

A CRITICAL STUDY OF SOUTH-ASIAN COUNTRIES AND LEGISLATIONS SAFEGUARDING WOMEN'S RIGHTS

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***A**bstract—The phrase 'South Asia' typically suggests a feeling of common ideology, historical, and cultural ties, including colonization, decolonization, division, and the emergence of modern nation-states. Although South Asia, a multifaceted spatial area, is generally perceived as belonging "somewhere else," constructed and perpetuated mostly by Western area studies programmes, this article contains the theme of the women and law in South Asia that navigate this multidimensional landscape with a refreshing familiarity. This is essential since concentrating on South Asia presents numerous obstacles. In South Asian societies, social customs and patriarchal mindsets maintain gender inequity. The uniformity in women's positions across South Asia is one of the key factors used to define it. South Asia represents an inadequately studied region, with very few research concentrates on law and a significantly lower number of research on women and law. However, South Asian women continue to seek justice primarily through the legal system rather than through politics. Women's movements have also placed a strong emphasis on using legislative progress to combat the oppression of women.*

This article presents a comprehensive study of South-Asian legislation. It explores the progress made and challenges faced in the pursuit of gender equality. Through a comparative analysis of India, Pakistan, Bangladesh, Nepal, and Sri Lanka, this article examines constitutional provisions, family laws, measures to prohibit violence, and initiatives promoting education and economic empowerment.

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I. INTRODUCTION

The historical progression of their roles and status in South Asia is complex and diverse. Early civilizations showed varying degrees of gender equality, but patriarchal religious interpretations and the caste system led to women's decline. Major religions influenced social norms, relegating women to subordinate roles. Colonialism exacerbated gender inequalities, but independence movements brought opportunities for women's rights advocacy. Post-independence, constitutional provisions and policies aimed at gender equality were introduced, but patriarchal attitudes persist, posing challenges to women's empowerment. Women's rights movements have emerged to address gender disparities. The region's history reflects an ongoing struggle for gender equality amidst cultural, religious, and socio-economic influences.

In South Asian societies, social customs and patriarchal mindsets maintain gender inequity. From the moment a child is born, discriminatory practices have an influence on all parts of their destiny. These differences are evident across all stages of life, including conception, infancy, childhood, adolescence, and maturity.¹

Women in South Asia typically confront the uncertainty of both personal and collective rights, dignity and humiliation, and clean and contamination throughout their actual life experience, traditional practices and contemporary fundamental freedoms as to citizenship rights, widespread poverty, lack of education, medical deficiencies, military conflict, and gender-based aggression etc.²

Moreover, this happens in a political atmosphere in which traditionally a considerable percentage of women have held most senior political posts in the region, providing the perception that women have considerable political influence.³

The lack of representation of women generates a self-reinforcing cycle. Women who are outnumbered are less likely to have their ideas taken into

¹ <https://www.unicef.org/rosa/what-we-do/gender-equality> (last visited on Sept. 13, 2022).

² Mahanta U., Dalwa S., Shakil, A., *Women and Law in South Asia* JINDAL GLOBAL LAW REVIEW (2019) 10(2):149–155, (last visited on Sept. 13, 2022).

³ *Ibid.*

account, which decreases the probability that initiatives will be taken to address the barriers to women's increased participation.⁴

II. INDIA AND THE LEGAL PROVISIONS: TRADITION TO TRANSFORMATION

The notion of achieving parity is included in the Preamble of the Constitution, under the Constitutional Rights, Constitutional Responsibilities, and under the DPSP⁵ of the Indian Constitution. Article 14 of the pious document ensures all citizens equal protection under the law and guarantees that they will be treated equally before the law.

The prohibitions against discrimination in Articles 15(1) and 16(2) expand on this idea. Articles 15(3) and 16(3), however, promise substantive equality, which transcends the notion of formal equality and allows the state to make particular provisions to guarantee the legal safeguards of marginalized sections in order to remedy the historical inequities endured by these segments.

The Indian state, on the other hand, has enacted multiple laws regarding women's equality rights. Currently, 44 federal statutes have a direct bearing on women's rights. Examples include the 73rd and 74th constitutional amendments, which require 33% female representation in the establishment of elected villages (Panchayat) and municipal bodies, as well as the integration of particular legal measures to strengthen the right to equality in the workplace and combat social and past imbalances.

*Vishaka v. State of Rajasthan*⁶ is a landmark case in India that dealt with sexual harassment in the workplace. Bhanwari Devi was a social worker. She was Gang-raped. This case brought attention to the issue of workplace harassment. After 1997 instructions were issued in pursuance of the Apex Court of India judgment to provide women a fearless workplace. In supplement to gender-specific provisions in ordinary criminal laws, the Indian State has developed special legislation to address harmful practises against women over the years.⁷ The High Court of Bombay issued directions in the case of *Prerana v. State of Maharashtra* and others⁸ to protect and safeguard children rescued from brothels. The key directives are as follows:

1. The Juvenile Justice Act should treat rescued children as "children in need of care and protection."

⁴ *Ibid.*

⁵ Directive Principles of the State Policy Arts. 36-51 of the Indian Constitution.

⁶ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241: AIR 1997 SC 3011.

⁷ *Ibid.*

⁸ 2002 SCC OnLine Bom 984: (2003) 2 Mah LJ 105.

2. Lawyers representing accused individuals are not allowed to represent the victims to prevent conflicts of interest.
3. Proper age verification of individuals under 18 should be conducted, and cases of juveniles should be transferred to the appropriate Juvenile Justice Board or Child Welfare Committee.
4. Before releasing juveniles from brothels, an inquiry by the Probation Officer is mandatory.
5. Only parents/guardians are permitted to appear before the Child Welfare Committee, not advocates.
6. Under the Immoral Traffic Prevention Act, it is forbidden for advocates representing pimps or brothel keepers to appear in the same case involving rescued victims.

“*The Dowry Prohibition Act of 1961*”, It explicitly forbids the practice of giving and receiving dowry, “*the Commission of Sati (Prevention) Act of 1987*”, which penalises those implicated in the charge of sati⁹ as well as sanctification, “*the Prohibition of Child Marriages Act of 2006*”, and “*the Preconception and Pre-natal Diagnostic Techniques(Prohibition of Sex Selection) Act, 1994 (PC & PDT Act)*”, it thus prevents the massive corruption of diagnosis tests that leads to preferential abortion. A vast majority of these statutes and legal measures were adopted as a consequence of the women’s protest’s lobbying efforts, particularly in the 1980s.¹⁰

<p style="text-align: center;">Preamble</p> <p>Ensures the equality and dignity of every citizen of the country.</p>	<p style="text-align: center;">Article 14</p> <p>Incorporates the ideals of equal rights, classification equal safeguards of equality.</p>	<p style="text-align: center;">Article 15</p> <p>It is for bidden to discriminate on the basis of religious identity, racial grounds, caste, gender or birthplace, while Article 15(3) allows the Indian State to set up specific safeguards for the protection of women and children.</p>
<p style="text-align: center;">Article 16</p> <p>Guarantees that all persons have equal employment and appointment opportunities for all public positions.</p>	<p style="text-align: center;">Article 39A</p> <p>Instructs to ensure that no citizen is denied a right to justice because of economic or other disadvantages, the state should promote justice based on the principle of Opportunities for all and legal assistance for free through an acceptable statute, plan or other means.</p>	<p style="text-align: center;">Article 39</p> <p>Article 39(a) and (d) require the state to focus its strategies on ensuring equal access to basic means of subsistence and equal remuneration for same work opportunities for both genders.</p>

Source: <https://nalsa.gov.in/>

⁹ “Sati”, is the rite of a woman who is open burnt on her husband’s funeral pyre.

¹⁰ Basu, Asmita *Harmful Practices Against Women in India: An Examination of Selected Legislative Responses*, (2009).

Constitution of India (1950)
The constitution grants fundamental rights and forbids gender-based discrimination.
↓
Protection of Women from Domestic Violence Act (2005)
Provides protection and legal remedies to women facing domestic violence.
↓
Dowry Prohibition Act (1961)
Prohibits the giving or receiving of dowry, aiming to prevent dowry-related harassment of women.
↓
The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)
Addresses sexual harassment at the workplace and provides a mechanism for redressal.
↓
The Maternity Benefit Act (1961)
Ensure maternity benefits and job security for women employee during pregnancy and after childbirth.
↓
The Medical Termination of Pregnancy Act (1971)
Regulated the conditions under which a pregnancy may be terminated to protect women's reproductive rights.
↓
The Prohibition of child Marriage Act (2006)
Prohibits child marriages and sets the minimum age for marriage for girls and boys.
↓
The Hindu Succession Act (1956)
Amended in 2005, it grants equal inheritance rights to daughters in ancestral property.
↓
The Muslim Women (Protection of Rights on Marriage) Act (2019)
Criminalizes instant triple talaq, a form of divorce practiced among Muslims, to protect women's rights.
↓
The Indecent Representation of Women (Prohibition) Act (1986)
Prohibits the indecent representation of women in advertisements, publications, or any other from.

Source: <https://nalsa.gov.in/>

III. PAKISTAN AND ITS LEGAL PARADIGMS

In the growth of Pakistani laws protecting and expanding women's rights and empowerment, a complex pattern of triumphs and failures may be observed. In 1999, following the coup led by General Pervez Musharraf,

women's rights gained significance due to a variety of factors, including the international perception of Pakistan.

“The Protection of Women Act,” which was enacted in 2006 following a change to the Hudood Laws, is the most significant advancement during that time. The current government of the Pakistan People's Party has passed a number of key pieces of legislation that build on Musharraf's progress in empowering women. Pakistan has witnessed some advancement in particularly in education and representation in various professions of females. This act¹¹ aimed to strengthen laws related to gender parity. However, conservative societal norms and traditional practices continue to impede women's progress. Honor killings, forced marriages, and limited access to healthcare and education are some of the persistent challenges.

The constitution provides fundamental rights and protections for all citizens, including women.
↓
Protection of Women (Criminal Laws Amendment) (2006)
Amended various criminal laws to provide better protection to women against violence and abuse.
↓
Punjab Protection of Women Against Violence Act (2016)
Introduced by the Punjab province to protect women from domestic violence and provide support services.
↓
Acid Control and Acid Crime Prevention Act (2011)
Criminalizes the throwing of acid on others and imposes strict penalties for acid attacks on women.
↓
Prevention of Anti-Women Practices Act (2011)
Addresses harmful practices such as forced marriages, depriving women of inheritance, etc.
↓
Criminal Law (Second Amendment) Act (2011)
Raised the minimum age of marriage for girls to 18 year to discourage child marriages.
↓
Muslim Family Laws Ordinance (1961)
Applies to Muslims and deals with matters of marriage, divorce and maintenance among Muslim women.
↓
National Commission on the Status of Women Act (2012)
Established the National Commission on the Status of Women to monitor women's rights in Pakistan.
↓
Protection against Harassment of Women at the Workplace Act (2010)
Provides protection to women against harassment at the workplace.

¹¹ The Protection of Women Act, 2006.

▼
Banazir Income Support Program (BISP)
A social safety net program providing financial assistance to vulnerable women and families in Pakistan.

Source: <http://www.paklaw.gov.pk/>

The Mukhtaran Mai Case¹² is a high-profile incident of sexual assault in Pakistan. Mukhtaran Mai, a woman from a small village, was group sexual assaulted on the command of a tribal forum as punishment for an alleged crime by her brother. Instead of remaining silent, she pursued justice through legal channels, gaining media attention and public support. Several men were convicted, but some were later acquitted on appeal, sparking discussions about the legal system's handling of sexual violence cases¹³. Mukhtaran Mai became an activist for women's rights, drawing international recognition and inspiring movements for gender-based violence reforms.

According to Moroccan sociologist Fatima Mernissi, "the challenge of establishing women's rights in Pakistan is intimately linked to the necessity for a consensus that women in Pakistan have the right to build a future as opposed to simply ageing."¹⁴ This includes setting up new measures to defend women against traditional beliefs like 'swara' and 'karo-kari', domestic and societal aggression, and other behaviors in which women pay for the wrongs of others, as well as enforcing certain rights that women are supposed to have in Pakistan because they are in accordance with SHARIA, such as keeping inherited land or divorcing abusive husbands.

Appreciations of the Constitutional Clauses: *Article 3* mandates the prohibition of all forms of exploitation. Every person has the privilege of receiving protection and treatment in the manner prescribed by law, as stated in *Article 4*. This applies without exception to both Pakistani citizens and non-citizens. This clause makes it abundantly clear that these basic rights cannot be surrendered or withdrawn. The Constitutional *Article 25* assures the right to equality before the law and opportunities for same treatment under the law and forbids gender-based bias. *Articles 25(3) and Article 26(2)* grant the state the authority to enact specific protections for children and women. *Articles 26 and 27* give

¹² The State, Mai and others v. The State, Abdul Khaliq and others (Criminal Appeals No. 163 to 171 and S.M. Case No. 5/2005 (On appeal from the judgment dated 3.3.2005, passed by Lahore High Court, Multan Bench in Cr. A. No. 60, 61, 65, 66, 67, 60, 61, 62, 63, 60/2002 respectively), (2011), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.af.org.pk/Important%20Courts%20judgement/SC%20Judgment%20on%20Mukhtara%20Mai%20Case.pdf. (last visited on October 13, 2023).

¹³ Vinay Lal, "When the Voiceless Find Voice: Mukhtaran Mai, the Conscience of Pakistan," *Economic and Political Weekly* 40, no. 27 (2005): 2894-2896, available at JSTOR, <http://www.jstor.org/stable/4416839> (last visited on October 13, 2023).

¹⁴ Fatima Mernissi, *BEYOND THE VEIL: MALE-FEMALE DYNAMICS IN MODERN MUSLIM SOCIETY*, Indiana University Press, Bloomington, (1987), at p. 12.

equal employment rights and access to public spaces throughout the public and private sectors, respectively. Human trafficking and prostitution are both prohibited by *Article 11 and Article 37(g)*.

Article 32 ensures the women's engagement and participation in local authorities. *Article 34* mandates that the government develop efforts that enhance women's participation in all domains and societal engagements. *Article 35* directs the state to protect the institution of marriage, the family unit, as well as the well-being of mothers and children. *Article 37(e)* obligates the government to create laws to provide adequate and decent working conditions for all workers, to ensure that children and women do not indulge in employment unsuitable according to the age or sexual orientation, and to provide health care benefits to employed women. *Articles 51 and 106* ensure that appropriate legislative seats are reserved for women.

Shaping History: The Fight for Rights in Bangladesh: Women in Bangladesh have made significant progress since the country's independence in 1971, as a result of the country's five-decade-long efforts to better their employment chances, educational prospects, and political empowerment.

Bangladesh has taken significant steps in promoting women's rights, particularly in areas like education and microfinance opportunities for women. The country has achieved gender parity in primary education, furthermore, women's participation in the workforce has shown a notable increase. However, challenges such as child marriage, gender-based violence, and limited representation of women in higher levels of government persist.

Women in Bengal have enjoyed the right to cast a vote since 1947, a fundamental right for which women worldwide battled for decades. Adopted in 1972, the Bangladeshi the BNWLA case¹⁵ focused on the issue of acid violence against women in Bangladesh. The BNWLA petitioned the High Court Division of the Supreme Court to address the rising incidents of acid attacks and formulate specific laws to combat the crime effectively. The court intervened, issuing directives to the government to take action and provide justice and support to the victims. As a result, "the Acid Control and Acid Crime Prevention Act 2011" was passed, imposing strict punishment for offenders and improving support services for acid attack survivors. It created greater public consciousness regarding acid attacks, showcasing how the judiciary plays a vital role in advocating for women's rights and tackling gender-targeted violence.

The Bangladeshi constitution has provided all Bangladeshis, and women in particular, with governing institutions that are both pragmatic and gender

¹⁵ Bangladesh Society for the Enforcement of Human Rights (BSEHR) v. Govt. of Bangladesh, 53 DLR (2001).

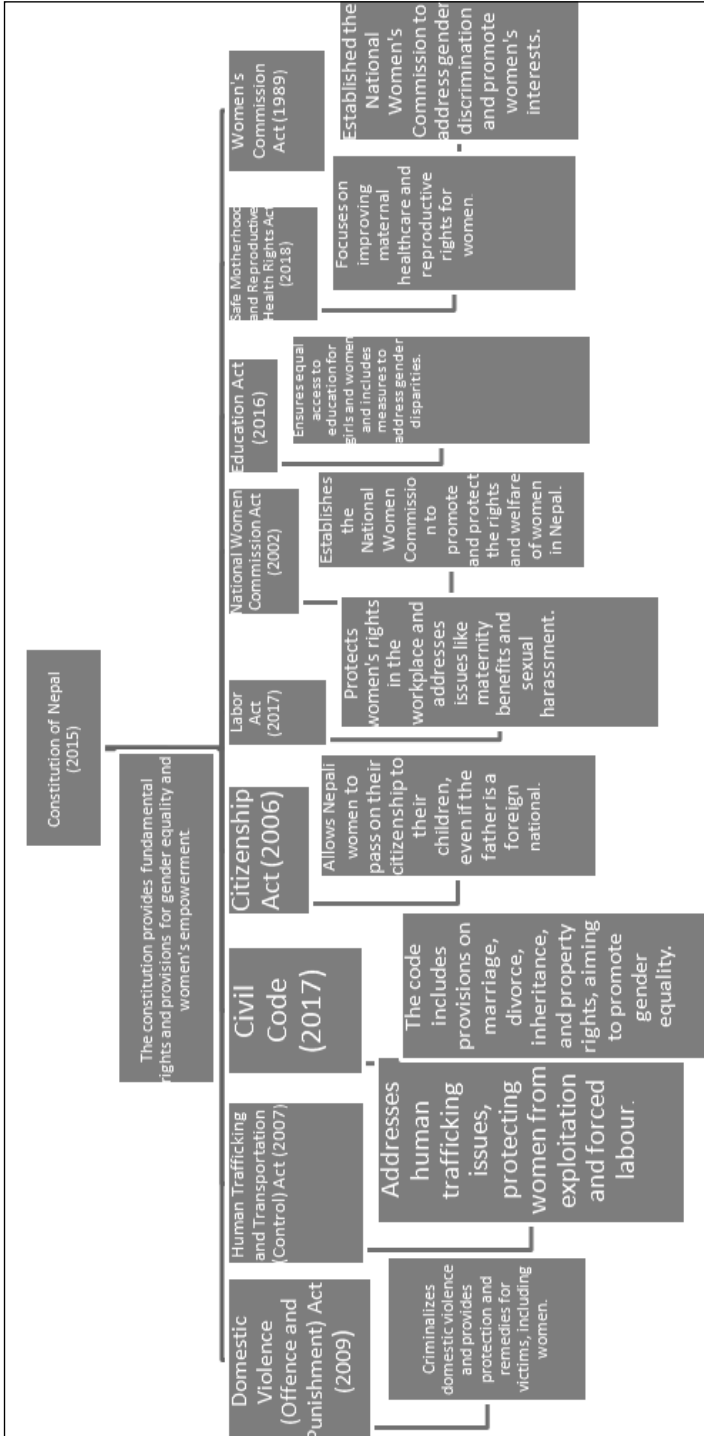
sensitive. The radical progressive tenet of gender equity, which upholds the dignity of both males and females, is grounded in the constitutional clauses found in articles 19(3), 28(1), 28(2), 28(3), 29(1), and 29(2) and 65(I), which assures the uniform rights and protections for both the women and men in all facets of national and public life, as well as equal opportunity for all citizens. Article 65(3) of the Constitution enshrines the principle of affirmative action with the aim of reserving fifty seats in the legislature for women, similar to South Africa, Namibia, Uganda, Argentina, and Tanzania.¹⁶

Article 19-(1) ensures “equality of opportunity for all people.” Article 19-(2) mandates “the equal distribution of income among citizens.” Article 15 (which provides “provisions of basic necessities- continuous improvement in the material and cultural standard of its residents”), Article 29-(1) (which ensures “equality of opportunity in public employment for all citizens”), etc.

In 1995, the Bangladeshi parliament enacted “*the Women and Children Repression [Special Provisions Act] (Nari O Shishu Nirjaton (Bishesh Bidhan) Ain 1995)*”, which recognised the need for severe punishment for crimes such as forcing women into marriage against their will and injuring or killing women for dowry. In the year 2018, the High Court of Bangladesh prohibited the practise of the demeaning “two-finger test” on rape victims. The rise of robust voices advocating for female rights have been enabled by the increasing number of Bangladeshi women actively engaged in politics, as seen by the occurrences described.¹⁷

¹⁶ Osman Md. Ali, *Constitution and Gender Rights*; Editorial - The Independent; retrieved on 05.01.23

¹⁷ *Rights in Law and in Practice: The Case of Bangladesh*.



Source: <https://lawcommission.gov.np/>

IV. NEPAL AND THE LEGISLATIVE STRIDES

Due to its underdeveloped resources, Nepal, a Himalayan nation in South Asia, is among the poorest nations. Over the majority of its history, it has been plagued by political instability and ruled by autocrats. Nepal's standing in terms of gender equality and the law has risen significantly.

Women's Rights Nexus: The Web of Legal Empowerment: The 2015 Constitution of Nepal is a major achievement in gender parity because it encapsulates the majority of the universally recognised human fundamental freedoms of women, such as the right of women to inherit property and sexual autonomy and reproductive health protections, the perfect right to be safeguarded against all kinds of discrimination and oppression, and the right to education, health, job, and participation in state affairs.¹⁸ As a consequence of legislation ensuring the part of women and other minorities, women today hold more than 1/3rd of voted offices at each levels of the local government. 34% of the National Parliament, 34% of the seven regional legislatures, and 41% of the 753 municipal councils are made up of women, including women from Dalit, indigenous, and Muslim communities. 91% of urban and rural towns' vice mayors/vice chairs (753 local governments) are female. This unprecedented level of female participation in government is unparalleled in the democratic history of Nepal. The nation has also endured considerable legislative changes, inclusive of the adoption of the Criminal Procedure Code of 2017, the Civil Procedure Code of 2017, and the Sentencing Act of 2017, all of which came into force on August 17, 2018, superseding the General Code of 1964.

The Criminal Code, 2017, "*The Witchcraft-related Accusation (Crime and Punishment) Act, 2015*" and the *Sexual Harassment at Workplace (Prevention) Act, 2015*" are among the most recent laws passed by the Nepalese legislature to combat various forms of violence against women. With higher punishments and fines, Section 6 of the Criminal Code of 2017 has penalised a variety of conduct committed towards women, including acid assaults, *chhaupadi*, polygamy, and sexual offences. According to the law, polygamy and marriage of minors are invalid.¹⁹

The statutes of restrictions for sexual assault and other rape crime are expanded to one year under the Criminal Code of 2017, from six months under the National Code of 1964. The 2017 Criminal Code provides a more comprehensive definition of rape, but does not use gender-neutral language for rape victims and perpetrators. In addition, the Code criminalizes suicide instigation but not suicide attempt. The Victims of Crimes Protection Act of 2018 was passed to guarantee that the entitlement to redress, restitution, and social

¹⁸ The Constitution of Nepal, 20, September 2015, www.lawcommission.gov.np (last visited on June 12, 2023).

¹⁹ MAPPING PROGRESS ON WOMEN'S RIGHTS IN NEPAL, 2nd ed., Feb. 2020; UN Women.

reintegration of crime victims is also a constitutionally protected fundamental right.

The Criminal Code of 2017 and the Criminal Procedural Code of 2017 grant crime victims the opportunity to knowledge about Lawsuit hearings, litigation confidentiality, in- camera proceedings, and interim resolution and State fund reimbursement. The State Compensation Fund has been established, along with accompanying regulations. Additionally, the Government off Nepal adopted the Integrated Legal Aid Policy on December 30, 2019.

The 2017 Civil Code guarantees son and daughter's (although married) equal status to claim the family property. In September 2018, sixteen laws were passed to implement constitutional rights. "*The Right to Safe Motherhood and Reproductive Health Act, (2018)*" is one of the milestones which provide the women with sexual autonomy and right to reproductive health. The Act was enacted with the objective to access the safe maternity and access to reproductive health, of fine standards, in order to safeguard preserve, and realize the constitutional right to secure motherhood and sexual health promised to Nepalese women by the national constitution,

"*The Right to Privacy Act, 2018*" categorizes like privacy relating to character, correspondence, residence, data, family details, body, property, documents. The act gives absolute right to every citizen to protect his/her privacy. As a result of patriarchal norms, Nepali citizens could only obtain citizenship based on the citizenship of the father (under descent). However, according to the "*Citizenship Act of 2006*", under Section 5 of the Act a child may gain Nepalese citizenship if one of his or her parents also has citizenship in Nepal.

Another evil practice against women in Nepal is '*chhaupadi*'²⁰, this is a ritual in which women in the period of menstruation are deemed to be impure and secluded outside the home and not allowed to enter kitchen or do household chores and forced to live in barn or stable. The societal outcome of this pure-impure dichotomy is some of the most blatant kinds of discrimination. In the case of *Dilbahadur Bishwokarma v. Council of Minister of Nepal* in the year 2005, the Supreme Court of the State observed that the practice of *CHHAUPADI* custom is misconduct, directed the guidelines to the state's government to eradicate the practise of this custom, and deemed it an infringement of human rights.

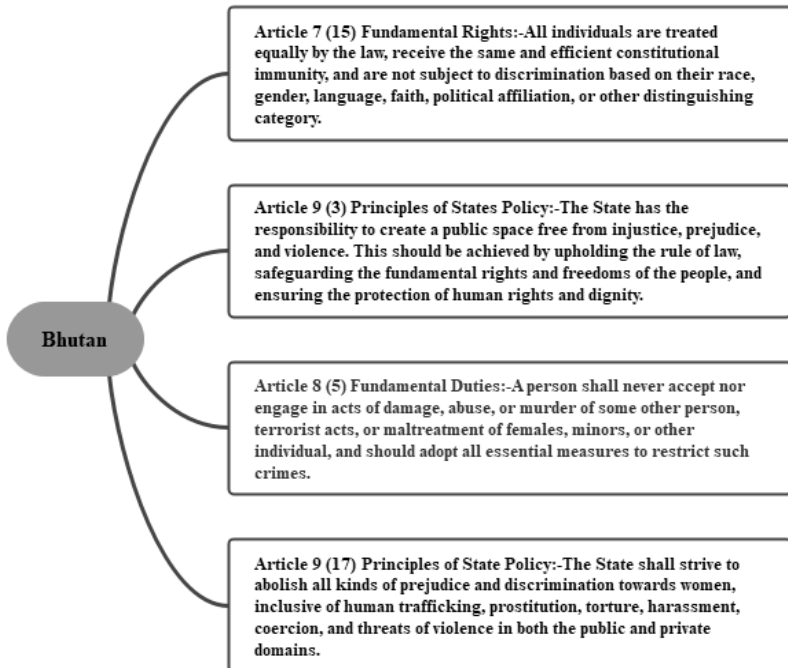
The various acts such as the entitlement to Employment Act of 2018, the Right to Compulsory and Free Education Act, 2018, Right to Privacy Act, 2018 are some other acts enacted in the year 2018 for the upliftment of the status of women.

²⁰ Chhaupadi is a sort of isolation associated with Hindus' profound religious beliefs and emotions about ceremonial purity and impurity.

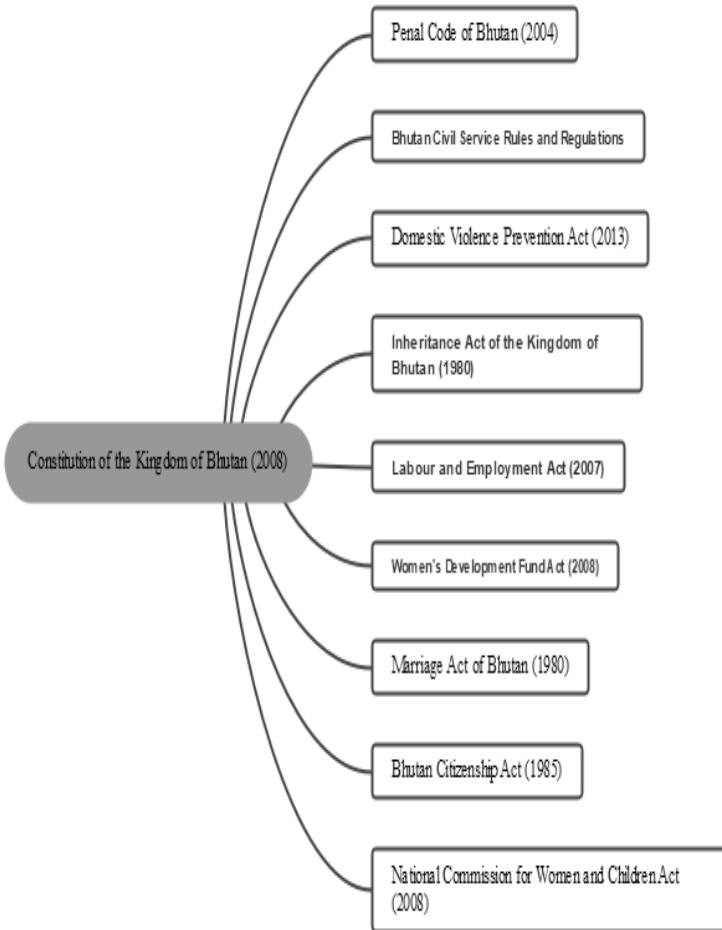
V. LEGAL FORTITUDE: PAVING THE WAY FOR WOMEN'S EMPOWERMENT IN BHUTAN

Bhutan, a tiny nation located in the eastern Himalayan Mountains between India and China, has retained its rich and peculiar heritage despite its relative isolation for much of the twentieth century. A new constitution was drafted to transform an autocratic regime with a constitutional monarchy and a new constitution was adopted in 2008. 1975 was the first year that women's voices were included on the worldwide agenda (CEDAW).

In 1981, Bhutan approved the “*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*” but without protest, demonstrating its commitment to protecting the rights of women. The “*Nairobi Forward-looking Program for the Development of Women*”, which was signed and endorsed in 1985, was to be executed by 2000. In August 1995, “*The Beijing Declaration and Platform for Action*” provided more impetus for the flourishing and emancipation of women, especially their right to freedom, which enables them to develop, grow, and determine their own lives. Globally, significant progress has been made towards establishing gender equality.



Source: National Assembly of Bhutan



Source: <https://www.nll.bt/>

Both Polygamy and polyandry are legal under the Marriage Act of Bhutan, 1980. But the requires that a woman may marry more than one husband but a certificate of marriage shall be granted only in respect of one husband.²¹ However, the consent of the former wife is required for the husband to marry another woman.²² Up to three spouses can claim the maintenance and share in the property in the divorce.²³ The legislation however allows multiple marriages but the requirement is that the spouses must be Bhutanese nationals

²¹ Kha 1-17 of Marriage Act of Bhutan, 1980. (Refer Section Kha 1-12 of THRIMSHUNG 1957).

²² Kha 1-19 of Marriage Act of Bhutan, 1980.

²³ National Assembly of Bhutan, 1980.

only.²⁴ Marital rapes are illegal under Clause 199 of Chapter 12 Bhutan Penal Code, 2004 and graded the offence of marital rape as a *petty misdemeanor*.²⁵ While rape is also illegal and graded as a felony of the fourth degree.²⁶ In combination with rapid economic growth, Bhutan has considerably lowered gender equality disparities. The adoption of laws such as the “*Child Adoption Act, 2012*”, “*The Child Care and Protection Act, 2011*”, and “*The Domestic Violence (Prevention) Act of 2013*” safeguards women’s and children’s rights. Such laws are a manifestation of the country’s powerful democratic willpower and favorable climate.

“**The 2008 Constitution of the Kingdom of Bhutan**” provides the over-riding regulatory regime for gender equity, in which: fundamental human rights are conferred uniformly to women and men; while the constitutional duties require every individual Bhutanese not to withstand abusive behaviour against women; principles of state policies aim to eradicate discriminatory practices towards children and women; and it recognises treaty obligations such as the “*Convention on the Elimination of All Forms of Discrimination against Women*” that have been ratified by signatory nations.

VI. SRI LANKAN LAWS AND WOMEN’S LIBERATION

In accordance to Women, Entrepreneurship, and the Law, 2022, a programme of UN Women, annual assessments analyse the laws and regulations affecting women’s economic potential. Women, Business, and the Law pushes for gender equality reform and reveals the route to a more equitable and prosperous world. Nepal received an overall score of 80,6 out of a possible 100 based on a variety of factors, including its laws on mobility, parenthood, marriage, pay, workplace, parenthood, pension, and entrepreneurship. The point which the Nepal got was the highest in South Asia, surpassing the average of 63.7. India got 74.4 out of 100 in the survey, which was also higher than the average score for South Asian nations. Bangladesh scored 49.4 out of a possible 100 points, making it the lowest-scoring nation in the South Asian area.

“**The Constitution of Sri Lanka**” passed in the year 1978 by the National State Assembly, since then it has been amended by 21 times till 2022. In Sri Lanka, there are one of the most restrictive abortion rights in the South-Asian region. The abortion is illegal in every instance except in the case that it is done with the purpose to save the lives of women.

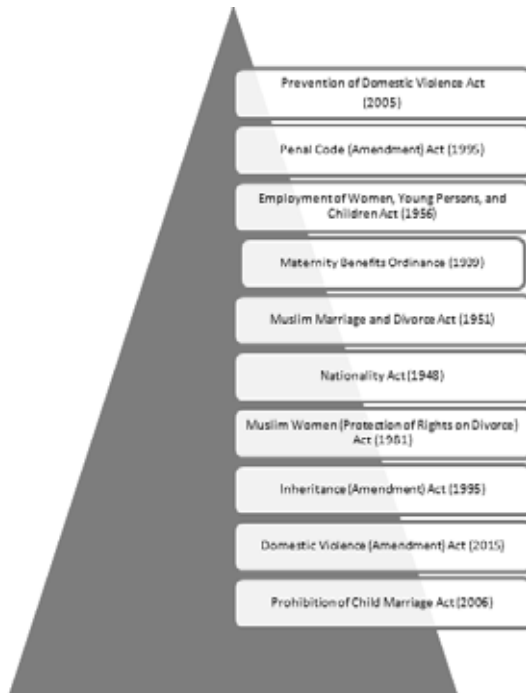
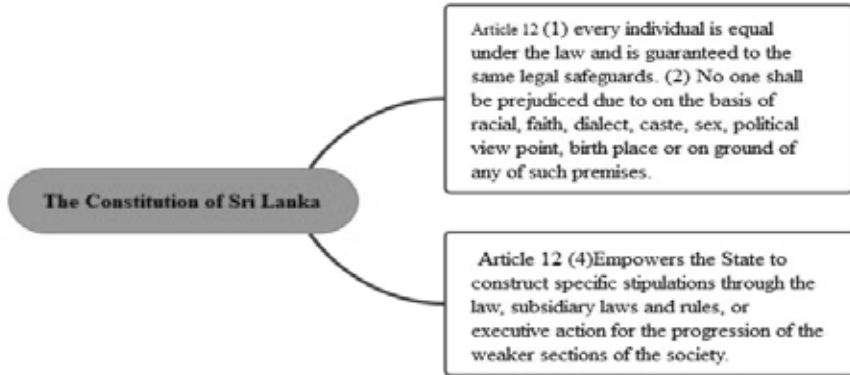
²⁴ The Marriage Act of Bhutan, 1980.

²⁵ Considered as a minor offence.

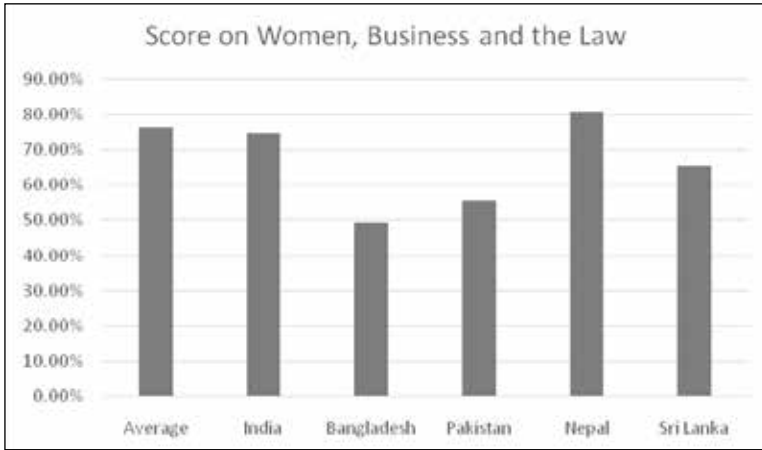
²⁶ Cls.177-178 of ch.12 of Bhutan Penal Code, 2004.

Turning Points: South Asian Women's Rights Movements

1. **Women's Suffrage:** In the early 20th century, there was a significant rise in women's suffrage movements across multiple South Asian countries, indicating a growing demand for women's right to vote and participate in the political process. For example, Sri Lanka (then Ceylon) granted universal suffrage in 1931, making it one of the first countries in Asia to do so. India followed suit after gaining independence in 1947, granting women the right to vote.



Source: <http://www.documents.gov.lk/>



Source: *Women, Business and the Law, 2022*

2. **Social Reform Movements:** During the 19th and early 20th centuries, social reform movements emerged to challenge harmful practices like child marriage, sati (widow burning), and purdah (seclusion of women). Prominent social reformers like “Raja Ram Mohan Roy” in India and “Anagarika Dharmapala” in Sri Lanka advocated for women’s rights and played a crucial role in initiating social change.
3. **Women’s Education:** Various movements and efforts were made to promote women’s education across South Asian countries. The emphasis on education gradually challenged the traditional belief that women should only be confined to domestic roles.
4. **Independence and Nation-Building:** The struggle for independence from colonial rule provided an opportunity for women to participate in the nationalist movements. Women’s activism during this period helped raise awareness about their rights and roles in society.
5. **Legal Reforms:** Post-independence, many South Asian countries introduced legal reforms to address gender inequality and protect women’s rights.
6. **Women’s Empowerment Programs:** Governments and NGOs have launched various women’s empowerment programs aimed at providing economic opportunities, healthcare, and education for women.
7. **Feminist Movements:** Feminist movements in South Asia have been instrumental in advocating for women’s rights, gender equality, and challenging patriarchal norms. These movements have sought to raise awareness about women’s issues and influence policy changes.

- 8. Awareness and Advocacy Campaigns:** Civil Society Organizations and individuals have initiated awareness and advocacy campaigns to address gender issues, promoting equality, and empowering ladies.

“Empowering Voices: Prominent Feminist Movements in South Asia”

1. **Chipko Movement (India):** It is known as the “hug the trees” movement, started in the 1970s in the state of Uttarakhand, India.
2. **Women’s Action Forum (Pakistan):** It was formed in Pakistan in the 1980s in response to regressive laws introduced during the military regime.
3. **Forum against Oppression of Women (Bangladesh):** It is a Bangladeshi feminist organization that has been active since the early 1990s. It works to address issues such as violence against women, dowry-related abuse, and early marriage.
4. **Women’s Rehabilitation Center (Nepal):** It is a Nepali feminist organization that focuses on women’s rights and gender-based violence²⁷.
5. **Women and Media Collective (Sri Lanka):** It is a Sri Lankan feminist organization that works towards advancing women’s rights²⁸ and gender equality through media and communication²⁹. It advocates for better representation of women in the media and challenges stereotypes and biases³⁰.
6. **hutan Nuns Foundation (Bhutan):** The Bhutan Nuns Foundation works towards promoting gender equality and women’s empowerment in Bhutan. It focuses on providing education and support to Bhutanese nuns, challenging gender stereotypes, and advocating for women’s rights.
7. **Maiti Nepal (Nepal):** Maiti Nepal is a non-governmental organization in Nepal that works to combat human trafficking, child exploitation, and violence against women. The organization provides support to survivors and advocates for policy changes to protect women and children from trafficking and abuse.

²⁷ “In the case of *Urmila Thapa Magar v. Krishna Prasad Pudasaini*, the Supreme Court of Nepal made important interpretations regarding the Human Trafficking (Control) Act, 2043 BS. The court clarified that the crime of human trafficking can be established even if a person is arrested within the territory of Nepal while in the process of taking someone to a foreign land for trafficking purposes.”

²⁸ *Nalika Kumudini v. Nihal Mahinda*, (1997) 3 SriLR 331 (This case concerns the torture of a girl child).

²⁹ *Samitamby v. R.*, (1971) 75 NLR 49.

³⁰ *Premalal v. Attorney General* (2000) 2SriLR 403 (Kelaniya Student murder case).

VII. CONCLUSION AND SUGGESTIONS

On analyzing the legislation of the South-Asian countries, it is realized that every country is turning towards their international commitments through adopting new laws and policies and adapting to the modern laws of equality for better economies and sustainable development. In 2004, Savitri Goonesekere authored a study entitled “*Violence, the Law, and Women’s Rights in South Asia*”.³¹ The authors recommended for revisions in observance of the “*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*” and “*the Convention on the Rights of the Child*” citing the “truth of ‘failed’ judicial systems” in relation to gender-based cruelty (CRC). The law was also described as the “double-edged sword” for the women in the book.³²

Afghanistan, India, Sri Lanka, Bhutan, and Nepal are signatories to the “*Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*” while Pakistan, Bangladesh, and Maldives have joined CEDAW. Almost all States have their women-centric legislations, but it is disputed to what extent this objective is actually achieved.³³

Despite significant strides in women’s rights legislation in South Asian countries, there remain several gaps and limitations that impede the full realization of gender equality:

1. **Ambiguities in the Law:** Some laws addressing women’s rights may lack clarity or specificity, leaving room for misinterpretation or inconsistent application.
2. **Inadequate Enforcement:** Insufficient resources, capacity, and political will to enforce laws effectively often undermine their impact on the ground.
3. **Legal Loopholes:** Some legislation may have inadvertent loopholes that enable exploitation or fail to provide adequate protection to women.
4. **Lack of Comprehensive Legislation:** In some cases, laws may only address specific aspects of women’s rights, leaving other critical areas unattended.
5. **Traditional and Religious Practices:** Customary laws and practices that discriminate against women continue to exist, often superseding statutory laws.

³¹ GOONESEKERE, S., *Violence, Law and Women’s Rights in South Asia* Sage Publications 2004, at p. 76.

³² *Ibid.*

³³ Pio, E., & Syed, J., *Our Bodies, our Minds, our Men: Working South Asian Women* (2013) *GENDER IN MANAGEMENT: AN INTERNATIONAL JOURNAL* (140–150).

A. Challenges in Implementing Women's Rights Laws Effectively

The effective implementation of women's rights laws faces several challenges:

1. **Patriarchal Attitudes:** Deep-rooted patriarchal attitudes within society can hinder the acceptance and enforcement of laws that promote gender equality.
2. **Lack of Awareness:** Limited awareness of women's rights and available legal protections can hinder women's access to justice.
3. **Weak Institutional Capacity:** Inadequate resources, training, and capacity of law enforcement agencies and judicial systems may hinder effective implementation.
4. **Social Stigma:** Fear of social stigma or retaliation may discourage women from reporting instances of violence or seeking legal recourse.
5. **Corruption and Bribery:** Corruption in legal and administrative systems can undermine women's access to justice and protection.

To collectively support women's rights in South Asia, we must:

1. **Raise Awareness:** Anyone can promote gender equality by raising awareness, challenging gender stereotypes, and advocating for women's rights.
2. **Strengthen Legal Enforcement:** Governments must prioritize the enforcement of existing women's rights legislation through adequate funding, capacity building, and monitoring mechanisms.
3. **Foster Partnerships:** Governments, civil society organizations, and international entities should collaborate and share best practices to design and implement effective women's rights programs and projects.
4. **Empower Women:** Empowering women through education, economic opportunities, and leadership roles can lead to lasting change and progress in the region.
5. **Challenge Norms:** Society must challenge patriarchal norms and harmful cultural practices that perpetuate discrimination and violence against women.

By taking collective action, South Asia can pave the way for a more equitable and inclusive future, where women can realize their full potential and contribute significantly to the development and prosperity of the region. Breaking barriers and empowering women is not just a goal; it is a necessity for a thriving and just society. Let us come together to build a South Asia where women's rights are protected, celebrated, and respected. Ending the discrimination

against women in South Asia necessitates that the governments of the area ensure that biased personal laws and practices and beliefs do not validate infringement of women's and girls' rights resulting from these practices and customs, and that their legal structure constantly and unambiguously denounce child marriage. States have an imperative constitutional responsibility to eradicate discriminatory aspects in personal laws and to reform all personal laws and other legislations in line with international human rights norms. Despite political concerns, Nepalese and Pakistanis models demonstrate that significant modifications to marital and family laws are possible if the government gives them adequate priority. The studies in the regions have shown that in removing discriminatory sections from personal laws is crucial for conveying a powerful message that the dignity and legal rights of women and girls must be protected.