child. This form of Exclusion continues even when the girl gets married and the vicious cycle of exclusion continues (Mategeko,2010)¹².

2.Class: According to Engels ([1884] 1972), the cause of women's inferior status is class society and the forms of family organization it produces; once class society is abolished and the state withers away, the patriarchal family will also disappear. Engels blame capitalism for the current separation of the place of reproductive work, that is, the family home, from that of productive work that is factory, which has made women's participation in social production more difficult and limited. According to Engels, capitalists want to keep women reproducing the labor force without pay, while serving as a cheap reserve army of labor. His program for full equality for women was their full participation in social production (Mategeko,2010)¹³.

1.Religion: Religions influence and reflect cultural beliefs and practices. The three major monotheistic religions – Christianity, Judaism, and Islam are deeply patriarchal in their teachings. Indeed, the formerly powerful doctrine of separate spheres had its roots in religious teachings. Within Judaism, Islam and Christianity, however, there is wide variation in the content and interpretations of teachings regarding gender and in the ways in which they limit or shape religious practice depending on one's sex.

2. Illiteracy: Women's education is looked at as wastage of resources on the parent's side. As a result, many women have not gone to school, and those who dropped out have found it hard to upper grade due to this form of social exclusion.

3.Dependency on agriculture: Excessive Dependency on agriculture is also responsible for their exclusion. It has left rural women in a state of poverty. This is why Dr. Burton Singer of Yale University School of Medicine says, If you want to improve, the health status in underdeveloped lands, you cannot do it without transforming agriculture and economic development "(Burkey 1993)¹⁴. He further says, Chinese men have to carry the burden to three mountains: oppressions from outside, feudal oppressions, the burden of their own backwardness. But Chinese women are burdened by four mountains: the fourth one being the Chinese man" (Mao Tse-Tung). The woman suffers other exclusions and in addition she suffers with husband's exclusions and disregard. Social exclusion of women from development is manifested in feminized poverty. This is still a real issue which needs critical attention by all the governments.

4.Economic dependency on husbands and their families: It is also one of the major causes of their exclusion. Since women in majority are dependent on their husband's income therefore they are treated as less important and less significant. Hence there is a normal tendency of husbands to exclude their wives from decision making and taking.

5.Less Political participation: Less participation in political activities is also responsible for their exclusion. It is a fact that very few nations have a good number of women representatives. And this is the reason due to which women are being excluded from framing policies and are not included in other political activities.

Many steps have been taken for the Social inclusion of women in the development of the country as a whole. The government of India is making many policies for the gender mainstreaming and major is policy of inclusion like: Free education to girl child, Political reservation through 73rd and

74th Constitutional Amendment, Domestic Violence Act 2005, Strict laws and punishments for female infanticide, Reservation for women in jobs and education to make them economically independent and so on. But despite all these policies, women in India are not being properly included in the process of development.

And in the state of J&K, the situation is rather worst. The policies which are framed by government of India are not implemented in the state due to Article 370 (special status). whereas instead of social inclusion of women, the state of J&K is adopting and preaching a gender biased approach. The State of J&K is trying to exclude women from the state and glaring example of this type of exclusion is Permanent Resident Disqualification Bill (PRC Bill).

Women Disqualification Bill (PRC Bill) and Politics of exclusion women of J&K

The starting point in the argument in support of the Bill was the state subject law that Maharaja Hari Singh had promulgated vide Notification dated April 20, 1927 which provided certain safeguards and privileges for the Permanent Resident of the state. But this law was not based on gender discrimination. In 1927, the Maharaja of Kashmir sought to protect the state from the demographic invasion by defining the term "State Subject". But following a 1927 notification the legal notion of "state subject" has been modified in a way that has produced extremely discriminatory effect by enforcing the 'resident' status or 'domicile' of a husband upon a woman. Whilst a man's civil status is defined as the country of his permanent home, or acquired by birth, choice or operation of law; the 1927 modification means that a woman's domicile under state law becomes that of her husband if she did not have any before marriage.

The notion of 'domicile' is particularly important in Jammu and Kashmir because whilst all state residents are also citizens of India, only those defined as 'state subjects' are allowed specific state benefits such as state scholarships, recruitment to the public sector and the acquisition of state property. And yet it seems that in the matter of domicile, a married woman exists under a sort of legal disability. For as long as the marriage lasts, the wife is incapable of acquiring a separate domicile of her own, even if her husband has deserted her. Nothing short of annulling the marriage enables a married woman to acquire a separate domicile; even if her spouse dies, a widow will still retain her domicile until she changes it by her own act, for example by marrying again.

In 1927 many western educated men still held key positions within state administration so Maharaja Hari Singh, the fourth Dogra ruler, attempted to soothe the ruffled feelings of his subjects by reasserting the rights of his subjects over outsiders. State legislation seems to be designed to keep non-residents out, and therefore the transient nature of a woman's domicile can be used against her. After 1950 when Indian Constitution and Indian citizenship Act 1955 became operative in J&K, there was no need of state subject because all such subjects became Indian citizens. So after some adoption in 1954, the constitution of J&K in 1957 concentrated on defining "Permanent Resident" instead of 'state subject'. The concept of permanent resident is inextricably linked to ancestral connection, domicile and ownership of property in Jammu and Kashmir. Moreover, the status of permanent resident is quite independent of domicile. For instance, if a male moves out of the state and takes up a job elsewhere, he does not lose his status of permanent resident, even though he is not domiciled in the State. Why then must the Jammu and

Kashmir state consider the position of a female permanent resident on a different basis, why they do not want to make similar laws for male members of the state?

This can be seen in the Jammu and Kashmir case of Prakash versus Shahni. In 1965, in the Sahani case, the Jammu and Kashmir High Court seemed to support this gender unjust approach so that a woman's domicile would necessarily follow that of her husband. The judgment of the Division bench is almost based on rule governing the domicile of a married woman and the law retaining to Laws in England under the Act of 1914. Note III of Notification dated 20th April, 1927 was interpreted in the light of British Act. However, since then the English Law has made fundamental changes in the domicile of his wife immediately on marriage and it was and inevitably retained by her for the duration of marriage. In the court's view, Ms Shahni could not be treated as a 'permanent resident' of the State because although she moved into the state in 1947, she had not acquired any property at that time. Under the definition of permanent resident, the constitution of Jammu and Kashmir includes those who having lawfully acquired immovable property in the state have been ordinarily resident therein for not less than ten years prior to 14 May 1954. Although Ms Shahni argued that she should be allowed to claim the residency status of her father, this was disallowed on the basis that she was married to an outsider and would therefore assume the status of her spouse as opposed to that of her father (All India Report, 1965 J&K 83)15.

The State High Court in Susheela Sawhney case (2002) concluded that loss of residency status should not apply to a woman who is already a 'permanent resident' of the state before marriage rather she would continue to be a permanent resident of the state (Singh, 2006)16. In a remarkable Full Bench decision in 2002 October 7, in Dr. Susheela Sawhney case, Justice Jhanji and Doabia made it clear that

"the daughter of a permanent resident marrying a non-permanent resident will not lose the status of permanent resident in the state of Jammu and Kashmir."

It was also decided that "Valid Till Marriage" will not be written on the female state subjects of the state and hence even if a girl of J&K daughter of the state gets married to a non-state subject, her 'Permanent Resident Certificate' will hold its validity.

This decision was considered historic because it did away with a discriminatory practice and brought relief and equality to women (Chowdhary 2010)17.

In 2004, the Bill was moved by a member of National Conference (NC) and was passed by J&K Legislative Assembly on March 5. The discontent centered on the women of J&K and especially the Kashmiri women of losing their right and to alienate or sell their property to others or pass it on by inheritance if they married a non-state subject or non Kashmiri. Such a distinction was clearly gender unjust since no such laws are applicable to Kashmiri men who married non-Kashmiri women. In 2004, the Bill was passed in the Lower House but did not get 2/3 majority in the Upper House. The swift and unchallenged passing of the Disqualification Bill provoked strong criticism from a number of women's organizations which accused the government of adopting double standards against women. The Bill was passed in just ten minutes by the state legislature on March 5, 2004 and now awaits only the state Governor's assent before becoming a Law. It certainly seems improbable

that in such a short period of time the state legislature would have had time to consider all the implications of withdrawing state-subject rights from women, as envisaged in the Bill.

The chief minister of the state was also criticized by his adversaries for having succumbed to pressure from hardliners. It remains to be seen whether the Governor will also cave in to such pressure. The politicians of the state who were opposing the Bill then wrote to Mrs. Sonia Gandhi, the then Party President, Congress and UPA led government that whether her government only believes in talking of women rights and empowerment or she and her government actually want to do something regarding this. However, as it created a lot of controversy, it was stalled thereafter and could not be made in to Law because of the interference of the Centre (UPA Government).

The issue, however, remained alive with the PDP vociferously arguing that a Law is required to disqualify women marrying outside the state. And again, in 2010, the Bill (PRC Bill) is introduced by People's Democratic Party's (PDP) member Murtaza Ahmad Khan (MLC) in Legislative Council as a Private member's Bill No.4 of 2010 which intends to disqualify women on two basis:

1. if a female permanent resident of the state marries a non-permanent resident.
2. if a non-permanent resident female married with a permanent resident, on termination of her marriage on account of death of her husband, divorce or otherwise, shall with effect from the date of such marriage as the case may be, ceases to be a permanent resident. Provided that widow shall not cease to be a permanent resident as long as she permanently resides in the state.

But On April 5 2010, this Bill was dropped due to a "technical flaw" announced by Deputy Chairman S. Arvinder Singh Micky on the basis that it pertained to constitutional matter, so, it could not be initiated in the Upper House.

Out of the total sample of 50 respondents, only 12 respondents (24%) supported the Bill and the rest did not. All the MLA's and MLC's of the Bhartiya Janata Party (BJP) and National Panther's Party (NPP) opposed this Bill strongly. It was noticed that those two regional political parties of the state: People's Democratic Party (NC) who are generally seen in great opposition are joining their hands over this issue of PRC. They have constantly and continuously supported and introduced this Bill in the state Legislative Assembly and Council.

The reasons to support this Bill given by the political representatives of NC and PDP are as under:

S.No	Reasons to support the Bill
1.	To keep Article 370 intact.
2.	To check the flow of outsiders in to the state.
3.	To grant people of the state a unique feature.
4.	To protect the cultural identity of the state.
5.	To preserve the special status of the state.

Mr. Nirmal Singh, Member National Executive, BJP, said, "A mad race between NC and PDP is going on since long to score maximum points from the people of Kashmir and in doing so, they are creating 'a false consciousness' among the people that their rights need to be protected as they are in

danger and they are misleading common people for their own political motives."

The representatives of Congress have a very diplomatic stand because they neither opposed the Bill nor favoured it. Rather they argued that, "If we think for special status of the state, then we favour this Bill and if think on humanity basis, then we oppose this Bill."

But if in depth analysis of the answers of both the categories, who support it or who oppose it is made, the result that come out is quite different. Actually the Kashmir centric political parties who support this Bill are those parties who are strong opponents and have never joined hands with each other in the political history of the state. But PRC Bill is a first example in which both the political parties support each other and join hands to convert this Bill in to a Law.

After a detailed study and with the help of some statistical data, it has been observed that the women of the Hindu community are more in to jobs outside the state and hence have more chances to marry non- state subjects but in Muslim community lesser number of women move out of the state and hence, have less chances to marry outside the state. So, one reason which was found to be responsible in support of the Bill was the 'Population'. Jammu and Kashmir is the only state of India whose majority of population is Muslim and the support to the Bill will help to maintain the Muslim majority status. Therefore, when respondents are asked that 'Is PRC an attempt to maintain the present demography of the state', while the MLA's and MLC's of the PDP and NC and two respondents one an academicians and the other from media (all Muslims except two) said 'No', rest of the respondents of all the categories said 'Yes'. The other respondents argued that most of the CM's, MLA's and MLC's of the state are Muslims, therefore, through this Bill they want to maintain the present demography of the state.

The Kashmir centric political parties have a sort of fear in their hearts and minds that if this Bill is not passed and if the women are given equal rights as that of a state subject, there may be a shift in demography from Muslim majority to Hindu majority state. As a consequence of this political power may go in to the hands of the non- Muslims like in other states of the country. Thus, it is a deliberate effort not only to maintain present demography but also to consolidate it, according to some of the respondents.

Another question was asked to the respondents that what according to them may be the probable reasons for making such Laws for women and not for men of the state. The maximum responses got are as below:

Reasons	Responses (%)
Male Dominating Society	38%
Many high profile people of the state are married to non - state subject women	32%
Policy makers are males so no sensitivity towards women	26%
Others	4%

It is a fact that majority of the Legislators of the state are men and it is very clear from the table that majority of respondents believe that since men are in position to make policies for people therefore, ignoring the one section of society entirely i.e. women.

PDP party president Mehbooba Mufti once said that

women who are going out of the state by marrying non-residents of the state are losing their rights but there are other women who are coming in to the state by marrying permanent residents of the state are getting equal rights. So, here the situation is equal and balanced.

Same words are used by this time introducer of the Bill Mr. Murtaza Khan in March 2010 who argued that "women going out are equal to in-coming women hence, situation is balanced". Their comments clearly indicate that they are not considering woman with an individual identity rather a commodity and talking about her as an import and export item. Property Rights are mainly individual rights and the loss of one individual can never be made up by providing compensation to the other.

The state will give the rights to a female if she is a daughter of a permanent resident of the state and she will be denied the same status if she becomes wife of a non-state subject. So here, it was asked whether a woman should always be known through her father's or her husband's identity. A big 'Yes' was said by the political leaders of NC and PDP and supported their answer with the reason that it is a 'Universal fact' and is accepted by each and every society of the world.

On asking about the mode of inheritance of property if the Bill is passed, the two MLA's of PDP said, "For the largest interest of the state, certain restrictions are required. J&K state is having a special status where inflow of outsiders is checked by state subject law to keep the uniqueness of the state. A woman can inherit the property of her parents and if her parents are sincere, they can pay her the cost of the property. So, there is no question of taking her right away." Whereas other members of PDP and NC without any hesitation said that she can sell her property to a state subject.

On the other hand, rest of the respondents argued that it is unjust on the part of the women because if we talk of equality of sexes, we also impress economic parity. The right to inherit the property of parents should be equal for both the sexes. The people who are arguing that she can sell the property of their parents to any of the state subject are ignoring the fact that property is not associated with money but also have emotional bindings and ties with the land, houses, fields, areas, localities etc. which one inherits from her/his parents or ancestors.

According to census report 2011, the sex ratio in J&K has dropped alarmingly to 883 females per 1000 males from 892:1000 in 2001. This PRC could also be a reason of declining sex rate because in this decade, this issue was raised 3-4 times which might have made couples to prefer a male child as no one can deny the fact that every parent want their children to inherit their property which they have made from their hard earned money and if the state itself is taking away the rights of girls, parents will surely prefer boys over girls.

72% of the total sample considered PRC Bill as an 'Open Gender Discrimination' and a violation of Human Rights. They argued that this Bill not only violates many Rights of women in a single stroke but also hits the identity, status and dignity of the women of the state as an individual, as a human being. They also considered this Bill as 'Anti-women' but few of them also considered it as 'Anti-Jammu' and 'Anti- Duggar'. Lastly, respondents were asked to give their views regarding this step of the state government of J&K which is trying to exclude women from the state and not incorporating the gender just policies of social inclusion of the central government like Bill on political reservation,

free education etc. The majority responses are discussed as below:

- Women are easy scapegoats to maintain 'Special Status'.
- Because Muslims are conservative by nature and J&K is the Muslim majority state therefore, minorities have to agree with them.
- To maintain status quo in the corridors of power.
- To appease the vote bank.
- Dirty step for self interests.

The Fundamental Right to Equality which is guaranteed in the Indian Constitution under Article 14 that directs the state not to discriminate against any one on the basis of sex is denied to women through this Bill. The other fundamental right that is violated is by denying to a woman the right to own property upon her marriage to an outsider. Though the right to Property has ceased to be a Fundamental Right under the Indian Constitution, it continues as such under the State Constitution. And the most serious form of the violation is its affect over Articles 21 concerning life and personal liberty.

The Bill in question seeks to intervene in the most personal domain of a woman's life, in violation rather than defense. It demands by implication, an unquestioning surrender to a state injunction to make marriage a carefully calculated act to be determined primarily by location rather than consideration of mutual likes or congeniality. The human angle is completely ruled out. Thus, evident in the Bill is not only the patriarchal bias characteristic of the state system but also violation of the very spirit of Human Rights.

Rather if the state of Jammu and Kashmir is fortunate enough to have its own constitution and Special Status (Article 370), it should try to formulate such policies which are beneficial for the people of the state. And the Policies framed should be inclusive in nature and not exclusive, which should really make people of the state to think that they are also 'Special' by the virtue of being born in the state which is has a 'special status'.

The two regional political parties tend to be extremely sensitive to J&K's special status. But that status must be kept for good reasons. Hence they must know that by pushing through such a backward law, they would do immense harm to the residents of the state. They would renege on the most basic thing which a modern state accords to its citizens; 'Equal Rights'.

They (PDP and NC) are very clearly using the 'politics of exclusion of women' as a mean to achieve their end i.e. 'votes of people of Kashmir'. NC introduced it (PRC Bill) with one clause where as now PDP introduced it with two clauses. This clearly indicates that both these parties are heartily engaged in stressing up on the Kashmir and seem to be worried about the people of the valley more than anything else. The other political parties like the congress, BJP, NPP support to the Bill does not seem to be so much the concern for women as it is to oppose the Kashmir-Centric policy of two parties. Here too women are used as scapegoats.

And the main concluding points of the study are as under:

- Of the total respondents, 24% (12 respondents) supported the Bill.
- The two political parties who support the Bill are PDP and NC.

· Their (PDP and NC) reasons to support the Bill are :

1. To keep Article 370 intact.
2. To check the flow of outsiders.
3. To preserve the special status
4. To protect the cultural identity of the state

· 38 (66%) of the total respondents did not support the Bill.

· The main reasons of those who oppose the Bill are:

1. It is Discriminatory.
2. It violates the Fundamental Rights.
3. It perpetuates patriarchy.
4. It alienates the daughters of the state.

· According to 66% the reasons for making such laws for Women and not for men are:

1. Male dominated society.
2. High profile people of the state are married to non-state women.
3. No sensitivity towards women.

· The two important reasons given by the respondents who opposed the Bill of the reasons for regional political parties to support the Bill are to appease the voters/vote bank politics and to maintain the present demography.

· Most of the respondents of PDP and NC gave the reason in support of the Bill was larger interest of the society ignoring the separate identity of women.

· The Bill clearly violates the Fundamental and legal rights of women like: right to property, livelihood, citizenship, freedom etc. but for most of the respondents concern for the women was marginal to their views which itself is a reflection of Patriarchal-power structure.

All this boils down to the conclusion that the women of Jammu and Kashmir are the vulnerable section and is the victim of this politics of exclusion which is being done by the state itself through Permanent Resident Disqualification Bill (PRC Bill). Thus, it is concluded by saying that compromising the interest of whole women community and violation of principles of equality, freedom and basic tenets of democracy breeds discontent. This Bill would be denounced by rationally thinking people for the inherent irrationality of it. This Bill is just a way to rob the identity of approximately 50% population of the state. However, the study shows that the main concern for any Political party is not really the 'women' but behind the gender exclusion, is the politics being played in the state. On the one hand, there are those who want to maintain the exclusive character of the state, its Constitution, special status, demography, culture intact and on the other hand, there are those who oppose this as they fear the domination of one section of society, one ideology, one religion and one culture. Between the two, the interest of women is surrendered in the grab of either supporting or opposing their cause. 'Gender' (women) is made significant on appearance to be so – amidst the politics of exclusion of J&K.

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