

Gender and Citizenship in the Constitution of Nepal, 2015.

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ABSTRACT

This research project explores the consequences of the citizenship provision of Nepal as reflected in Nepal's most recent constitution promulgated in 2015 for the Nepalese citizens as well as the Nepalese society and culture in general. This project employs two methods of data collection: close reading of the citizenship provision and ethnographic interviews of those Nepalese who are directly affected by the provision. Results are drawn through rhetorical and textual analysis of the collected data. The results show that the current citizenship provision disempowers women of Nepal by stopping them from passing on their citizenship to their children. The citizenship provision is also a source of humiliation for these women and the cause of stateless-ness of millions of people in Nepal. On a cultural level, this citizenship provision both reflects and re-enforces patriarchy in Nepal.

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Chapter 1: Introduction to the Research

This chapter aims at achieving the following goals: providing introduction and background information about Nepalese political history and the processes of political changes and upheavals that culminated in the formation of a new Constitution and a new citizenship provision within in, describing the Nepalese feminist counter-public groups' reaction to the new citizenship provision, establishing a focused research problem, setting out a clear research goal, articulating specific research questions, and explaining methods of data collection and analysis employed within this research project.

Introduction and Background to Nepal's history of conflict and transition into democracy:

Nepal was officially declared a Federal Democratic Republic in 2015 by a new Constitution drafted by a Constituent Assembly, which was elected by the sovereign people of Nepal. This was for the first time in the history of Nepal that a Constituent Assembly drafted and promulgated a constitution. Nepal has undergone a long and successive series of socio-political transformations to arrive at this phase of democratic practice. For many centuries before 2015, Nepal had been a kingdom ruled by a king. Nepal was also ruled by the elite Ranas for more than a century until a Monarchy led revolution succeeded in establishing democracy for the first time in 1950. But a single-party governance system (also called Panchayat system) was prevalent in Nepal for nearly four decades even after the establishment of democracy, and it was only in the year 1990 that another people led revolution succeeded in establishing a multi-party democratic system. In order to solidify the achievements of this revolution, a constitution was drafted and promulgated in the year 1991. This constitution was drafted by a committee nominated by the

then ruling King of Nepal and promulgated via the King's approval. But not long after that, another faction of Leftist party – who named themselves as the Maoists Party of Nepal– grew increasingly dissatisfied with the then existing rule of law, and they initiated a rebellion against the King and his rule. This rebellion culminated in a 10 years long revolution and a civil war which became responsible for the death of more than a million people. Following the spirit of this revolution, in the year 2006 AD millions of Nepalese people came out in the streets of Kathmandu, the capital city of Nepal, and demonstrated peaceful protest rallies demanding for the abdication of the king and establishment of a people's federal republic. This massive uprising is famous by the name of April Revolution, and it and represents the end of the centuries long Monarchy in Nepal.

In the same year, a comprehensive peace agreement was signed which marked the end of conflict between the revolutionary Maoist party and the ruling parties. This treaty paved the way for the election of a Constituent Assembly. In the year 2008, this election was held, and a Constituent Assembly was created that took the responsibility of drafting a new Constitution that would embrace the spirit of the April revolution. However, the Assembly couldn't meet the initial deadline of two years for drafting the constitution. As a result, the deadline was extended multiple times until the Constituent Assembly finally collapsed following the Supreme Court's order in the year 2012. A second Constituent Assembly election was held in the year 2013, and it was successful in promulgating a new Constitution in the year 2015. This constitution declared Nepal to be a Federal Republic and also introduced several other new provisions, one of them being the citizenship provision.

Statement of the problem

The following table shows a child's eligibility for obtaining a Nepali Citizenship depending upon the availability of his/her parent's citizenship:

Figure 1

Father's Nepali Citizenship	Mother's Nepali Citizenship	Child's Eligibility for a Nepali Citizenship (by Descent)	Child's Eligibility for a Nepali Citizenship (by Naturalization)
Yes	Yes	Yes	
Yes	NO	Yes	
NO	Yes	NO	May be

Citizenship laws guided by gender and marriage:

Figure 2

Nepali	Non-Nepali	Nepali Citizenship for the spouse
Husband	Wife	Yes
Wife	Husband	The law is silent

These two tables show the discrepancy existing in the current citizenship provision of Nepal in terms of gender and marriage. The existing citizenship provision prescribes different rules for men and women when it comes to their right for marriage and the transfer of their Nepali citizenship to their spouse or their offspring. If you are from Nepal and if you are a

woman, here is how the process of conferring your citizenship to your child looks like: you need to have a proof of your Nepali citizenship certificate, you need to have a proof that your child was born inside Nepal, and o you need to have a proof of your husband's Nepali citizenship certificate. But if you are a man from Nepal trying to confer your citizenship to your child, this is all you would need – a proof of your Nepali citizenship certificate; your wife doesn't need be a Nepali citizen, and your child doesn't need to be born inside the geographical territory of Nepal. The difference is the result of the citizenship provision in the most recent Constitution of Nepal, which makes it more difficult for a mother to pass on her Nepali citizenship to her child than it does for a father

This constitution of Nepal, 2015 was an outcome of almost 8 years long deliberation between the public and the members of constituent assembly. Drafted and promulgated by a constituent assembly, it was expected to represent the voices of all social class, caste, gender, and ethnic categories inhabiting in Nepal. The Preamble of this new constitution, in its third paragraph states:

Embracing multi-caste, multi-lingual, multi-cultural and diverse geographical specificities, by ending discriminations relating to class, caste, region, language, religion and gender discrimination including all forms of racial untouchability, in order to protect and promote unity in diversity, social and cultural solidarity, tolerance and harmonious attitudes, we also express our determination to create an egalitarian society on the basis of the principles of proportional inclusion and participation, to ensure equitable economy, prosperity and social justice.

(Secretariat, "Constitution of Nepal 2015")

In its Preamble the Constitution of Nepal 2015 pledges its commitment to the values of social justice, and equality of all race, social class, caste and gender. However, these commitments are undermined by the citizenship provision within the same constitution. The citizenship provision looks like this:

Part 2, Section 11 of the Constitution prescribes who can be the citizens of Nepal. Article 5 of this section states:

A person born to a Nepali citizen mother and having his/her domicile in Nepal but whose father is not traced, shall be conferred the Nepali citizenship by descent.

Provided that in case his/her father is found to be a foreigner, the citizenship of such a person shall be converted to naturalized citizenship according to the

Federal law. (Secretariat, "Constitution of Nepal 2015")

Having such a clause in the citizenship provision makes this provision gendered. This provision makes the proof of the child's father's citizenship a requirement during the process of filing citizenship certificate request for the child, and if the father is found to be a foreigner, the child is denied citizenship by descent and becomes eligible for naturalized citizenship. The Government of Nepal provides two kinds of citizenship to its citizens. The first is the citizenship by descent, the one that a parent confers to his/her child. This kind of citizenship is one of the fundamental rights of the child. The second is the naturalized citizenship, which is a citizenship conferred to someone who is an immigrant to the country, but has fulfilled certain residential, occupational, and language criteria to be deemed a citizen of Nepal. This kind of citizenship falls entirely under the discretion of the Federal law; it is not categorized as a fundamental right of the person.

There is yet another clause in this section, which solidifies this practice. Article 7 of Section 11 states that “in the case of a person born from a woman who is a citizen of Nepal and married to a foreign citizen, the person may acquire the naturalized citizenship of Nepal in accordance with the Federal law if he or she has permanently resided in Nepal and has not acquired the citizenship of a foreign country” (Secretariat, "Constitution of Nepal 2015"). But in the case of a child born to a Nepali citizen father and a foreign mother, the child easily gets a Nepali citizenship by descent. “One of the consequences of Article 8(7), is that state authorities often refuse to accept citizenship applications submitted only by mothers, as they require proof of the father’s identity to establish that he is not a foreigner” (Harrington, “Citizenship through Father...”). This means that this particular clause in the citizenship provision makes the proof of the father’s citizenship certificate mandatory.

Similarly, the constitution of Nepal also makes the discrimination between men and women in terms of the marriage and citizenship rights (Refer to Figure 2). Article 6 of the same Section 11 states that if a foreign woman married to a Nepali citizen man wishes to acquire a Nepali citizenship, she can do so by the Federal Law. However, in the case of a foreign man married to a Nepali citizen woman and wanting to get a naturalized citizenship, the law is silent.

Women’s groups reaction to the citizenship provision:

In the introduction chapter of her book *Citizenship: Feminist Perspectives*, Lister Ruth writes “Much of the political history of the twentieth century has been characterized by battles to extend, defend or give substance to political, civil and social rights of citizenship. Women played a central role in these struggles, not just for the vote but also for social citizenship rights,” (4). Women of Nepal have also been playing a role in this struggle for citizenship rights since the

creation of this citizenship provision. Various women's groups protested this citizenship provision in the aftermath of the promulgation of the constitution. Haviland writes, "Women's groups and campaigners on women's issues say the new constitution discriminates against Nepalese women in what is already a patriarchal society". In Nancy Frazer's use of the term, these women groups acted as "counter-publics" in their acts of rebellion against the dominant law and law makers. Several organizations like Forum for Women, Law, and Development and Society of Single Women started advocating against the discrimination embedded in the citizenship provision and for the equal rights of women and single mothers. The sphere of internet also became instrumental in facilitating this protest. Online protests and campaigns under the name and banner of "Citizenship in the name of mother" and Facebook pages like "And/Or debate" grew more and more visible in the immediate aftermath of the promulgation of this constitution. Women adopted other means of protest too. "Women rights activists, who had been staging 24-hour relay hunger strike for over two weeks demanding equal rights to pass on citizenship to their children, said that the constitution draft has rendered Nepali women as second class citizens" (Dulal). Feminist groups have been continuously advocating and working for the amendment of this citizenship provision.

This research project will also work as a document that backs up these Nepalese feminist counter-public groups' argument and campaigns about women rights and its violation by the existing citizenship provision. It does so by showing the ways in which the existing citizenship provision disempowers women against the popular discourse forwarded by the law makers that this citizenship provision promotes equality and fair treatment for all.

Besides women, there was another group that staged an equally strong protest this constitution. This is the ethnic group that populate the Southern plains (Terai region) of Nepal

called the *Madhesi*. *Madhesi* is a cultural and political terms that encapsulates, among other things, the history of the exclusion of this group from the dominant public – who are mostly the inhabitants of hilly region of Nepal. Historically, *Madhesis* have claimed that they have had less say and influence in the matters of the State politics and power, and the *Madhesis* claimed that this constitution had the effect of further marginalizing them (Haviland).

The *Madhesh* protest movement and feminist protest movement converge at certain points. That is because the Tarai (*Madhesh*) has open borders with India. And according to the law makers – the members of Constituent Assembly – the impetus behind coming up with such restrictive citizenship provision is to prevent the people of India from entering Nepal through matrimonial relations with the Tarai dwellers. This research project that shall highlight the ways in which this argument is fallacious, and gender biased, and how coming up with such restrictive citizenship provision in the name of national sovereignty and border protection has the negative impact of disempowering women of Nepal and restricting their reproductive and marriage rights.

Why citizenship?

In Nepal, a citizenship certificate signifies many different things: it is a political document that signifies one's national identity and a sense of belonging to a community, as Anderson explains. But besides that, a citizenship certificate is also something that one needs to function socially, culturally and economically as a full citizen. For example, everyday functions like having a bank account and operating it, having access to sim-card for the mobile phones require proof of citizenship certificate. For women, having a citizenship certificate means a step closer to claiming their property rights. For children, a missing proof of citizenship certificate of their father means a lifetime of surviving as a non-citizen within Nepal. The significance of the

citizenship certificate is even further reinforced by the recent upgrade in the Nepal government's social security services that extend both social and economic support to the senior citizens and to those who are marginalized and underprivileged. In that case, not having a citizenship certificate also means not being able to access these services offered by the state. So a citizenship certificate in Nepal means many more things beyond the political document signifying the right to vote and civic participation. And not having one affects life in the most fundamental ways. This research project explores how not having the citizenship affects people's lives, and what it means for the culture and society of Nepal and the Nepalese.

Research Goal and Questions:

The primary research question for this research project follows directly from its aim. The primary goal of this research project is to demonstrate that arguments forwarded by the feminist groups of Nepal in the aftermath of the Constitution's promulgation form an effective counter-public discourse that challenge the dominant public rhetoric about the nature and effects of the Citizenship provision. According to the dominant public rhetoric forwarded by the makers of the constitution, the existing citizenship provision is benevolent in the sense that it promotes equal rights for everyone and upholds national sovereignty by guarding the Nepalese boarder against foreign impeachment. Feminist counter-public groups of Nepal challenge this dominant rhetoric, and this research project supports the feminist counter-public's project by highlight the ways in which the dominant public rhetoric is gender biased and discriminatory. In order to highlight the flawed nature of the dominant public rhetoric and reveal the gendered nature of the citizenship provision, this research project first of all seeks to understand the implications of the existing citizenship provision on the people, especially women, and the overall culture of Nepal. So, the

primary research question can simply be iterated as “How does the existing citizenship provision affect Nepalese people, society and culture?” Once this understanding of the flawed nature of the dominant public rhetoric and gendered nature of the citizenship provision is reached, this understanding shall be then used to demonstrate the effectiveness of the the Nepalese feminist groups alternative rhetorical discourse about the nature and impact of the citizenship provision.

According to Geisler, a research question should reflect what the researcher is interested to learn about the phenomenon under study. The phenomenon, Geisler adds, can be events, participations, or the relationships between the participants in an event. For the sake of proposed research, the phenomenon under consideration is the existing citizenship provision, and participants are the people of Nepal who shall be impacted by this provision, as well as the relationship between them in terms of their gender roles.

Geisler would call this research question a question of association. According to him, a question of association is the question of “What is this thing associated with” (16)? The proposed research question is associated with the issues of gender, justice, nationality, sovereignty, and the assumptions that underlie the relationship among all these. By asking “how is the citizenship provision in the Constitution of Nepal discriminatory?” what it actually tries to explore is “What assumptions about gender, citizenship, and their relationship to each other underlie this citizenship provision?”

While the broader overarching research question for this project seeks to understand the impact of the existing citizenship provision in the Nepalese people, culture, and society, the following sub-set of questions break down the primary questions into smaller segments, and answering these questions one at a time yields an answer that is more nuanced and comprehensive.

- Why are women protesting this citizenship provision? How does it disempower women?
- How does the citizenship provision affect men's and women's access to the state resources and power? Is this access different for men and women?
- What does this provision tell us about the underlying relationship between gender and nationality and national sovereignty?
- What assumptions/ideologies about gender roles and power dynamics underlie this citizenship provision? Why might these ideologies be powerful enough to influence the larger socio-cultural context of Nepal?
- Is this citizenship provision creating a restrictive (non-inclusive) definition of what or who is a citizen? If yes, in what ways?
- One of the articles in the citizenship provision says that only those children born to a Nepali mother inside the geographical territory of Nepal are eligible to get a citizenship through the mother's name, while no such restrictions apply in the case of obtaining citizenship through the father's name. What does this imply about the relationship between men, women and geographical territory/land?

By answering these questions, the analysis chapters intend to show ways in which the current citizenship provision establishes a disempowering relationship between women and access to power (in its various forms). These results are displayed either through individual case stories of women (collected through interviews), or through a broader cultural/ideological analysis of the Nepali culture reached through the content analysis of the language of the constitution and backed up by the data and stories collected through ethnographic interviews of Nepalese women.

Research Design:

This research has been designed as a feminist research. In their article titled “An Invitation to Feminist Research”, Abigail Brooks and Sharlene Nagy Hesse-Biber describes the characteristics of feminist research: feminist research “originated within the context of 2nd wave feminism” (5); feminist research is related to “feminist struggle” (4); feminist research involves documenting women’s lives and, in the process of doing so, exposing ‘bias’ and stereotypes.

This research project can justly be described as a feminist research project in the sense that it takes up the feminist agenda of critiquing a policy that directly impacts women’s everyday lives. It documents lived experience of women of Nepal in the aftermath of the promulgation of this constitution. And this narrative of the experiences of women is intended to function as a document that provides counterargument to the dominant public discourse about the all-encompassing and equalitarian nature of the citizenship provision.

Originally, the feminist research approach and projects were created in response to the gap in the existing knowledge. Abigail Brooks and Sharlene Nagy describe that the intention behind feminist research projects was “to illuminate a shortcoming within...research, namely the omission of women and the lack of accurate representation of women’s experiences” (6). And through the data collected by feminist researchers and research project, “the feminist researchers have contributed to setting the record straight by revealing the previously silenced or forgotten experiences of many women” (11). This research project also fulfills the existing gap in the public knowledge, documentation, and discourse about the impact and nature of a public policy like citizenship provision.

Nepali women’s voices and perspective have been largely missing from the popular and dominant historical records and discourses about Nepal’s evolution as a nation state. Even in the

dialogues and discourses related to citizenship provision, women's side of the story was invisible up until recently. It was only when the election of the first constituent assembly took place and the new constituent assembly had mandatory quotas of female public representatives that the issue of women's rights and entitlements found its way into the dominant public discourse. This research project, with its documentation of authentic women's voices and experiences as citizens of Nepal, shall be an addition to the on-going dialogue, debate, and rhetorical discourse about what it means to be a citizen in Nepal, and what that means for women in particular.

The audience of this document are both the dominant public as well as the counter public groups, and this document shall be of significance to both, albeit in different ways. It is of significance to the counter public women's group by functioning as a space where their experiences and voices are documented (this can in itself be a tool for transformation), and it serves the overall public by making them familiar with the arguments and lived experiences of the counter public.

Methodology:

This research project adopts a qualitative research approach, and its methodology of data collection include open-ended interviewing and close reading of the constitution and the citizenship provision. The goal of such close reading and context analysis of the language of the citizenship provision is to delineate and reveal the gendered assumptions and ideologies that underlie the citizenship provision itself. And the goal of such an open-ended interview is to collect narratives that help the researcher reach an understanding about the impact of the citizenship provision in people as well as the broader cultural scenario of Nepal.

According to Creswell, “Qualitative research is an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem” (32). The proposed research project seeks to explore and understand the meaning and implication of the existing citizenship provision for women (a social group) and well as the larger socio-cultural context of Nepal. The issue of citizenship is an important one because it affects the fundamental ways in which people belong to any nation-state or in ways in which they function as a productive member of a community.

These research methods are derived from what Creswell calls a “transformative worldview”. Creswell describes transformative worldview in this way:

- It places central importance on the study of lives and experiences of diverse groups that have traditionally been marginalized. Of special interest for these diverse groups is how their lives have been constrained by oppressors and the strategies that they use to resist, challenge, and subvert these constraints.
- In studying these diverse groups, the research focuses on inequities based on gender, race, ethnicity, disability, sexual orientation, and socioeconomic class that result in asymmetric power relationships.
- The research in the transformative worldview links political and social action to these inequities.
- Transformative research uses a program theory of beliefs about how a program works and why the problems of oppression, domination, and power relationships exist. (38)

The proposed research studies the lives of people who have been marginalized and disempowered as a result of the existing citizenship provision. It focuses on how the lives of women have been constrained by this citizenship provision and how this might yield to unequal access to power and promotes further inequities. It also focuses on what kind of power

relationship has resulted between actors like men women and state because of this citizenship provision. In this sense, the proposed research project adopts a transformative world view and its methodologies derive from that world view.

In-dept Interviewing:

In-dept interview is the primary means of data collection in this research. 28 people were interviewed altogether, and these included women who have been impacted by the existing citizenship provision, the children of these women, and some key informants like the lawyers, advocates, journalists and the government officials who have a stake in this issue. Women who were directly impacted by this citizenship provision were asked to share their experience related to obtaining a Nepali citizenship for themselves or for their children, and the professionals like lawyers, activists and journalists were requested to share their understanding and knowledge of the impact of this citizenship provision on the public.

Snowball sampling method was adopted to identify these respondents. A thirty minutes to an hour long, recorded interview was conducted with each of these respondents after gaining their informed consent for the interview. These interviews were semi-structured and in-depth in nature. On the significance of in-depth interviewing Hesse-Biber writes, “In-depth interviewing allows the feminist research to access the voices of those who are marginalized in a society; women, people of color, homosexuals, and the poor are examples of marginalized groups” (118). Listening to the voices of marginalized women, particularly those who were victimized by the citizenship provision, was the goal of in-depth interviewing in this research project at all. What adds to the value of such in-depth interviews, according to Hesse-Biber, is the sheer act of listening. About the value of the act of listening in such in-depth interviews, Hesse-Biber writes

that listening carefully also paying attention to “muted and hesitant language” (131), that the respondents use. Attention was paid to such languages during the process of interview and the interviewer’s position as insider in the cultural context facilitated such kind of listening during the interviews.

IRB approval procedure:

An approval from the Institutional Review Board at Virginia Tech was obtained before conducting these interviews. The IRB protocol submitted to the Review Board clearly expressed its commitment to receiving informed consent from the respondents prior to conducting the interviews. During the process of interview, respondents were informed and educated about the goal of this research in order to seek their consent for participating in the interview process. They were also informed about the risks and the emotional hazard involved in being the respondent. Once the respondents approved participating in the interview process, their signatures on the consent form were received. In those cases where the respondents were illiterate, a verbal consent was received prior to interviewing them.

Reflexivity and insider-outsider position:

Sharlene Nagy Hesse-Biber also talk about the significance of researcher reflexivity in feminist research practice. She defines reflexivity in this way: “Reflexivity is the process through which a researcher recognizes, examines, and understands how his or her own social background and assumptions can intervene in the research process” (129).

The first thing worth mentioning here is the fact that as a researcher, I don’t assume a neutral subject position in the subject matter of the research. That is to say, I start with the

assumption that the new citizenship provision in the constitution of Nepal, 2016 is gendered and in doing so I align with the feminist position in regard to this citizenship debate. This topic of subject position is brought by Smargorinsky in his “The Method Section as Conceptual Epicenter in Constructing Social Science Research Reports” where he mentions that increasing awareness and attention is being paid to the subject position of the researcher, and the social construction of data in the more recent time. And doing so, Smargonrinsky argues, is key to enhancing the ethos of the researcher.

Similarly, Geisler too addresses this concern of insider versus outsider perspective in his book *Analyzing Streams of Language*. In the case of this research, the respondent’s position is going to be mix of both insider and outsider. “A more common position is to recognize some validity for both external and internal perspectives, times, only the participants in a situation know what’ really going, at other times, they are the last to want to know” (Geisler, xvi preface). In the context of this research, and the topic it is addressing, the researcher is an insider to Nepalese culture and context and is also aware of the stakes involved in this issue. However, the proposed research is also not so radically contextual that an outsider will fail to make sense of it without having a deep understanding of Nepalese culture, context, and politics. This research falls somewhere in between those two approaches and is in fact intended to be comprehensible to be a broad range of audience, who can be both the insiders or the outsiders to the context and issue at hand.

Methods of Data Analysis:

Two methods have been employed for data analysis primarily within this research project. The first is called ‘cultural/ideological analysis’ which is inspired by the method

discussed in the book *Rhetorical Analysis* by Mark Garret Longaker and Jeffrey Walker. Such an ideological analysis aims to delineate the ideological and cultural assumptions that underlie the Nepalese citizenship provision and then reveal the patriarchal nature of these assumptions. The second method of analysis is the content analysis of the data collected through ethnographic interviews. This method has been inspired by Geisler's method of 'topical analysis', within which the data is studied and grouped into different frequently emerging topics and analyzed for the results. Under this research project, the data collected through ethnographic interviews have been studied and grouped into different topical categories – such as statelessness, disempowerment, humiliation – and these themes have been further explained through the narratives of case studies as well.

Chapter Division:

This thesis is divided into five chapters altogether. The first chapter, titled "Introduction to the Research" establishes the problem, sets out the approach and design for research, explains methods adopted for data collection and analysis, and points out the larger research goal and specific research questions. The second chapter, titled "Literature Review" relates the case of Nepal's scenario with other similar countries, culture, and existing literature. The third chapter, titled "Patriarchy: Reflected and Reinforced in the Nepalese Citizenship Provision" does a content analysis of the citizenship provision as it appears in the Constitution. This analysis is inspired by the method of 'cultural/ideological analysis' as discussed by Mark Garrett Longaker and Jeffrey Walker in their book *Rhetorical Analysis*. The goal of such analysis is to reveal the gender-biased nature of the provision by delineating the underlying assumptions within the citizenship provision. Besides the 'cultural/ideological analysis', the data collected through

ethnographic interviews are also used to back up the findings of such ‘cultural/ideological analysis’. The fourth chapter, titled “Impacts on Women” documents the ethnographic data of the lived experiences and stories of women who have experienced the impacts of this citizenship provision firsthand. The “Conclusion” wraps up different arguments forwarded in the earlier analysis sections and demonstrates the ways in which these analyses and arguments challenge the dominant rhetorical discourse about the benevolent nature of the citizenship provision and support the rhetoric of Nepalese feminist counter-public groups.

Chapter 2: The Literature Review

This chapter starts out by identifying citizenship and gender as a problem that has been acknowledged and studied globally. After laying out the global context of the gender citizenship, literatures that link the concepts of law and justice to citizenship and gender are briefly discussed. The goal of doing so is to see citizenship as both a legal and social justice issue. The focus becomes narrower after that, and a brief history of the gendered citizenship provision of Nepal is described. This description is relevant to show the progression and changes that have taken place over in citizenship provisions that existed in different constitutions in different times. Following that historical briefing are the sections that survey existing literatures on the topic of Nepalese citizenship provision and its negative impact on law, society and culture. This chapter ends by putting forward the dominant public groups' argument in favor of the existing citizenship provision. Finally, it also offers a peak into the ways in which the following chapters challenge and refute the dominant public rhetoric that surround Nepalese citizenship provision and create an alternative public discourse on the topic of the Nepalese citizenship provision and its impacts.

The History of Gendered Citizenship: The Global Context

Citizenship has been a gendered concept since its inception. The classical model of citizenship, as forwarded by Aristotle, is also a gendered concept because within that framework men get the priority at the expense of complete negation of women's identity and agency.

“the Greek model is largely inspired by the writings of Aristotle, particularly his account of citizenship in *The Politics*, written some time between 335 and 323

BC...To be a citizen it was necessary to be a male aged 20 or over, of known genealogy as being born to an Athenian citizen family, to be a patriarch of a household, a warrior – possessing the arms and ability to fight – and a master of the labor of others, notably slaves. So, gender, race, and class defined citizenship...As a result, large members were excluded: women (though married Athenian women were citizens for genealogical purposes); children; immigrants. (Bellamy 31)

Derek Heater, the writer of a *A Brief History of Citizenship* also outlines the discrimination prevalent in the classical model of citizenship. Heater writes, in the classical time, “citizenship was not only designed in the image of men, the adult male citizen was the ideal human being – an interpretation embedded in Aristotle’s definition of citizenship. Women, it was widely held, had neither the physical nor mental qualities to participate in that role” (121).

J.G.A Pocock in his essay “The Ideal of Citizenship Since Classical Times” describes the concept of citizenship discussed in Aristotle’s *Politics* (30). In that account of what is citizenship and who is a citizen, men occupied the center stage. Pocock writes that Aristotle forwarded some “prerequisites” (31) and only upon the attainment of these prerequisites could a person qualify as a citizen. And these prerequisites were mostly those that favored men over women, and free men over the enslaved ones. “For Aristotle the prerequisites are not ours; the citizen must be of a male of known genealogy, a patriarch, a warrior, and the master of the labor of others (normally slaves), and these prerequisites in fact outlasted the ideal of citizenship, as he expressed it, and persisted in Western culture for more than two millennia” (31). Pocock is true about the persistence of these requisites. Nepal’s model of citizenship as existing in current time exhibits these patriarchal norms and values in the most obvious and discernible ways.

The Roman model of citizenship after the Greeks was also similar to the Greek model in terms of how it included or excluded women . Bellamy also describes such continued exclusion of women from the conceptual framework of citizenship. Bellamy writes, “Eligibility for Roman citizenship was at first similar to the criteria for Greek citizenship – citizens had to be native free men who were the legitimate sons of other native free men” (39). In that sense, both the Greek and Roman models of citizenship was constructed after men and for men alone, and at the cost of exclusion of women.

Many contemporary researchers, theorists and historians too have written about such exclusionary models of citizenship as they exist in the contemporary world. Most of these contemporary models take after the classical Greek and Roman models (Bellamy also writes how these models have become instrumental in shaping and influencing the future models of citizenship and the debates that surround them).

In her article “Gender Justice, Citizenship and Entitlements” Anne Marie Goetz explores the way gender and citizenship are connected. She argues that because of policies that empower men at the cost of women, systems with limited rights and entitlements are created for women. She writes, “The consequence of systems of male capture and bias in rule-making institutions is the creation of limited membership rights and capabilities for women—constrained citizenship rights in the state, for instance, or circumscribed roles in the family and community,” (32). In such cases “gender justice is postponed” (32), and case of the constitution of Nepal and its existing citizenship provision is one of such cases.

Lister talks about the inclusionary and exclusionary modes of citizenship in “Citizenship: Towards a Feminist Synthesis”. According to her, there are exclusionary model/tendencies within the citizenship, and they are “inherently gendered” (28), and they reflect “women’s long-

standing expulsion from the theory and practice of citizenship” (28). Nepal’s existing model of citizenship is also an exclusionary one in this sense of the term.

Mukhopadhyay in *Gender Justice, Citizenship and Development* talks of the biased legal codes that discriminate against women. According to her, “this bias arises on the basis of inequality of treatment between the sexes, where masculine privileges and masculine right prevails over the rights of women (and children) conferring on the latter an inferior legal status sometimes termed second-class citizenship” (61). The proposed research adds to the volume of such scholarship by examining the way legal codes operate to marginalize women and reduce them to a second-class citizen in Nepal.

In the Introduction chapter of their book *Gender Equality, Dimensions of Women’s Equal Citizenship* McClain and Grossman write “Citizenship itself, as historical research readily reveals, has always been a deeply gendered concept, bound up with the exclusion of women as full citizenship” (4). Similarly, Nira Wickremasinghe in *Sri Lanka in the Modern Age* writes that the existing concept of citizenship in post-independence Sri Lanka is still a “male one” (181). The proposed research adds to the existing volumes of literature that examine the gendered nature of citizenship. It does so by doing a case study of Nepal’s existing citizenship provision and the way it affects women.

Citizenship and Gender Justice:

Ann- M Field in his article “Contested Citizenship: renewed hope for social justice” frames access to and exclusion from the citizenship as social justice. Focusing primarily on gay and lesbians, and their rights to citizenship and its social implications, he proposes an alternative model of citizenship that is more inclusive and adheres with the principle of social justice.

Field notes, “the exclusion of individuals perceived as other on the basis of gender, sexual identity, race, ethnicity, or disability is a definite concern to those of us who deeply value social justice” (1). He elaborates that excluding any social groups from the benefits of citizenship and its associated advantages is unjustifiable. For him citizenship does simply mean a ticket for enjoying the rights and privilege like access to education, jobs, passports. He argues that citizenship needs to be understood in a wider spectrum of phenomenon that marks the current world like globalization, open borders, movement, and inclusion and exclusion. He explains, “In fact, by being part of a broader social discussion not limited to holding a passport, citizenship becomes a lens for understanding not simply who is included in the territory of the state, but also who is excluded or marginalized by the state and its policies” (4). Field emphasizes that the notions of inclusion-exclusion and representation that are associated with the citizenship make it a social justice issue.

Field frames the concept of citizenship and gender as a lens to understand marginalization, the intricate power relations, and hierarchies that is embedded in the social structure. In the case of Nepal, inclusion/exclusion of women from the equal citizenship right tells a larger story of women’s position and status within the broader social and cultural structure too, and the citizenship rights endorsed by the constitution in a way legalize these unequal power relations existing within that social and cultural structures.

For Field, the very idea and conception of citizenship is also tied to the idea of hegemony. He writes,

When understood in sociological terms, citizenship is viewed as a hegemonic project. It is contingent upon the subordination of specific bonds of gender, race, class (Jones) and sexual identity to support the claim of universality implied in the

formal-legal model of citizenship...although we are granted formal-legal citizenship, it is clear that citizenship is experienced in a less than equal manner by differently situated individuals. (7).

Here Field is talking about how state policies about citizenship and its experience reinforces existing hegemonic concepts of gender, marriage, and heterosexuality. The Nepalese citizenship provision in 2016 Constitution reflects this hegemonic arrangement.

In her article "Gender justice, citizenship and entitlements" Goetz defines gender justice "as the ending of, and the provision of redress for inequalities between women and men that result in women's subordination to men" (4). She explains that citizenship is closely connected to the issue of gender justice because state as the guarantor of basic human rights can employ legal tools, among other things, in order to secure gender justice and also redress any injustice of the past. "The terms and conditions of membership of national communities, the entitlements and obligations of citizen, become part of the debate on the meaning of gender justice" (19) she adds. According to Goetz gender justice can take one or all of the three forms: gender justice implies the right for choice, the absence of discrimination and the presence of political, civil, and economic rights (21). And the state, as the guarantor of these rights has the obligation to respect and protect these rights for all of its citizens, including women, without any bias and prejudice. However, Goetz adds, sometimes "the patriarchal mindsets and social relations that are produced in the private sphere are not contained there, but infuse most economic, social and political institutions. Indeed, the term gender justice provides a direct reminder of this problem of institutionalized bias by reminding us that justice itself, in its conception and administration, is very often gendered, responding to a patriarchal standard derived from the domestic arena" (18).

Nepal's case study of the gendered citizenship provision is an example of how such gendered norms, that are most often formed in the domestic sphere and transported into the political, social, and economic arena through social and legal policies, undermine the concept and process of gender justice.

Goetz also uses the term "gender justice" as a phrase that address the relationship between gender, citizenship, and the rights associated with citizenship entitlement. In her article, Goetz particularly takes up the issues of "gender based injustices from which women suffer" (15), "problems of blatant injustice or hidden biases in the law and legal practice" (16), and she calls for the need of a version of "social justice that challenges male privilege" (19). She argues that as a result of male domination and higher status during rule and policy making, structures with limited rights and entitlements for women are created. "The consequence of systems of male capture and bias in rule-making institutions is the creation of limited membership rights and capabilities for women—constrained citizenship rights in the state, for instance, or circumscribed roles in the family and community," (32). In such cases "gender justice is postponed", and case of the constitution of Nepal and its existing citizenship provision is one of such cases.

Gender Justice and Law:

Ratna Kapur talks about different approaches that are instrumental in reaching an understanding of the concept of gender justice within the arena of law. The first of these approaches is the protectionist approach. Within this approach, laws that treat men and women differently are created on purpose. The overt intention is to protect women, and the logic behind this intention of protection is the idea that men and women are inherently different, and that women are weaker which is why they need to be protected. Within this approach, women are

seen and treated primarily as wives and mothers, which means they are considered subordinate to the man, the husband or the father of their children. Women are also treated as people incapable of rational thinking and decision making.

Nepalese lawmakers argument formed in defense of the existing citizenship provision portray a similar picture of women in Nepal by implying that women Nepalese women are weak, uneducated, fragile, which is why they are under the greater risk to being exploited by Indian men to serve their purpose of entering Nepal and exerting influence in important state matters. According to the law makers, the existing citizenship provision will protect both Nepalese women and the country from such foreign intervention.

Another approach views and analyzes “law as an instrument of patriarchy” (221), and this approach “examine the ways in which gender justice in law is informed by and serves to reinforce patriarchal social relationships” (Kapur, 127). This is the approach most often adopted by feminist projects while studying law to analyze its implications on women. This research project examines the way existing citizenship provision acts as the instrument of patriarchy and in doing so further marginalizes and victimizes women under pretext of protecting them.

History of gendered citizenship provisions in Nepal

In their work, “The Gender Biased Problems of Citizenship and Statelessness in Nepal” Nepalese sociologists Indu Tuladhar & Surendra Bhandari trace the history of citizenship policies in Nepal till now, and they conclude that all citizenship provisions, starting from the first one in 1952 till the latest citizenship provision in the Constitution 2016, were gender biased. They Bandari and Tuladhar conclude that all the citizenship provisions in Nepal till now have had two consistent problems: First, they adopt a patriarchal model of citizenship, where the

lineage pass down from the fathers' name, and second, they discriminate between men and women on the basis of nationality and marriage. They note "The 2015 Constitution is not the first one to legitimize a gender-biased citizenship policy in Nepal. Indeed, such a policy has been in force in Nepal since the first law on citizenship was enacted in 1952" (2). In its inception in 1952, the citizenship provision was guided by the motive of not allowing the Tibetan men tied to matrimonial relation with Nepalese women to acquire the citizenship of Nepal. The existing citizenship provision reinforces the same idea of keeping the foreign men from holding power positions inside Nepal.

Secondly, the citizenship provision of 1952 was also framed in response to the fear of massive migration from India, since Nepal and India have open borders. Tuladhar and Bhadari record that "[this] could create massive pressures on the social, political, cultural, and economic conditions in the country. However, to remedy the fear of influx, since the enactment of the 1952 Act, a gender-biased citizenship regime has continuously been adopted" (2). In this sense, a close look at the history of citizenship provisions in Nepal reveals the existence of gender biasness since the idea of citizenship had been legally conceptualized and this biasness has been carried forward till this date.

Violation of International Laws and Conventions

The citizenship provisions in the Constitution of Nepal 2015 clearly discriminate against Nepali women and render them second-class citizens. Those provisions are not only against Article 9 of the Convention on Elimination of Discrimination Against Women but also against the Convention on the Nationality of Married Women-1957 and the Convention on Child Rights-1989.

“CEDAW’s legal definition of ‘discrimination against women’ in Article 1 of the Convention is: The term ‘discrimination against women’ shall mean any distinction, exclusion, or restriction made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (qtd. in Mukhopadhyay, 21).

Nepal is a signatory to the Convention on Elimination of All Forms of Discrimination Against Women, and yet the citizenship provision in the constitution of Nepal goes against this Convention. Requiring both the mother and father for conferring citizenship would violate the principle of equal rights between all Nepali citizens regardless of gender. This requirement would also violate the Convention on the Elimination of All Forms of Discrimination Against Women, to which Nepal is a signatory.

Article 9. 1 of the convention states that “States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children”. But the Nepalese citizenship provision which disallows Nepali citizen women married to a foreign man to confer her Nepali citizenship to her child violates this treaty on equal rights with respect to marriage rights and the nationality of children.

According to Cook, “determining whether discrimination against women has occurred can be assessed by asking these two questions: 1. Do the laws, policies, practices or other measures at issue make any distinction, exclusion or restriction

on the basis of sex? 2. If they do make such a distinction, exclusion or restriction, do they have the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms?” (qtd in Mukhopadhyaya, 21).

The new constitution in Nepal is discriminatory in terms of its citizenship provisions, and the kinds of discrimination it fosters is both personal and institutional – women are not only shamed and humiliated at the personal level, but also structurally discouraged from participation in other forms of civic activities.

Citizenship provision as a source of humiliation for women

One of the upshots of having a citizenship model that is based on patriarchy and reinforces masculine superiority is that, unmarried or single mothers, and the victims of rape and trafficking often have to suffer shame and humiliation by government or public officials in the course of trying to get a citizenship to their children. Some of the popular Nepali media capture this pain of Nepali women.

“Deepti Gurung has two daughters. She wants to register their birth so they can become citizens, but every time she is at the local ward office or at the CDO office, they ask her to identify the father,” writes Mallika Aryal, in her article “Stateless in Nepal”. Being asked to identify the father in a Nepali culture is very normal and failing to do so is a sure source of shame and humiliation.

A news piece in *Nepali Times*, a popular Nepali online and print media platform records another of these types of pains. “I applied for a citizenship certificate 23 years ago at District

Administration Office, Lalitpur. But they humiliated me saying I was a child born to an unmarried mother,” says the 40-year-old, “After that I couldn’t muster the courage to go back there again” (“In a Stateless State”)

On the one hand, there are women who face humiliation at the hands of the officials, whereas on the other hand, there are also plenty of women who feel that having to get their children citizenship through the children’s father’s citizenship would be humiliating to their sense of identity and integrity. Neha Gurung’s mother is one of those women. “I have fought lots of battles which I have lost. But I still feel independent and am able to face numerous upcoming fights for my rights. If I ever get a citizenship through my to-be-husband, I am sure I would consider myself a humiliated Nepali throughout my life,” she says (Khatun, “My Father is an Indian, My Mother Nepali and I’m a “Stateless” Child”).

On relationship between marriage, nationality, and citizenship rights

“If a Nepali man marries a foreign spouse then the foreign spouse can change her citizenship to Nepali and their offspring becomes Nepali by descent. But if a Nepali woman marries a foreign spouse then there is no clear provision as to how he can acquire Nepali naturalized citizenship. And their children may get naturalized citizenship which is in discretion to the state” (Gurung, “Stateless Daughters”)

The provision on marriage and citizenship rights under article 6 of Section 11 of the Constitution of Nepal states that a foreign woman tied by matrimony to a Nepali citizen man is eligible to apply for naturalized citizenship immediately after marriage. However, in case of a foreign man’s eligibility for naturalized citizenship when married to a Nepali citizen woman, the

law remains silent. This provision perpetuates discrimination on the basis of gender and violated equal marital rights and the rights to nationality for all.

This provision is very much similar to the traditional model of citizenship that existed in ancient Rome and Greece, where men is the giver and women just receive everything from their husband, including the identity of citizenship. Heater in *A brief History of Citizenship* writes, “citizenship was traditionally based on property ownership and property was overwhelmingly in male hands. Even in liberal states with a common law tradition, down to the nineteenth century married women were rendered civically non-persons by the device of coverture: they were subsumed into the legal identity of their husbands, who covered them – and owned their property” (120).

In case of Nepal, nationality rather than property is the basis of citizenship (since women have the right to inheritance of property, which is also a recent development). However, there is one thing common between this traditional model of citizenship and the model of citizenship that the constitution of Nepal has endorsed – men covering up for women. This citizenship provision which says that a Nepali man can confer his citizenship to a foreigner women, but a Nepali woman cannot do the same for her foreigner husband implies that nationality is central to the idea of citizenship and that only Nepali men are considered the full nationals. women are not.

According to Grossman, “In particular, the family status and marriage serve a gatekeeping function in women’s access to citizenship” (15). Kerber in her work, *No Constitutional Rights to be Ladies: Women and the Obligations of Citizenship*, “women (at least free women, who were not enslaved) were generally not denied the legal status of citizen solely on the basis of their sex in this country. However, women who married non-citizens were

stripped of their citizenship until the passage of the Cable Act in 1922, while men suffered no similar deprivation. (Quoted in *Gender Equality*, 9).

Nationalism and citizenship

The existing citizenship provision in the Constitution of Nepal has been justified by its makers on the grounds of nationality and national security. The argument that is being forwarded in the favor of this provision is that it keeps foreign nationals from entering the country and holding significant power positions, and this in turn protects the sovereignty of the nation. However, underlying this argument is an assumption that only men are the nationals of the country.

The issues at stake are much broader than the border protection. Pant frames this as the question of nationalism: “What is nationalism? Who defines what it is to be a Nepali? Is it the men in the decision-making position with their narrow definition of nationalism based on traditions of inequality?”. He argues that to imply that only men are the full citizens of Nepal and women are not, which is what this citizenship provision does, is a narrow version of nationality and the version that clearly goes against the universal principle of equality and justice. Panta notes that “the people *are* citizens” and he calls the idea that women with rights to pass citizenship to their children would compromise national security “perverse and simply a reflection of a sexist and alarming attitude –an attitude that believes men are entitled to greater reverence than women”.

According to Panta, this citizenship provision is creating a “false dichotomy” by setting the ideas of nationalism and gender equality as rivals. However, this is just a false dichotomy created. “The issue here is the pitting of nationalism against gender equality – a binary that

creates a false dichotomy. The problem lies in the narrow – racist and sexist – definition of Nepali nationalism and ‘Nepalipan’. These misogynistic understandings of what it means to be a Nepali must be challenged.” (Panta, “Citizenship in Mother’s Name: Equality versus Nationalism Debate”)

The analysis sections that follow are intended to be documents that provide an effective counter-argument to this rhetoric of the protection of national sovereignty that has been popularized by the dominant public groups of Nepal. The first analysis chapter does an ideological analysis of the current citizenship provision to reveal patriarchal and gendered notions, ideas, and values that permeate and inform the Nepalese citizenship provision, and the second analysis chapter documents stories of individuals who have been unjustly and disproportionately disempowered by the citizenship provision.

Chapter 3 – Analysis

Patriarchy: Reflected and Reinforced in the Nepalese Citizenship Provision

This chapter delineates the ideological presuppositions that underlie current citizenship provision of Nepal. In the sixth chapter of their book *Rhetorical Analysis* titled “Ideology (Logos Revisted)”, Longaker and Walker describe how rhetoric or any act of persuasion depends upon ideology, also referred to as a set of commonly accepted presupposition or opinion, found in any culture or community (186). They write: “Rhetorical analysis of an ideology requires a study of ideas in argumentation...Borrowing a term from Michael Calvin McGee, a twentieth-century rhetorical theorist, we suggest that theoretical analysis of an ideology searches for an *ideograph*, a constellation of presuppositions.” (188). Longaker and Walker break down this process of rhetorically analyzing an ideology into multiple steps. These steps include identifying set of presuppositions that underlie any argument and noticing if there are any overlaps or tensions within those presuppositions (118).

In this analysis chapter the ideas of citizenship and nationality are treated as ideologies, and a set of presuppositions that underlie, make up, and support these ideologies are identified and explained. These presuppositions are mostly those opinions that are accepted and pervasive in Nepalese society and culture. While these ideas were identified primarily through the rhetorical analysis of the language of the citizenship provision, the data collected through the interviews also validate these interpretations. These presuppositions are related to patriarchy, the meaning of descent, marriage, women’s body, migration, and the meaning or definition of a citizen. This chapter deals with these ideas one at the time and shows how they contribute in the making and upholding of the ideologies of citizenship and nationality that the current citizenship provision of Nepal perpetuates.

Patriarchy: Reflected and Reinforced

At the core of the Nepalese citizenship provision lies the ideology of patriarchy that prioritizes men at the cost of women. The current citizenship provision works at two levels: one, it reflects the age-old patriarchal norms and values that have shaped Nepali culture and practices for long, and two, by reflecting such norms this citizenship provision also acts as a mechanism to reinforce them further. In her book *What is Patriarchy?* Kamla Bhasin defines the term patriarchy in the following way:

The word patriarchy literally means the rule of the father or the "patriarch and originally it was used to describe a specific type of "male-dominated family"—the large household of the *patriarch* which included women, junior men, children, slaves and domestic servants all under the rule of this dominant male. Now it is used more generally to refer to male domination, to the power relationships by which men dominate women, and to characterize a system whereby women are kept subordinate in a number of ways. (1)

According to Basin, the term patriarchy “sums up the kind of male domination we see around us all the time” (7). Basin highlights this domination can manifest itself in multiple forms. Some of these commonly occurring forms are male control over women and their bodies, lack of property, reproductive, and inheritance rights for women, and discrimination in terms of access to education, good food, health services and career opportunities. The current citizenship provision of Nepal stands on the presuppositions that women’s bodies can be subjected to control by the

state, that men can enjoy privilege over women when it comes to the matter of access to resources and rights.

Nepal's case study of the implication of the existing citizenship provision shows patriarchy being reflected and reinforced in its most blatant ways. There are more than one ways in which this citizenship provision reflects and validates such patriarchal norms. One of them is the way it prioritizes men at the cost of women by giving the father or the husband upper hand when it comes to the matter of conferring citizenship. Both married and unmarried daughters become victim of such provision: unmarried daughters require the proof of identity of their father in order to make a citizenship card for themselves (this is true also for sons), while married women's dependency on men further increases because married women need the approval of their husband and proof of their husband's Nepali identity (the citizenship card) in order to obtain a Nepali citizenship card for themselves. Shiva Gaunle, an investigative journalist in Nepal, emphasis on the importance of ensuring that the daughters have a citizenship card made prior to their marriage because of all these reasons.

Out of twelve female respondents interviewed in Nagarjun district of Nepal during this research, four said that they lacked a Nepali citizenship because their husband refused to go the District Office in order to testify the fact that they are married to a Nepali man. Almost all of these husbands, as expressed by the wives, were drunkards, and they took no responsibility for the wife, children, or the household in general. One of the women interviewed, named Sita Bindukar, is a widow. But she is still residing in her husband's household with her in-laws and she does all her share of the agricultural work that the family does. Bindukar has two grown up children (sons), and neither Bindukar, nor her two sons have a Nepali citizenship card yet. The reason behind this is the refusal of Bindukar's in-laws to cooperate with her. Her in-law's

family's are refusing to testify the fact that she is indeed their daughter in law. The in-laws have even refused to cooperate in the process of obtaining the citizenship certificate for the sons because doing so would mean acknowledging that the sons have their rightful share in the family property. Bindukar says that she might have to wait for her father-in-law to pass away in order for her sons to be able to obtain a Nepali citizenship. Bindukar adds that once her father-in-law is out of the scene the local people in the village can testify for the fact that these sons are indeed the sons of that Nepali family. However, it is important to note that these people in the village who have the authority to testify for Bindukar and her sons' case are also a handful of powerful men residing the village. In that sense, Bindukar shall eternally have to depend upon the men, either in her family, or in her village, to be able to ascertain her own identity and the secure the nationality of her children.

Sarita Maharjan and Sita Maharjan are two young women, in their early twenties, residing in the village of Nagarjun. And neither of them have a Nepali citizenship certificate. Both of them are married to a Nepali citizen man, and they have tried obtaining a citizenship card for themselves through their husband's name after they got married. However, in the process of doing so, they were asked by the District Officers to provide the proof of their biological father being a Nepali citizen as well. Neither of them has the birth certificate that proves the Nepali nationality of their biological father. Their parent's home is quite far away from their husband's house. Since their families depend upon agriculture for their living, it is not easy for either Sarita Maharjan or Sita Maharjan to visit their parents to fetch a birth certificate or summon their fathers to their husband's place. Amidst all these difficulties, both of them have been living without having any formal documentation that proves their nationality or their married status. These are the examples of cases where both married and unmarried Nepali

women have to face hurdles in the process of obtaining a Nepali citizenship card for themselves and their children because of the lack of their father's proof of Nepali citizenship certificate.

Furthermore, patriarchy is also reflected in the citizenship provision which allows for a foreigner woman married to a Nepali man to obtain a Nepali citizenship card for herself, while prohibiting a foreigner man married to a Nepali woman to do the same. What is reflected in this provision is the age-old patriarchal value that woman is the one who accompanies man to his house or country after marriage. According to Lister Ruth, many migration laws around the world – which ascribes woman a status of dependent on their husband – also reflect such patriarchal norms.

These excerpts collected from the articles and blog posts published online are useful in demonstrating ways in which the Nepalese citizenship provision prioritizes men over women, thereby displaying patriarchy.

“Nepal is one of only 27 countries in the world that doesn't allow women to pass citizenship to her children. It also has some of the most patriarchal laws, misogynist social norms and traditions even though we have a rapidly changing population that values and needs equal representation and treatment regardless of gender.” (Teplitz, “Women's day, every day”)

“To begin with, the constitution and laws of the country — created mostly by men — give preferential treatment to — surprise, surprise — men.” (Dorje, “Nepal no Country for Women”)

“Nepal's Constitution and law have made getting citizenship through the mother a conditional right, attaching citizenship to a Nepali father and making the role of women useless.” (Aryal, “Stateless in Nepal”).

Nepal was a Hindu kingdom until 2006, and all the constitutions written prior to 2006 were influenced by the Hindu patriarchal ideologies to some extent. For instance, the 1990 constitution had a similar provision for citizenship passing down only through the father's lineage. The existing constitution is the first one to be written and promulgated since the country officially became a democratic republic. However, it still retains the residue of Hindu patriarchal ideology, and the current citizenship provision is one such example (Grossman-Thompson 797).

In an article titled "Women and citizenship post-trafficking: the case of Nepal", the authors Diana Richardson, Nina Laurie, Meena Poudel, and Janet Townsend discuss the ideologies and context that inform the formation of such gendered citizenship provision. In one of sections, they record the explanation of one of the members of the Constitution Assembly:

A woman, according to our tradition, after marriage moves to her husband's house. So, it means if a Nepali man marries a foreign woman she will come to Nepal and spend her whole life here. But if it is a woman she will move to another country after marriage and so there is no need to bother about the man who marries her. This is the first logic. And then the second logic is men are very influential politically, economically and by everything; so they will capture the state power but in case of women they are very weak; they are not influential and they will just be limited within household chores. This kind of patriarchal and feudalistic way of thinking is there. . . . there is another thing in relation to these two ideas, which is we have open border with India. So here the point is if the men are given this opportunity many men from India [after marrying Nepali women] will come to Nepal and India will have influence in Nepali politics and

state power and everything and finally it will be connected with the issue of nationality. (341-342)

In this sense, the current citizenship provision is an example of a case where patriarchal values – that refuse to recognize women as equal citizens with equal rights as men – are on a full display. And this Constitution, which is also the first Constitution promulgated after the country became a Democratic Republic shares these patriarchal ideologies with its predecessors as well.

The meaning of ‘descent’

“In order for anyone to get a Nepali citizenship by descent, he or she has to present the proof of their father’s Nepali citizenship card. The proof of the father’s Nepali citizenship status is mandatory because descent follows the line of the father only in the case of Nepalese citizenship laws. That is the way the existing citizenship act has interpreted the meaning of the term descent,” said Smita Paudel, during one of the interviews conducted for the purpose of this research. Paudel is now working in the Home Ministry of Nepal in Kathmandu as a Section Officer, and she was briefly appointed as an assistant Chief District Officer in Rasuwa, a remote district in Nepal. She spoke of the necessity of the father’s proof of identity while she was explaining the procedure for obtaining a Nepali citizenship by descent, and she emphasized that the proof of the father’s Nepali citizenship is the most significant document required in the process of conferring anyone a Nepali citizenship status. Paudel has had first-hand experience of handling citizenship cases while she worked as the assistant CDO in Rasuwa for two years, and she is familiar with the fundamentals of citizenship related laws and acts that are now in operation in Nepal. Paudel is also knowledgeable in the way these citizenship acts and laws get translated and implemented in practice. According to her, the only way any adult in Nepal can

get a Nepali citizen status is through providing the proof of his or her father being a Nepali citizen too. “Which is why, of all the documents required during the official procedure for obtaining a Nepali citizenship by descent, the father’s Nepali citizenship certificate is the mandatory one, whereas a person can obtain a Nepali citizenship by descent even if the mother’s citizenship certificate proof is missing,” Paudel clarifies. In that sense, the idea that descent or parentage follows down the father’s family lineage only is a cultural value deeply imbedded within the ideology of citizenship, which is why the right to determine a child’s nationality is secured with the father only.

This implies that in the context of Nepali citizenship provision, as reflected in various laws and acts as well as in the Constitution itself, descent or parentage comes down from the father’s side of the family only. Laws related to citizenship demand that a citizenship by descent be conferred to only those whose father or father’s side of the family is a proven Nepali citizen. In cases where father or father’s side of the family’s whereabouts are missing, the child cannot acquire a citizenship by descent. In fact, one of the articles in the citizenship provision in the Constitution directly state that in those cases where the father is found to be a foreigner (a non-Nepali) then the child becomes illegible for citizenship through naturalization only.

The major difference in terms of the access to state-granted rights and opportunities between the citizenship by descent and the citizenship by naturalization is that those who have acquired naturalized citizenship are barred from holding leadership positions in the state, like the head of the state, or the head of the army. Article 289 of the Constitution of Nepal states that “In order for a person to be elected, nominated or appointed to the office of President, Vice-President, Prime Minister, Chief Justice, Speaker of the House of Representatives, Chief of State, Chief Minister, Speaker of a State Assembly and chief of a security body, the person must have

obtained the citizenship of Nepal by descent” (Secretariat, *Constitution of Nepal 2015*). However, according to advocates Sushma Gautam, Sujana Maharjan, and the constitution expert Dr. C.K Gyanwali, not a single citizenship by naturalization has been issued for the past 15 years in Nepal. This again exemplifies how the state has discouraged the provision of citizenship by naturalization in all these years. The people who qualify for obtaining a citizenship by naturalization are the children of Nepali women married to foreigner men. And the State of Nepal shows no inclination to issue the children of such couple – that is children with a foreigner father – the status of Nepali citizen through naturalization. Given all such provisions, the term descent as expressed and implied in the language of citizenship provision in the constitution of Nepal, and all others existing laws and acts related to it can be strictly interpreted as the father’s family line exclusively.

Women and marriage:

At the heart of the current citizenship provision lies discrimination against women in terms of their right for marriage. Nepalese women are not free to choose their partners without facing consequences, unlike Nepalese men who are free to choose their partners without having to face discriminatory laws in terms of the right to pass down one's citizenship to one's spouse or offspring. In that sense, a disempowering relationship between women and marriage informs the existing citizenship provision. Some of the key informant interviews throw further light upon this discriminatory idea inherent in the Nepalese citizenship provision.

Advocate Sushma Gautam and Sujana Maharjan (both of them have been working at Forum for Women Law and Development, and have been actively involved in the citizenship in the name of mother campaign) both shared that the existing citizenship provision discriminates women on the basis of marriage. According to them, this citizenship provision divides Nepalese women into three categories, solely based on their marriage. These categories are: a Nepali woman married to a foreigner man, a Nepali woman married to a Nepali man, and a Nepali unmarried woman. And each of these categories of women are treated differently when it comes to their rights to pass on their citizenship to their children.

In the first category, children born to a Nepali woman and a non-Nepali man do not qualify for citizenship through descent – the reason being that the descent line only follows the father's side of the family, as discussed above. These children's chances of getting a citizenship by descent is non-existent, and they can only hope that they get a citizenship through naturalization – though getting a citizenship through naturalization has not been listed as the basic fundamental right, and whether or not issuing anyone a citizenship through naturalization is a matter of state's discretion. More often than not, these children do not acquire a Nepali

citizenship card at all. Apsara Banu, a Nepali citizen woman, one of the respondents in this research, fall under this category and neither of her three kids, including Amir Husen, have been issued a Nepali citizenship card through naturalization. Banu was married to an Indian citizen man and that restricted her ability to confer her Nepali citizenship status to her children.

For the second category, children born from a Nepali mother and a Nepali father are eligible for a citizenship by descent. But they do acquire the citizenship only after they produce a proof of their father's Nepali citizenship status. They may choose to take up their mother's name as their last name, but they will still have to prove that their father is a Nepali man.

For the third category, a Nepali citizen mother who is either unmarried or cannot produce the proof of her husband's identity or nationality cannot confer her citizenship to her children without hurdles. The local District Officers demand that they provide the proof of their children's father as either a Nepali or a non-Nepali. In cases where the mother fails to provide the proof of the children's father's nationality, the District Officers refuse to issue Nepali citizenship certificate for the children. The only alternative these mothers have is to file a case in the Supreme Court appealing that the children be issued a Nepali citizenship certificate through the mother's name. Deepti Gurung is an example of one such individual mother who has won the case in her favor and her daughter have a Nepali citizenship card by descent through the mother's (Gurung's) name. However, Gurung is still not happy about the results because her daughters citizenship cards have been tampered, and an extra line has been added to them which makes it explicit that they were issued following the court's order because the girl's father was missing. Citizenship cards issued in normal cases don't have any such description on them. Gurung believes that having an extra description like that one is already a sign of structural discrimination. Gurung envisages scenarios where her daughter will be looked down upon

wherever they present their citizenship certificate proof (officers in the bank or airport for example) because of the fact that the government of Nepal chose to make it public, that their father is unidentified.

In this sense, the current citizenship provision not just makes the lives of people difficult, but also establishes a peculiar relationship between the ideas of marriage, nationality and motherhood where women's marital status controls and constricts their right for motherhood and the right for determination of their children's nationality. One of the long terms impact of such a relationship is that marriage functions as an institution that serves to restrict women's right to equal recognition in the eyes of law.

Policing Women's body:

Strong ideas about women's body and the control over it permeate the Nepalese citizenship provision. Because of the policy under which a mother is not able to pass on her citizenship to her child independently of the child's father's identity, and a wife is not issued citizenship without her husband's approval, this citizenship provision makes the state's policing of the women's body a culturally accepted notion. Barbara Grossman-Thompson and Dannah Dennis talk about such policing in their article "Citizenship in the Name of the Mother". They write, "We suggest that constitutionally restricting Nepali women's right to bestow citizenship on their children is a form of policing the boundaries of the state body via policing women's bodies, especially their sexual and reproductive capabilities" (796). Their work describes the historical process leading up to the establishment of democracy in Nepal and the promulgation of a new constitution and then offer a critique of the current citizenship provision by showing its limiting impacts on women of Nepal. The article also highlights how this new citizenship

provision has created a new definition of who or what a citizen is. And this definition is based upon patriarchal norms that Nepal and Nepalese have upheld for ages and are still hard to change.

Control over women's body is not a new practice, however. The world has seen in different places at different historical times. Lauren Berlant in her essay "The Queen of America Goes to Washington City" discusses the history of how the sexuality and body of African American women were controlled by the state power and the white privileged class who had access to that power. However, Nepal's case with the citizenship provision is not as much unique in its policing of women's body as it is in its rational for doing so – which is to prevent national solidarity and integrity from foreign intervention. But what is conveniently glossed over by the politicians who support the citizenship provision in its existing form is the fact that different standards apply for men and women when it comes to determining who is a Nepali citizen and who is a foreigner. The following section expands on the question of who or what is the idea of a Nepali citizen as presupposed by the constitution of Nepal.

Relationship of women, land, and migration

Ruth Lister argues that it is important to understand the exclusionary forces of citizenship in the world where boundaries of a nation-state has been made weaker by networks of globalization. And doing so would mean taking into consideration the migration patterns and its effects. And although the number of women international migrants is only increasing in the world, the existing literature on migration pays little attention to women migrants and their condition (Lister, 44). Lister writes “This is typical of much of the mainstream migration literature, which assumes that migrants are male, and insofar as it recognizes the part played by women, casts them as the dependents of male migrants, ignoring the significant minority of women who have migrated as workers int their own right” (44). Similar is the case of Nepal’s citizenship provision, which is built on a presupposition that women cannot migrate independently of men.

The citizenship provision presupposes a negative relation between women and migration. According to the citizenship provision, if a Nepali woman who has migrated outside Nepal gives birth to a child outside the geographical territory of Nepal, her children are not illegible to obtain a Nepali citizenship in the name of their mother. Whereas in the case of a Nepali man, such restriction is not applied. A Nepali man can confer his citizenship to his children, irrespective of where his children are born in the world. Sapana Pradhan Malla, a senior advocate, vehemently criticizes this policy for being gender discriminatory. In her article titled “Citizenship Provision Discriminate Against Women” she writes:

The child of a single woman must be born in Nepal to obtain citizenship by descent. Generally, two principles apply in conferring citizenship: *jus sanguinis* (by blood) and *jus soli* (by birth). Nepal has applied only one principle: that is *jus sanguinis*. Further, to make it restrictive only for women, the constitution also

requires that for women their children need to be born in Nepal to obtain citizenship by descent. With this requirement, a different standard is clearly and egregiously applied to the children of Nepali women, whereas this is not applied to the children of Nepali men. What then will happen to the children of trafficked women, migrant women workers and other transient women whose offspring are born outside Nepal?”

The most severe victim of such a provision are those women who have been trafficked into other countries in Asia, including India, as sex labors or domestic labors and have been sexually abused in those lands. One of the implications of such restrictive and discriminatory policy is that it establishes a peculiar kind of relationship between women and land – it implies that Nepalese women don't have any inherent right over the land of Nepal the way Nepalese men do. Which is why the children of Nepali men qualify for a Nepali citizenship irrespective of the actual land they are born in, whereas for a Nepali women in order to have any chance of passing down her citizenship to her children, the first pre-condition is that her children have to be born within the geographical territory of Nepal.

The question of who is a citizen?

The Preamble of the Constitution of Nepal states – “We, the people of Nepal, in exercise of the sovereign powers inherent in us . . . by ending discriminations relating to class, caste, region, language, religion and gender discrimination...hereby promulgate this Constitution through the Constituent Assembly” (Secretariat, “*Constitution of Nepal 2015*”). But the citizenship provision in the same constitution contradicts this spirit of ending the discrimination by treating men and women of Nepal differently when it comes to the right for determination of

Nationality. As a result, a tension appears between ideologies, as explained by Longaker and Walker, within spirit of the Constitution.

The constitution proclaims that it is committed to protecting “rights and interests of Nepali people”. However, the citizenship provision in the same constitution takes away the right of a Nepali mother to confer her citizenship to her child. And the constitution and its makers justify doing this in the name of protecting another national interest – “protection of boundaries”. A contradiction appears here between the spirits of the Preamble section of the constitution and the section of citizenship provision. On the one hand, the constitution claims to uphold the rights of all Nepali citizens, while on the other hand, it takes away the rights of Nepali women citizens for equality and dignity. This tension is left unresolved within the constitution.

This tension is only resolved when one deduces that the constitution of Nepal creates a biased or non-inclusive definition of who or what constitutes a Nepali citizen. According to the definition created by the existing citizenship provision, a Nepali citizen means the Nepali men alone, at the exclusion of Nepali women. The language of the provision itself classifies a Nepali citizen into two categories – A Nepali citizen mother and a Nepali citizen father – with unequal access to rights and opportunities: And different rules regarding the citizenship passage rights apply to these two categories of Nepali citizen: while a Nepali citizen father is entrusted with the full authority to pass down his citizenship to his child, irrespective of the nationality of the mother, the Nepali citizen mother has to further qualify other conditions for being able to do the same. Having such phrases that differentiates a Nepali father and Nepali mother lays out the foundation for the discrimination.

In her book *Sri Lanka in the Modern Age*, Nira Wickramasinghe writes a narrative about Sri Lanka’s unique experience of colonization, its journey towards decolonization, and the

formation of identities of diverse groups of people in this process of shifting from colonization to decolonization. But she also explores what this all meant for women in Sri Lanka. The aim behind doing so is to understand and demonstrate the ways in which concepts of nationality and citizenship can be gendered. Wickramasinghe writes, “Who a ‘citizen’ is, what a citizen does, and the arena within which he acts have been constructed in the masculine image. Although women became citizens at the same time as men, their formal citizenship was won within a structure of patriarchal power in which women’s qualities and tasks are still devalued” (180). She further explains that the citizenship model in Sri Lanka places more value on a “man’s willingness to fight, kill and die for his country” (180) than on the quality of “motherhood” (180). The model of citizenship that Nepalese citizenship provision presupposes – and in effect perpetuates, is similar to the Sri Lankan model of citizenship as described by Wickramasinghe. It is important to note that this model of citizenship “is a male one” (181), and is built on a framework that was “inherited from the West [and] has been based on the negation of women’s participation” (181).

The question of who is a Nepali?

The existing citizenship provision in the Constitution of Nepal presupposes certain things about who or what is a true or full Nepali citizen? And this set of presupposition is not inclusive of all caste, class, and gender groups living in Nepal. Infact, this presupposition excludes women.

Bosnaik explains how the principles of inclusion and exclusion influence idea of citizenship. Citizenship, he says, can “convey a state of democratic belonging or inclusion, yet this inclusion is usually premised on a conception of a community that is bounded and

exclusive” (1). As a result, the ideal of citizenship can simultaneously “embody a commitment against subordination” and “also represent an axis of subordination itself” (1). So, Bosniak says, the important question to be raised when discussing citizenship and in-/equality is “who it is that rightfully constitutes the subjects of the citizenship that we champion” (1). To put it in other words, “Citizenship of, and for, exactly whom?” (1). In the case of Nepal, this idea of citizenship excludes women of Nepal, and presupposes only men as the full citizen who enjoy true privileges of being a citizen.

Having a citizenship is also about feeling a sense of belonging. Bosniak writes, “the status of citizenship in any given state is rationed, and the limitations on its availability mark the limitations on belonging,” (1). Benedict Anderson’s idea of a nation state is also constituted by people who feel a sense of belonging to the nation-state. If sense of belonging is the marker of who constitute the nation state, then women of Nepal are clearly excluded by this citizenship provision

For Anderson, nationality is something that invokes a sense of comradeship, a horizontal, non-hierarchical belongingness among people. He qualifies this sense of belonging as imaginary, since not all of the members of that community are likely to be aware of each other’s existence at any given moment, thereby making this sense of belonging an imaginary one. Anderson notes, “it [a nation] is imagined as a community, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings” (50). If a nation is imagined as a community, then equal access to opportunity is something that should theoretically govern its composition. However, the constitution of Nepal, in

lieu of its existing citizenship law, clearly fails to do that. In contrast, it seems to be endorsing the ideas of exclusion, discrimination, and unequal treatment to men and women. Such discriminatory values form the presuppositions on which the current citizenship provision is based.

Ruth Lister also emphasizes the idea of a nation as a community in her work “Citizenship: Towards a feminist synthesis”. Lister notes that citizenship is not just a legal and formalized relationship between the individual and state, but also a social relationship among the individuals who are living in a together in a community and between the individuals and the state. “The key elements here are membership of a community; the rights and obligations which flow from that membership and equality,” (28). Lister emphasizes on the idea of citizens as a member inhabiting a community, and citizenship as a something that provides either access into that community or excludes people from its membership, if the model of the citizenship happens to be exclusionary. However, the citizenship provision of Nepal fails to endorse such ideas of equal membership and belongingness.

After having investigated the set of presuppositions that inform and influence the Nepalese citizenship provision, it can be deduced that the current citizenship provision is not as rational as its makers claim to be. While the constitution makers claim that the provision will effectively block foreign people from entering Nepal and taking up important leadership provisions, a close rhetorical analysis of the ideologies embedded in this citizenship provision reveal that these ideologies are gender-biased, discriminatory, and disempowering in nature for women of Nepal. The following chapter puts forward some extended case studies and stories that further support and elaborate on this discourse of Nepalese citizenship provision’s discriminatory nature.

Chapter 4: Analysis

Impacts on Women: Humiliation, Disempowerment and Statelessness

The primary goal of this chapter is to show the ways in which the existing citizenship provision of Nepal affects, in other words, disempowers women. Women have been protesting this citizenship provision since the day of its promulgation and even long before that. When constitution writing was still in progress, various women's groups had staged hunger strikes and peaceful rallies around the street of Kathmandu demanding that the upcoming constitution ensured a mother's right to pass on her name and nationality to her child independently of the child's father name and nationality (Grossman-Thompson 796). However, the constitution and the citizenship provision went against the sentiments of women's protest, leaving Nepalese women disempowered. The interviews conducted for the purpose of this research reveal some of the ways Nepalese women have been disempowered by this citizenship provision: this citizenship provision rendered Nepalese women and their children subjects to public humiliation, it left many people stateless, it denied independent existence to a woman and a mother in the eyes of law.

These conclusions about the citizenship provisions effect on women of Nepal were reached after conducting topical content analysis, inspired by Geisler's method as described in his book *Streams of Language*, of the data collected through interviews. For the analysis, the data was transcribed and scrutinized for common and frequently emerging topical themes related to the impact of the citizenship provision. The purpose of sharing these results are multiple: one, the stories and cases of individuals back up and elaborate on the findings of the earlier analysis chapter; two, the themes discussed and elaborated on this chapter and the earlier analysis chapter

are intended to form an effective counter-public rhetorical discourse that challenge the dominant public rhetorical discourse about the benevolent nature of the Nepalese citizenship provision.

Citizenship provision as the source of humiliation:

The following case of a young girl who had to undergo a series of emotional trauma in the process of obtaining a Nepali citizenship for herself reveals the nature and extent of humiliation and shame that a Nepali mother and her offspring have to face.

Ranju Neupane, popularly known as Ranju Darshana, aged 24 is a Central Committee Member of Bibeksheel Sajha Party (loosely translated as “Sensible Common Party”. She ran in the local elections of 2017 for the post of the Mayor of Kathmandu, the capital city of Nepal. However, she lost the post to her opponent.

Ranju shares that her experience of obtaining a citizenship for herself was worse – it was an emotionally strenuous and exhausting experience. Ranju parents have been separated for more than 2 decades now. Her mother left her father’s house and returned to her grandmother’s place even before Ranju was born. “I was in my mother’s womb when she left my biological father’s house,” she says. Ranju is not sure about exactly what propelled her mother to take this decision. “But I guess that my mother found it uncomfortable to stay at my father’s place once my father’s side of the family started putting financial demands from my mothers’ side of the family” she says. Putting financial demands on the bride’s side of the family in the name of dowry is a recurring phenomenon in Nepal, though the intensity and frequency of the demand is decreasing in the current times.

“Once my mother started staying with my maternal grandmother, my biological father and his side of the family did not bother to bring my mother back in their family” says Ranju.

Soon after Ranju's mother left the house, Ranju's biological father got married for the second time and started a new family with his second wife. Now he has a second wife and sons and daughters from the second wife living with him as his family in Biratnagar – which is an industrial city in the Eastern region of Nepal.

Ranju's biological father and mother were never legally divorced. "It was perhaps not a norm to file a legal separation back then. Legal separations were rare two decades ago," Ranju explains. Ranju's mother started living permanently in Ranju's maternal grandmother's place in Kathmandu, and Ranju grew up there only. Ranju's mother has been registered as the legal resident of Bagmati zone (Kathmandu); she has her voting card, and she also owns her own property in Kathmandu.

Once Ranju became eighteen years and wanted a citizenship card for herself, she went to local District Office of Kathmandu with all her mother's documents to obtain a citizenship card for herself through her mother's name. However, she wasn't successful in obtaining it. Ranju shares her memories of the first encounter with the Chief District Officer there – "the moment he saw that I had the documents from my mother's side of the family, he literally shoved them off the table and said that no citizenship card can be issued on the basis of these documents alone. And he was so curt when he said this that I literally had tears rolling down from my eyes. I was with my mother then which made it worse. He gave no further instruction or assistance whatsoever about how I can proceed further". Ranju shares that lack of humility and respect on the part of the responsible government officers for clients her like make the experience even more humiliating for mothers and daughters like her.

Later, Ranju learned that the only way she could obtain a citizenship for herself was through her father's name and only by going to her father's place of residence. "Initially I

hesitated, because I had never seen my father or his family my entire life till then. But finally, I had to surrender to the demands of the situation. So I communicated with him and went to Biratnagar to make a citizenship card for myself,” she explains. Ranju remembers her first physical encounter with her father vividly. “I remember seeing him for the first time on his bicycle, and it felt like I was meeting a stranger, even though I had internalized that he was my biological father,” she says. Ranju went to her father’s house and stayed there for a week and finally got a citizenship card made for herself in the local District Office there. “I was amazed to see how respectful and prompt the government officers there when my father had accompanied me to the office for the citizenship card making procedure. My father even tipped these officers for their service, though I couldn’t appreciate that,” she adds. The officers there also insisted that the physical presence of my biological father is mandatory in the process of obtaining citizenship card for me. That is because they said they had come across many cases with fake papers for father’s identity earlier and so wanted to avoid anything of that nature.

Ranju was born and brought up in Kathmandu and she has lived and worked in Kathmandu for all her life. However, the permanent address encrypted in her Citizenship Card is that of Morang. “But that is only my father’s address. My address is different. I was born and brought up in Kathmandu. I feel that Kathmandu is my home,” she says. Ranju had brought her Citizenship Card along with her to the interview. She said that she was ashamed of it, and she wanted to have it in front of her while she shared her experiences related to it.

Ranju’s maternal grandmother reacts quite bitterly to all this. “My maternal grandmother raised me up. My school certificate had my mother’s name initially. But the school required fathers name later. My grandmother feels pinched every time she sees it. She says that I am the

one raised you up and paid for your education. But your school certificate has his name only because he is a man”.

Ranju’s relationship with her biological father is sour now. It had improved briefly after Ranju stayed in his house for 7 days during the procedure of obtaining the citizenship certificate card, and she had come to know him and his family a little bit. “My father had promised to help me pay my education fees. But later, he refused to offer any kind of financial support for my education. That was when I felt the most hopeless and depressed in my life. I somehow managed to get into the college and the discipline that I wanted to. I spent all my mother’s saving for doing it. But I couldn’t study well, and I regret it today,” she says, adding that her relationship with her biological father never quite improved after that, although they occasionally talk and communicate with each other.

The difficulties Ranju had to go through, accompanied by the emotional trauma that Ranju, her mother, as well as her grandmother had to encounter in the process of obtaining a citizenship card for Ranju speaks volumes about the way single mothers, or mothers who lack the knowledge of the father of their children face in the government and public offices. Ranju strongly believes that training the governments officers for humble and respectful treatment of such clients is where the battle should begin.

Deepti Gurung and her daughters’ stories are another example of shame and humiliation caused by the citizenship provision. Deepti’s entire family’s story is the story of a family’s struggle against statelessness. Deepti Gurung, a citizen of Nepal, is a woman in her early 40s. A mother of two daughters, she refuses to disclose the whereabouts of the biological father of her daughters. Her elder daughter Neha Gurung is in her early 20s and her younger daughter in in her early teens. Both of her daughters hold a Nepali citizenship card currently, but Deepti had to go

to the Supreme Court of Nepal in order to get the citizenship card for her daughters because the local government bodies refused to issue her daughters the citizenship card before Deepti would agree to disclose the nationality of her daughters' father. But Deepti refused to do so, and Deepti has still been fighting for the right of all Nepali women to retain the information about their sexuality and the father of their children confidential.

Although Deepti's daughters have a citizenship card now, though after a long legal and social struggle, Deepti is not very proud of it. That is because Deepti feels that the state still refuses to acknowledge her existence and status as a single mother which eventually undermines the right of Deepti and other mothers like her to confer their citizenship to their children, independently of the children's father's nationality. And the citizenship card that Deepti's daughters have (which was issued only after the Supreme Court gave a verdict in Deepti and her daughters favor) has an extra line encrypted in it which makes it explicit that the girls' father has been unidentified. Deepti fears that the particular line about their father's missing status can be a source of future humiliation for her daughters in future.

Deepti is now married to Prakash (name change). Prakash is not the biological father of Deepti's children. Prakash himself doesn't hold a Nepali citizenship card because the whereabouts of Prakash's biological father is missing. Prakash's biological father committed suicide when Prakash was young, and his mother remarried after her first husband's death. Prakash's biological father legal documents for proof of identity were misplaced while Prakash's mother shifted and re-settled in her second husband's family.

Prakash's mother could not confer her Nepali citizenship to her children (Prakash and his younger brother) in the absence of her first husband's legal identity's proof. And Prakash and his younger brother grew up without ever having a citizenship card. While Prakash has now joined

Deepti in her struggle campaign for the rights of single mother, Prakash has started realizing the actual nature and intensity of impact that the lack of a citizenship has had in his life.

“I think this affects victim’s mentality and psychology the most. I always thought it was my fault (because I was a naughty kid) that I didn’t have a citizenship card. Because of that I never dared to dream big in life, or atleast as big as my friends and colleagues did,” Prakash shared. He is of the opinion that having somebody speak up for kids or victims like him is the key to combating such negative psychological effects.

According to him, lack of empathy on the part of those who make laws and those who execute such laws is the source of such problem. “Never for a moment do they think from the victim’s perspective or try to understand their situation,” he adds. Prakash is a school teacher by profession. He draws analogy between a class and the larger nation and points out the dangerous effect of discriminating anyone within a class or the nation on the entire population of that classroom or the nation. “Such discrimination leads to nothing but relapse and declination in a society. I am teacher and if I give even a small privilege to boys in the class over girls, there is no way that the class will do well. In the future there will surely come a time when my discrimination backfires me or works against the greater good of the whole class. State should remember that” he says.

The Denial of a mother’s (or woman’s) independent existence

The current citizenship provision doesn’t grant a mother the right to assert and confer her national identity to her children independently of her husband or the biological father of her children. Journalists like Shova Sharma, Anjali Sharma, and Nirmala Sharma criticize the provision for failing to recognize the independent existence of a mother. Deepti Gurung’s

campaign against the law and the bureaucratic system, is fundamentally about the struggle for attaining the legal recognition of her identity and her existence as a mother in her own rights. According to Deepti, what hurts the most is that the state doesn't care to acknowledge the time, commitment, and energy she has spent raising good citizens out of her daughters. She says, "If I had abandoned my daughters right after their birth, they might have been able to get a Nepali citizenship (based on the law that in case both the father and the mother of the child found in Nepal are missing, the child gets a Nepali citizenship by descent). But now I have raised them to become strong and well-educated citizen, and they are denied citizenship only because they are living with a single mother. Now raising such girls is my fault, or not being abandoned by both the parents is my daughter's fault?", Deepti questions.

Anjali Sharma, who has been writing about the citizenship provision and its socio-cultural impact in one of the nation's widely circulating daily broadsheet newspaper *Republica* re-iterates Deepti's concern. According to Anjali, the current citizenship provision is indirectly asking single and abandoned mothers to abandon their child if they want their child to have a Nepali citizenship in the future. "This is what the provision and its makers are indirectly urging Nepalese women and mothers to do", says Anjali with a sad face. Anjali also believes that the current citizenship provision, which denies the possibility of a mother's citizenship status passing down to her children, is rendering the mother and child natural relationship invalid. "It goes against everything that is natural and just", she stresses.

Shova Sharma, who is a journalist working with a popular online newspaper in Kathmandu called *Setopati* (loosely translated into English as "Whiteboard"), has been reporting the cases of denied citizenship for children of single and abandoned mothers. Through her experience of meeting and talking to single mothers, Shova has come to realize that the

constitution of Nepal treats women as ‘second category’ citizens. “I learned that I was always treated as a second category citizenship. The state seems to be telling that I don’t exist independently without being attached to a male. My identity as a woman has not been recognized,” she says.

What bothers Shova is the discrepancy reflected in the provisions of the constitution itself. She says, “The constitution recognizes both men and women as equal citizens, entitled to equal human rights and dignity. And Nepali women’s votes are as much counted and recognized during the election as the votes of Nepali men are. So, if Nepalese women have both the rights to dignity and equality, and also the right to vote, then it should only be logical and natural that they be recognized as citizen mothers having the as much the right to pass down her citizenship to her child as any Nepali citizen father has.” she says. According to Shova, the citizenship provision which limits a mother’s ability to confer her citizenship has been justified in the name of our culture and tradition, which are based on patriarchal values. But having a citizenship provision like that only reflects lack of clarity and conflict in the fundamental assumption and values of the constitution of Nepal.

Advocate Sushma Sharma and Sujana Maharjan, both of whom are working with the Forum for Women, Law and Development (FWLD), which is a non-profit organization working for advocating women’s rights in Nepal, share a similar view of women’s position and status in Nepal based on their analysis of the citizenship provision. Both of them have witnessed and fought for cases where a mother had to depend on either her husband or her husband’s side of the family to help her child get Nepali citizenship . “I have also seen cases where a child is facing difficulty in obtaining a citizenship because his father’s side of the family are not cooperating. In

such cases, the mother alone can do little even if she has a Nepali citizenship certificate with her”, shares advocate Maharjan.

Nirmala Sharma, is the president of *Sancharika Samuha* (loosely translated into English as Women Journalists/Communicators’ Group). She has been producing and broadcasting television shows that deal with the issue of citizenship problem for women in Nepal. Based on her experience, he feels that women have not been recognized as equal citizens by this country. They validity as a citizen is tied up to their marital status, that is to say, with their husbands. And who they are married with determines their eligibility to confer their citizenship to their children.

Shiva Gaunle, is working as an editor for the Center for Investigative Journalism, Nepal. He has investigated and reported several cases where citizenship has been denied to children solely because their mother cannot prove that the father of the children is a Nepali citizen. He narrates one of the cases he had reported in the past.

This was a case in Humla [Humla is a rural place in ta remort part of Nepal]. A child’s father had already expired when the child wanted to obtain a citizenship card for himself. The child went to the CDO office. But the officers asked him to bring a written evidence of the fact that the dead person was indeed his father, and that the dead person was a Nepali citizen. I was very upset to see this. Even the dead person had recognition, just because he was a man. But the child’s mother, who is still alive and taking care of the child, is not recognized. This shows that the right to determine nationality of anybody inside Nepal resides only in male citizens and a handful of powerful people. In the case of this child, if he could bring a written letter from a couple of powerful men in his village to testify for the fact that he is a child of a Nepali man, that would have been accepted too. But the

only person who could know for sure who the father of this child was is this child's mother. But she is never asked, nor even trusted if she speaks. This is the state of democracy in my country and that saddens me a lot.

I have participated in two large mass movements that took place in this country for the sake of democracy. The reason I participated in those movements was because I hoped that democracy meant that the ultimate sovereignty would come in the hands of general people; that means in ME, in YOU, and each one of us, irrespective of our class, caste, gender and ethnicity. But this Humla's case showed that the ultimate power and sovereignty are still within a handful of people. They have not been distributed equally.

There are more cases like the case of Humla where the father's identity alone decides the nationality of the children. This shows that even though the constitution of Nepal claims to protect the right to nationality and sovereignty of all Nepalese citizens, this has not been achieved in practice. This is one of the primary reasons why the feminist groups in Nepal have been protesting against the dominant public rhetoric surrounding the promulgation of the new constitution and the citizenship provision.

Statelessness:

Tales of the families of stateless people:

Amir Husen, a boy in his mid-twenties, works as a carpenter in Kathmandu. He has received high school education from a school in Kathmandu. And he was offered job in a private law firm in Kathmandu through the referral of his maternal uncle. However, Amir couldn't take

up that job because he doesn't have a Nepali citizenship certificate. Not only Amir, but his younger brother and sister, both of whom are high school educated, are unemployed because neither of them has a Nepali citizenship certificate. The reason they don't have this certificate is because their father abandoned their mother Apsara Banu when they were still young, and although her mother has a Nepali citizenship certificate, she is unable to confer it to her three children.

Amir's father (Apsara Banu's husband) is an Indian citizen. But Apsara Banu herself has a Nepali citizenship. Apsara's family had migrated from India a few generations ago, and all of them had acquired a Nepali citizenship certificate after living and working in Nepal for a long time. Apsara's parents had conferred their Nepali citizenship certificate to their daughter before she was married to an Indian citizen man, who was working in Nepal then. However, Apsara and her husband's relation went sour a couple of years after their marriage, and Apsara and her three children were abandoned by her husband. Apsara raised and educated the children on her own. Now, neither Amir nor his younger siblings want to have any kind of relationship with their biological father, and since they consider Nepal their actual home, all of them want to stay in Nepal.

However, these children's possibility of obtaining a Nepali citizenship certificate is next to zero. They have tried obtaining a Nepali citizenship in the past, but the officers in District Office clearly stated that children born out of an Indian citizen father cannot obtain a Nepali citizenship certificate, irrespective of the fact that their mother is a Nepali citizen. Amir and his younger sibling have a chance of obtaining an Indian citizenship card given their father cooperates with them. However, Amir doesn't want to be identified to a father who abandoned them long ago. As a result, Amir and his siblings have been living a stateless person's life for a

long time. Amir recently got married to a girl who is also stateless like Amir. And hence, Apsara and her children live in an apartment in Kathmandu where in a family of five people, four people are stateless.

Jenish Sharma and Anish Sharma are brothers, both in their early 20s, and they don't have a citizenship certificate. Their father abandoned their mother, Gayetri Tiwari, who has been living with her mother since her husband abandoned her and their children. Gayetri Tiwari doesn't have any proof of her husband's citizenship certificate or any other identification with her. She also doesn't have a marriage certificate that proves her relationship with the father of her children. And since Gayetri cannot provide the proof for her marriage to a Nepali citizen man, her children are deprived of the Nepali citizenship status. Jenish, her elder son, wanted to study hospitality management, and was keen on enrolling in one of the good colleges in Kathmandu for further studies. But not having a citizenship certificate jeopardized his chance of getting enrolment in the college, and he has been spending his days feeling frustrated and hopeless since then.

Meanwhile Gayetri is making necessary arrangements to file a case in the Supreme Court in Kathmandu requesting that her children get the citizenship certificate through the mother's name. Some cases like Gayetri's have won similar cases in the past and have succeeded in conferring a mother's citizenship status to the children. However, that is a long battle and it might take years to win it. The existing structure of the judiciary system in Nepal is such that each case like Gayetri's has to fight for their rights in the Supreme Court separately; a decision taken in favor of one mother in one case doesn't get automatically applied to all such similar cases. Advocates like Sushma Gautam and Sujana Maharjan lament over such a system, and they have been making necessary arrangements to file an all-encompassing case in the Supreme Court

appealing that a decision made in favor of a mother in one case may apply to all such similar cases so that each time a new mother doesn't have to come to the Supreme court to get her right.

Thuli Maya Shahi, a resident of Sakhu is a widower in her early 50s, and she is a stateless person too. She doesn't know the whereabouts of her parents. She was brought to Sakhu as an orphan by some of her relatives when she was very young. Thuli Maya cannot prove that her father was a Nepali citizen. And Thuli Maya's husband had died when she was in her 30s. She doesn't have any legal or formal proof of her husband's Nepali citizenship certificate either. Thuli Maya doesn't own a property anywhere inside Inepal Sakhu. She makes a living by working as an agricultural wage labor in the fields of other people around Sakhu. She has two children, one son and one daughter, and both of them are stateless because Thuli Maya cannot prove that their biological father, her long dead husband, was a Nepali citizen, just like she cannot prove that her own biological father had been a Nepali citizen.

Anita Kapali, a resident of Sankhu is a stateless person. She is the mother of two children who are also stateless. Anita's husband, who is also the biological father of the two children, abandoned Anita and their children when the kids were young. Anita has been living in her parent's home since then. Anita's father died a few years ago, and Anita doesn't have the proof of her father's citizenship certificate either. Her dead father's citizenship certificate is possessed by her father's brother (Anita's uncle). Anita can get a Nepali citizenship if her uncle cooperates with her and testifies in the local office saying that Anita is his dead brother's daughter. However, Anita says that the uncle is reluctant to do so out of the fear that Anita will claim a share in his property. As a result, Anita is herself stateless right now, and so are her children. Anita needs her husband's citizenship certificate in order for the children to obtain a Nepali citizenship certificate. Or alternatively, once Anita has her own Nepali citizenship certificate

with her, she can file a case in the Supreme Court appealing that her Nepali citizenship be conferred to her children.

Nepal is one of the 27 countries in the world to restrict a mother right to confer citizenship to her child, independent of the father's nationality. Majority of these countries are in the Middle East, Africa, and Asia (Theodorou; Phew Research Center; "Mobilizing for Women's Equal Nationality"; Teplitz, "Women's day, every day"). As a result of such restriction, the massive number of people are stateless people in these countries. "UNHCR estimates that there are still some 800,000 Nepali citizens who are de facto stateless today" (White).

In their book *Understanding Statelessness*, Tendayi Bloom, Katherine Tonkiss, and Phillip Cole define statelessness as a condition where one is a "non-citizen everywhere" (2). The concept of statelessness has been theorized in this book and the authors call attention upon the importance of understanding this concept of statelessness and whatever it means and entails for the person who is experiencing it. They write: "In order to understand statelessness it is important to consider what it means for stateless persons, how persons, how persons become stateless, and how they experience their statelessness. It is also important to examine how stateless is created, how it persists and why it brings with it the deprivations it does (1-2)".

While Bloom theorizes the concept of statelessness, Nowack calls statelessness a "symptom of a dysfunctional system which does not allow members of a minority group within the Nepali society to explore their full economic, political and social potential and capacities" (1). A person's inability to access state resources and power and to participate fully as a citizen in state affairs – including all social, economic, and political affair – is a direct result of the condition of statelessness, and Nepal's case study highlight's this fact.

As a result of the existing citizenship provision of Nepal, a number of children, especially those who are born to women who have been the victims of rape, or trafficked in the past, are in a stateless condition. They cannot have access to citizenship, because their father is unknown. “This leaves some 4.3 million Nepalis in a stateless condition where they are deprived of basic state facilities such as registering birth, attending college, applying for jobs, acquire or sell land or properties, acquire passport, open bank accounts, vote or as simple as get a mobile SIM card” writes Sunil Babu Panta in an article titled “Citizenship in mother's name: Equality vs. Nationalism debate”.

The citizenship of Nepal promotes unequal treatment by law to men and women which results in an unequal access to opportunities and state resources. “Stateless people live with an invisible barrier around them. Having no nationality, they cannot enjoy the rights most of us take for granted; work, education, legal protection” – (Living as a Stateless Person, UNHCR). Deepti Gurung’s elder daughter couldn’t study medical science because she didn’t have a Nepali citizenship certificate when she started her college.

Bhandari and Tuladhar highlight some of the barriers that stateless people have to face when it comes to accessing opportunities. Some of the most evident ones are inability to claim any form of state granted fund or opportunities, to open and handle bank account, to participate in any democratic civic activities, or to do even make a simple purchase like the sim card for your phone. Bhandari and Tuladhar note that that lack of access to citizenship is not simply about failing to apply for a driving license or a bank account, or to start a company to enter formal services. It is more about the condition of being stateless which has higher implications like the “denial of all social, political, and economic opportunities” (10). And under the existing laws of Nepal, this might also mean the opportunity to open oneself up for choosing a partner of

a foreign nationality. And as a matter of fact, the constitution of Nepal grants this leverage only to men. In one of the interviews titled “*Sajha Sawal*” [translated as “Common Concerns”], an official involved in the constitution making publicly stated that a woman now needs to pay attention to the nationality, just like she does to other factors like education and personality, of a man and understand the repercussions of marrying foreign national in order to be able to take an informed decision about the matter of her marriage. A legal provision enforcing this kind of limitation on women is immensely narrow, exclusionary and inegalitarian.

Chapter 5 – Conclusion

The Public sphere and women as the Counter-public

The analysis of the implications of the current Nepalese citizenship provision discussed in the preceding two chapters make a case in favor of the arguments forwarded by the feminist groups of Nepal in the aftermath of the promulgation of the new constitution. These feminist groups have been functioning as counter-public, advocating for the rights of the marginalized groups, especially women, through their research, advocacy and publication activities. It is therefore relevant to see and understand their activities in the light of the concepts of public and counter public sphere as forwarded by Habermas and Frazer.

Habermas is one of the first people to conceptualize public sphere in a systematic and scholarly manner. “According to Habermas, the idea a public sphere is that of a body of a “private persons” assembled to discuss matters of “public concern” or “common interest”...These publics aimed to mediate between “society” and the state by holding the state accountable to “society” via “publicity” (qtd. in Frazer, 58).

Habermas, together with Sara Lennox and Frank Lennox, wrote an article in 1964, titled “The Public Sphere: An Encyclopedia Article”. This article provided not just a basic definition of the public sphere and what it means, but also laid a foundation for the theory of public sphere upon which much of the later works on the theory of the public sphere and the counter public sphere was built. Habermas in this article writes, “By the public sphere we mean first of all a realm of our social life in which something approaching public opinion can be formed. Access is guaranteed to all citizens...private individuals assemble to form a public body” (Habermas, 1). This definition of a public sphere forwarded by Habermas frames public sphere as a free body that functions for the sake of public opinion formation about the matters of the public interest.

This idea of the public sphere is also reiterated by Nancy Frazer much later in her work, though with some reservations and criticisms.

Habermas' idea of public sphere significantly informs Michael Warner's understanding of the public. Warner in fact extends Habermas' idea of the public sphere. Just like Habermas, for Warner too, the public sphere is a private entity that stands in opposition to the state and possesses a self-consciousness about its formation as a critical "reading public" (47). In his book *Public and Counterpublics* Warner defines public and its characteristics. According to him a public "is self-organized [usually around text]" (67). This quality of organizing itself around text, newspapers, and discourses makes the bunch of individuals with their private self-consciousness a public in the eyes of Warner too.

However, Habermas' idea of the public sphere has been criticized for not being democratic enough, in the sense that it does not take into account the differences that exist between individuals and groups in a society in terms of class, caste, race, gender or power, and the way these differences impact the nature of deliberations and discussion that take place within the public sphere. Nancy Frazer come in to fill in this gap, by explaining how a public sphere is constituted and how it functions within a democratic and multicultural or differentiated society.

Nancy Frazer offers one of the most popular and enduring definition of the term counter public, as well as ideas about how it functions within a democratic society. Frazer criticizes Habermas of two things: idealizing the public sphere as it existed in the bourgeoisie society, and falling to take into account multiple and parallelly existing competing public spheres within a single society (60-61).

Frazer claims that "the public sphere is always constituted by conflict" and that "there were conflicting publics from the start, not just from the late nineteenth and twentieth centuries

as Habermas implies” (61). She also calls the public sphere conceptualized and idealized by Habermas a “bourgeois masculinist” (62) one.

We can no longer assume that the bourgeoisie conception of the public sphere was simply an unrealized utopian ideal; it was also a masculinist ideological notion that functioned to legitimate as emergent form of the class rule...the official public sphere is the institutional vehicle for a major historical transformation in the nature of political domination...the official public sphere, then, was indeed, is – the prime institutional site for the construction of the consent that defines the new, hegemonic mode of domination. (62)

Here, Frazer is arguing that the idea of a singular public sphere that is representative of all social class and groups in a society is a hegemonic one. So, the idea of a dominant public sphere as conceptualized by Habermas is a hegemonic one. Nancy Frazer rejects to embrace such hegemonic idea of a public sphere and proposes an alternative.

For Frazer, Habermas’ idea of public sphere is hegemonic one because it excludes women’s voice and agency. And she explains some of the assumptions that underlie Habermas’ idea of the unitary public sphere that contribute to making it more exclusive rather than inclusive of everybody in a society. These assumptions are: “it is possible for interlocutors in a public sphere to bracket status differential and to deliberate as if they were social equals”, “proliferation of a multiplicity of competing publics is necessarily a step away from, rather than toward, greater democracy,” “the appearance of “private interests” and “private issues” is always undesirable” (Frazer 62). Frazer argues that these underlying assumptions keep the Habermas’ idea of the dominant public sphere from being inclusive of all social groups and their voices.

However, this is not how public sphere functions within an actual society, Frazer argues. According to her multiple counter publics exist at once within any society. She calls these “subaltern counterpublics”. She writes:

History records that members of subordinated social groups – women, workers, people of color, and gays and lesbians – have repeatedly found it advantageous to constitute alternative public. I propose to call these subaltern counterpublics in order to signal that they are parallel discursive arenas where members of subordinated social groups formulate oppositional interpretations of their identities, interests, and needs. (67)

The feminist groups in Nepal who have been protesting against the existing constitutional provision about citizenship rights for men and women are an example of such counter-publics. These groups, that can again be stratified and diverge in nature and focus, are also an example of the way public sphere is constituted and is functioning in a society that is stratified in its composition and yet believes in facilitating discursive deliberation about the matters related to common interest. In the context of Nepal, such counter public groups like feminists have been using various platforms to conduct their protest movements. Internet happens to be one of the most frequently used spaces, given the fact that is it more easily accessible to the counter-publics in comparison to the traditional print and broadcast media. Considering all this, it might be relevant to discover what other ways feminists in Nepal have been employing to protest their cause.

Summing up Nepal's case, and the way ahead:

As the earlier analysis chapters highlight, the current citizenship provision in the Constitution of Nepal is gendered in many ways, and some of the disempowering impacts this citizenship provision has had on women of Nepal are both immediate and far-reaching in nature. On the one hand, it makes the day to day living difficult for women and their children, especially in cases where the father of the children or the husband of a woman abandons the family. On the other hand, the legal policy of such nature where women's individual existence and agency and the right to determine and confer one's nationality to one's children is denied contributes in the re-affirmation and promotion of a culture where women always stand and function as a "second-class" citizen.

One of the central issues that have been tied up with the citizenship debate is the question of national sovereignty. Ever since this new Constitution has been promulgated in Nepal, both the dominant public and the feminists counter public have been engaging in a dialogue about the implications and repercussion of this citizenship policy for the state and its members. While the feminists accuse this provision of being exclusionary and discriminating on the basis of gender, some of the members in the dominant public uphold this provision as being in favor of the state's sovereignty. And one of the arguments they forward is that this citizenship provision keeps the non-native citizens of Nepal from holding the major power position in the country, which is good for the sake of national sovereignty.

However, feminists respond to this argument by highlighting that it is not in line with the principle of justice that only women must be disproportionately disempowered by this policy which is apparently intended to protect the national sovereignty, but in reality promotes

structural and institutional discrimination based on gender. For instance, Indu Tuladhar and Surendra Bhandari write:

A nation is not simply a congregation of its male members. Women are not only essential for building the institution of family, but also contribute to building a nation. They are instrumental to the economic growth, human resources development, social inclusion, political participation, and the sustainable development of the country. The mission of nation building cannot be attained by ignoring the roles and equal status of women in society. (23)

After recording the problems, biasness, and injustices underlying the existing model of citizenship in Nepal, Bhandari and Tuladhar finally suggest a solution to these problems. The solution they offer is to think of citizenship as a matter of the child's right instead of limiting it to the status of the parents. This, they suggest, will help solve the problem of stateless child to a large extent.

Secondly, another way to get this injustice fixed is to start with a different premise, or assumption about women and child birth. Bhandari and Tuladhar note that the existing citizenship provision is guided by the notion that a woman has to be married in order to give birth to a child. And all the legalities of showing proof of father's citizenship certificate springs from this assumption which negates the possibilities of a single woman becoming a mother. And this requires a larger and major structural and institutional shift in the socio-political and cultural environment of Nepal. This calls for contribution from everyone to foster an environment where women are empowered and not excluded from recognition and representation in any legal, social, and political platform. Nepal has already been doing so in so many other respects. It has a female president right now, and a female head of the Judiciary. And

forging a liberal and egalitarian citizenship provision can be another tool, another means towards the goal of achieving a more liberal, impartial, fair and egalitarian society.

The Public and Private Sphere Divide

It is imperative to understand the assumptions and ideologies about gender roles and power dynamics that underlie this citizenship provision if one wants to reach an understanding of why these ideologies might be powerful enough to influence the larger socio-cultural context of Nepal. In order to reach such understanding, it is useful to take a look at the divide between public and private space and the way it affects the concept and distribution of citizenship in Nepal. Many women interviewed in this research project thought that citizenship was necessary only to those people who came out of the private or domestic space of home and worked in the public and official sectors. Almost all of the women interviewed in Nagarjun who lacked the citizenship, for various reasons, voiced that they did not think citizenship was an indispensable thing if you are functioning only in the domestic space. Smita Paudel also shared that it was mostly women functioning only in the domestic/private space who lack a citizenship card. This was something that the officers working at the Home Ministry of Nepal discovered whenever they launched and executed a door to door awareness raising program about citizenship.

The concept of citizenship was associated with the public sphere since its inception, when Aristotle first wrote about the concept. And the idea continued to be attached to a public sphere – a sphere which is different and strictly detached from the private sphere – throughout the Roman and Greek period. And since these spheres carried with them gendered connotations – of men belonging to the public sphere and women belonging to the private – the idea of citizenship also gained its gendered connotation. The case of Nepal where women themselves viewed it natural

for someone confined to the private sphere to not have a citizenship is only an expression of this prolonged tradition of a strict divide between the private and public spheres and the gendered notion of citizenship that such a divide results in.

Further Discussion and Directions for Future Research

In their essay “Introduction: Citizenship as a Rhetorical Practice”, Christian Kock and Lisa S. Villadsen promote an “understanding of citizenship as a discursive phenomenon in the sense that important civic functions take place in deliberation among citizens” (2). They talk about two traditions of thought associated with the concept of citizenship: liberal and republican. In the liberal tradition, “questions of freedoms and rights of citizens” (3) take the central stage, whereas the republican concept of citizenship sees “participation and debate as central to being a citizen” (3). So, in this tradition of thought, there is a strong citizenship and deliberation, because functioning as a citizen involves participating in deliberative acts on the issues of public importance. It is within this tradition of thought that a strong relationship between citizenship and rhetoric is seen. Christian Kock and Lisa S. Villadsen write that if citizenship is about deliberating in the public, “citizenship, in this sense of the word, is basically, rhetorical citizenship. Rhetoric, in this view, is at the core of being a citizen” (2).

On the subject of importance of deliberation in the diverse culture and society, they write: “The more diverse a society becomes, the more pressing is the need for public reflection on what is best for the society as such and not just for its segments – in other words, the need for deliberation, for rhetoric” (3). Women of Nepal, who have formed a counter-public, are trying to participate in this act of deliberation by speaking out in the larger public. The means they have employed to get their voices across are the same means that the dominant public have been

employing – most of these are newspaper and new-letters, social media, research reports. The question of what this long struggle of women will culminate in, or yield in, is yet open and the answer is still unfolding in the popular socio-political discourse about women and human rights that is still ongoing in Nepal.

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