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Women and Justice under the Constitutions of Bangladesh and Nepal: A Comparative Study

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ABSTRACT

This paper explores the idea of gender justice and how it has evolved within the constitutional and legal frameworks of two South Asian countries namely Nepal and Bangladesh. It examines how both countries, despite sharing similar historical, cultural, and regional backgrounds, have taken different paths in addressing gender inequality. The study uses a doctrinal and socio-legal approach to analysis constitutional provisions, judicial developments, and international instruments such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and South Asian Association for Regional Cooperation (SAARC) charters. It critically assesses the role of personal laws and customary practices in hindering substantive equality despite progressive constitutional mandates. Nepal's Constitution and judiciary have shown more progressive engagement in women-centric cases, while Bangladesh's journey highlights challenges in implementation and access to justice. Through this comparative analysis, the paper identifies gaps between law and practice, showing that constitutional promises often fail to translate into lived equality. It argues that legal pluralism and weak enforcement mechanisms remain key barriers to gender justice across both jurisdictions. It concludes that achieving real gender justice in the region requires stronger enforcement of existing laws, deeper social reform, and collective regional efforts under SAARC to promote equality and empowerment for all genders.

Keywords: Gender Justice, CEDAW, SAARC, Women's Right, South Asian Legal Systems

1. Introduction

Gender justice generally means equality between women and men in law, institutions, and everyday life. It ensures that every person regardless of gender or sexual identity can enjoy their human rights in reality, not just in theory. It is not only about being equal before the law but also about having equal access to the judicial system, participation in decision-making, and fair representation in state institutions. Equality and participation should not be

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only symbolic or decorative; they must bring real and positive change in people's lives, irrespective of their gender identity.

Justice, in this sense, includes both equality the same rights and treatment under law and equity, which means ensuring fairness by considering different needs of individuals and communities. Most importantly, gender justice seeks to restructure unequal power relations so that all citizens can freely enjoy their rights without formal or informal barriers. It focuses on the diverse experiences, needs, and leadership of people who suffer most from discrimination and inequality.

Different international organizations explain gender justice in their own ways, but their aim remains the same to build an equal and fair society. Oxfam³ defines it as achieving both equality and equity between men and women in all areas of life. The Global Fund for Women⁴ looks at it from an intersectional view, recognizing that women face different forms of discrimination based on class, race, or sexuality. Similarly, CEDAW⁵ focuses on changing unequal power relations to build a just society. Altogether, these organizations highlight that gender justice is not just about recognizing equality in law but ensuring it is practiced in real life, so that all people, regardless of gender, can enjoy their rights equally.

This paper aims to examine the constitutional evolution of Bangladesh and Nepal concerning women's rights and gender justice, it aims to understand how the two SAARC countries have addressed the concept of gender justice, traced its historical development and examined the role of the judiciary in shaping it. It explores how these countries have developed their constitutional and legal frameworks, how their municipal laws and judicial pronouncements address gender inequality, and to what extent these efforts have achieved the constitutional promise of equality and justice for women.

It also explores how, despite having regional instruments, ratifying global conventions, and incorporating gender justice provisions within their domestic legal frameworks, these nations have still fallen short of achieving complete gender equality in practice. The study further analyses how different legal systems within these countries have responded to and attempted to resolve the persistent challenges in realizing true gender justice.

This study follows a doctrinal, socio-legal, and comparative constitutional approach, relying on constitutional provisions, judicial decisions, academic writings, and international instruments, along with analyzing laws and case precedents.

2. Historical Background

The idea of gender justice has not been the same throughout time. In the beginning, when thinkers like Aristotle, Rousseau, and Kant talked about justice, they mostly discussed it in relation to men and the public life of society, excluding women and the family from its scope. The family, where women mainly lived, was never seen as a part of justice, and this is where inequality actually began. Later, many principles emerged and several scholars started to speak about feminist entitlements in education, property, and public life. After the adoption of international instruments like the *Universal Declaration of Human Rights* (1948) and the *Convention on the Elimination of All Forms of Discrimination Against Women* (1979), the focus of justice became wider it started to include women's equality in law and society.

³ Oxfam International, 'Gender Justice & Women's Rights' (Oxfam International, 2022) <<https://policy-practice.oxfam.org/gender-justice-womens-rights>> accessed 20 October 2025

⁴ Global Fund for Women, 'What is Gender Justice?/FAQs' (Global Fund for Women, 2022) <<https://www.globalfundforwomen.org/faqs/>> accessed 20 October 2025

⁵ *Convention on the Elimination of All Forms of Discrimination against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)

Feminist scholars like Susan Moller Okin then argued that real justice cannot be achieved unless the injustice within the family is also addressed. In today's time, gender justice means not only having equal laws but also making sure that both men and women get equal opportunities, respect, and outcomes in every part of life, whether in home or outside.⁶

Women rights in Bangladesh were overlooked in the beginning because it came out of war and the focus was on the rights and development of nation as a whole⁷, following Bangladesh's independence, the question of women's rights received limited attention, as the newly formed state focused primarily on reconstruction and national development after the Liberation War. The idea of gender justice in Bangladesh has developed slowly through history and is shaped by its colonial past, religion, and modern law. Bangladesh inherited a dual legal system from British India and Pakistan, which included both general laws and personal laws to deal with marriage, divorce, property, and family matters. These personal laws were made and interpreted mostly by men, so they reflected patriarchal thinking and often kept women in unequal. Although the Constitution of Bangladesh promises equality and non-discrimination for all citizens, there is still a clear conflict between this constitutional equality and the discriminatory realities. Over the years, feminist movements and some progressive judges have tried to change this by using constitutional equality and international human rights laws like CEDAW, to make justice more equal for women. But even today, as Hossain notes⁸, there is a big gap between the theory of gender justice and its practice, because, plural legal systems, and conservative traditions still hold strong. So, the journey of gender justice in Bangladesh shows progress in law and awareness, but real equality is still limited by patriarchal interpretation of laws and social resistance.

The evolution of gender justice in Nepal is rooted in its patriarchal and caste-based social system, where women's roles were long confined to domestic and subordinate spaces. Nepal's gender relations have historically been shaped by social hierarchies of caste, class, and ethnicity, which limited women's access to resources and authority. Although constitutional and policy reforms after 1990 introduced gender equality and women's empowerment, development institutions continued to reflect male dominance and high-caste privilege. By coming up with the 2015 Constitution Nepal tries to ensure equal rights and representation, yet deep-rooted cultural attitudes still restrict women's participation and justice. Thus, Nepal's journey shows progress in law and policy but continuing struggle against patriarchal norms and caste-based inequalities.⁹

3. Constitutional Framework

The Constitution reflects the fundamental ideas on which a nation chooses to build its future; therefore, it is important to examine its formation and provisions to understand how the Constitution addresses and protects the entitlements of female.

⁶Susan Moller Okin, *Justice, Gender and the Family* (Basic Books 1989); Susan Moller Okin, 'Justice and Gender' (1987) 16(1) *Philosophy and Public Affairs* 42 <<https://www.jstor.org/stable/2265205>> accessed 13 December 2026

⁷ Naila Kabeer, 'Subordination and Struggle: Women in Bangladesh' (1988) 168 *New Left Review* 95 <<https://newleftreview.org/issues/i168/articles/naila-kabeer-subordination-and-struggle-women-in-bangladesh.pdf>> accessed 20 October 2025

⁸Julaikha B Hossain, 'Rethinking Personal Laws and Gender Justice from a Bangladesh Perspective' in Ragnhild Lund, Philippe Doney and Bernadette P Resurrección (eds), *Gendered Entanglements: Revisiting Gender in Rapidly Changing Asia* (NIAS Press 2015) 293

⁹ P B Udas and M Z Zwartveen, 'Can Water Professionals Meet Gender Goals? A Case Study of the Department of Irrigation in Nepal' in Ragnhild Lund, Philippe Doney and Bernadette P Resurrección (eds), *Gendered Entanglements: Revisiting Gender in Rapidly Changing Asia* (NIAS Press 2015) 233

In the case of Nepal, female played a transformative yet constrained role in constitution-making process. The 2008 Constituent Assembly (CA) was historic as it ensured 33 per cent female representation through the quota provision introduced by the Interim Constitution of 2007. For the first time, women from diverse groups including Dalit, Janajati, Madhesi, and Muslim communities participated in drafting the nation's constitution, marking a major shift toward inclusive governance¹⁰. However, despite this achievement, the male-dominated political culture limited women's substantive influence; most key decisions were made by senior male leaders in informal forums, and ideological as well as caste-based divisions among women weakened collective advocacy for gender equality. Nonetheless, women's persistent engagement ensured that the Constitution of Nepal 2015 enshrined strong gender justice provisions.¹¹

The Constitution of Nepal (2015) strongly reflects the idea of gender justice throughout its different parts. From the very Preamble, it promises to eradicate all modes of marginalization rooted in class, caste, region, language, religion, and gender, showing that equality and inclusion are at the heart of the Constitution. **Article 18**¹² ensures equality before the law and prohibits discrimination on the basis of sex, while **Article 38**¹³ gives women rights to equal lineage, property, maternal wellness, and defence from violence and abuse. **Articles 42**¹⁴ and **43**¹⁵ focus on social justice and social security for women, ensuring their participation and state protection, especially for those from marginalized backgrounds. The Directive Principles under **Article 51(j)(1) and (2)**¹⁶ further guide the State to include women in all levels of decision-making and to promote their empowerment and advancement. To make these rights effective, the Constitution also establishes special constitutional bodies, the National Commission for women¹⁷, the National Commission on Inclusion¹⁸ and other inclusion-related commissions¹⁹, which work to protect and promote women's rights in practice. Altogether, these parts show that Nepal's Constitution does not treat gender justice as a single issue but as a continuous goal that runs through the whole constitutional framework.²⁰

In case of Bangladesh after independence in 1971, Bangladesh formed a Constituent Assembly of 404 members to draft its first Constitution. A 34-member Drafting Committee, led by Dr. Kamal Hossain, out of the 34 members in the Constitution Drafting Committee of Bangladesh, only one was a woman Begum Razia Banu, who was a senior leader of the Awami League²¹. She contributed to discussions on fundamental rights and equality, and her presence was an important step towards women's inclusion in national decision-making. However, her actual influence remained limited, as the committee was largely male-

¹⁰Ara Kanel, 'Women's Political Representation in Nepal: An Experience from the 2008 Constituent Assembly' (2014) 20(4) *Asian Journal of Women's Studies* 39 < <https://www.tandfonline.com/doi/abs/10.1080/12259276.2014.11666197> > accessed 11 January 2026

¹¹International IDEA, Nepal Law Society and Women's Caucus of the Constituent Assembly, *Women Members of the Constituent Assembly: A Study on Contribution of Women in Constitution Making in Nepal* (International IDEA 2012)

¹²*Constitution of Nepal* 2015, art 18

¹³*Constitution of Nepal* 2015, art 38

¹⁴*Constitution of Nepal* 2015, art 42

¹⁵*Constitution of Nepal* 2015, art 43

¹⁶*Constitution of Nepal* 2015, art 51

¹⁷*Constitution of Nepal* 2015, art 248

¹⁸*Constitution of Nepal* 2015, art 252

¹⁹ *Constitution of Nepal* 2015, art 253

²⁰*The Constitution of Nepal* 2015 (adopted 20 September 2015, Government of Nepal)

²¹ M Rafiqul Islam, *Constitutional Law of Bangladesh* (3rd edition, Mullick Brothers 2018) 42-45

dominated, however, even though women's direct participation was restricted, the spirit of gender equality was embedded in the Constitution through several key provisions.

The Constitution of Bangladesh (1972) embodies idea of gender justice and justice and equality. The Preamble declares the aim of building a society founded on equality and social justice for both men and women. Under the Fundamental Principles of State Policy, **Article 10**²² directs the State to facilitate women's engagement in all sectors of the nation, while **Article 19(3)**²³ calls for equal opportunity for all citizens. This principle gains legal strength in the Fundamental Rights chapter, where **Article 27**²⁴ guarantees equality before the law and **Article 28(1)**²⁵ prohibits discrimination based on sex. At the same time, **Article 28(4)**²⁶ permits special measures for women and children to correct existing inequalities, and **Article 65(3)**²⁷ reserves seats for women in Parliament, ensuring their political presence. Collectively, these provisions demonstrate that Bangladesh's Constitution envisions gender equality as part of broader social justice. Yet, unlike Nepal, it focuses on legal and political equality, without establishing institutional mechanisms to enforce gender justice in practice.

4. International Instrument

As members of SAARC, both Bangladesh and Nepal are bound by the *SAARC Social Charter (2004)*²⁸, which affirms the promotion of women's status, elimination of discrimination, and integration of gender perspectives in national development. Despite this shared regional commitment, the realization of gender justice within their domestic frameworks remains uneven²⁹

The *SAARC Convention* adopted at the Kathmandu Summit, commits all South Asian state reflecting their regional obligation to address gender-based exploitation in line with their constitutional commitments to dignity and equality.³⁰

In continuation of earlier commitments, SAARC adopted the *Gender Policy Advocacy Framework (2010)* to mainstream gender perspectives across all policy areas and ensure women's full participation in governance and development. Both Bangladesh and Nepal have aligned several national strategies with this framework, reflecting their regional commitment to achieving gender justice.³¹

Both Bangladesh and Nepal have accepted major international instruments on gender justice, such as CEDAW³², the ICCPR³³, and the ICESCR³⁴, showing their commitment to

²²Constitution of the People's Republic of Bangladesh 1972, art 10

²³Constitution of the People's Republic of Bangladesh 1972, art 19

²⁴Constitution of the People's Republic of Bangladesh 1972, art 27

²⁵Constitution of the People's Republic of Bangladesh 1972, art 28

²⁶Constitution of the People's Republic of Bangladesh 1972, art 28

²⁷Constitution of the People's Republic of Bangladesh 1972, art 65

²⁸SAARC Social Charter (adopted 4 January 2004, Islamabad) < <https://saarc-sec.org/publications/saarc-social-charter> > accessed 23 October 2025

²⁹ *ibid*

³⁰SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution (adopted 5 January 2002, Kathmandu, Nepal, entered into force 15 November 2005) < <https://saarc-sec.org/publications/detail/saarc-convention-on-trafficking> > accessed 23 October 2025

³¹SAARC Gender Policy Advocacy Framework (adopted 2010, SAARC Secretariat, Kathmandu, Nepal) < <https://saarc-sec.org/publications/detail/saarc-gender-policy-advocacy-framework> > accessed 23 October 2025

³²Domestic Violence (Prevention and Protection) Act 2010 (Bangladesh)

³³International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

promoting equality and women's rights. However, the level of incorporation into domestic law differs. Nepal, after ratifying CEDAW, has strongly integrated its principles into the Constitution of 2015, which guarantees equality rights of women, and mandates the state to implement gender equality through special measures. It has also reformed over fifty discriminatory laws through the Gender Equality Act 2006, showing a close link between its constitutional, legal, and international obligations. In contrast, Bangladesh, though an early ratifier of CEDAW, did so with reservations to key provisions relating to family and personal law. Its implementation has mostly come through policies and statutory laws such as the Domestic Violence Act 2010³⁵ and the National Women Development Policy 2011³⁶, rather than full constitutional incorporation. Thus, while both countries are formally committed to gender equality, Nepal demonstrates a more direct and constitutional alignment with international standards, whereas Bangladesh's approach remains partial and policy-driven.

5. Judicial Development in Bangladesh

With respect to judicial developments Bangladesh has not delivered a large number of gender-related rulings but in the landmark case of *Bangladesh National Women Lawyers Association (BNWLA) v Government of Bangladesh* ³⁷ a turning point was marked in the legal protection of women in Bangladesh. The High Court Division recognized sexual harassment as a violation of fundamental rights under Articles 27, 28, and 31 of the Constitution and declared that the absence of legal safeguards violated Bangladesh's liability under CEDAW, which the country had ratified in 1984. Drawing upon CEDAW principles and the Indian precedent³⁸, in direct response, the Parliament of Bangladesh passed the Domestic Violence (Prevention and Protection) Act 2010, which extended legal protection against physical, sexual, psychological, and economic abuse. Additionally, the National Women Development Policy 2011 incorporated the Court's directions on workplace harassment. Together, these legal and policy reforms transformed the judicial guidelines into enforceable state obligations, aligning Bangladesh's domestic law with its constitutional principles of equality and international commitments under CEDAW.

6. Judicial Development in Nepal

Nepal's judiciary has played a very active and progressive role in improving the condition of women and promoting gender justice. Over the years, the Apex Court of Nepal has decided many important cases related to women's rights and equality. In *Pun Devi Maharjan v GoN, Office of Prime Minister and Council of Ministers and Others Supreme Court of Nepal* (2008)³⁹ A petition challenged the traditional practice of appointing young girls as *Kumaris* or "living goddesses," claiming social restrictions placed and exclusion from religious festivals violated children's rights. Following an inquiry, the Apex Court determined that the Kumari tradition neither obstructed the girls' educational opportunity nor amounted to exploitation. Instead, it recognized the *Kumari* as an important part of Nepal's cultural and religious heritage. The Court told the administration to compensate former Kumaris who had not been properly reunited into society and to conduct a study to

³⁴International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

³⁵Domestic Violence (Prevention and Protection) Act 2010 (Bangladesh)

³⁶National Women Development Policy 2011 (Bangladesh)

³⁷*Bangladesh National Women Lawyers Association (BNWLA) v Government of Bangladesh* [2009] 14 BLC (HCD) 694

³⁸*Vishaka v State of Rajasthan* AIR 1997 SC 3011 (India)

³⁹15 Renowned Precedents Set by Nepalese Courts: Noteworthy Cases That Established Legal Precedence in Nepal - *१५नजीरहरु* (Nepali Talim, 15 June 2023) < <https://www.nepalitalim.com/2023/06/15-renowned-precedents-set-by-nepalese.html> > accessed 30 October 2025

recommend ways to protect the entitlements, welfare, and communal security of both present and previous Kumaris. This judgment reflects the Court's careful effort to balance respect for cultural traditions with the defense of children's entitlement and establishes an important precedent for emphasizing the real child development in social justice overhaul.⁴⁰

In a particular case the Apex Court of Nepal addressed the discriminatory provisions of the *Muluki Ain* that restricted daughters' right to inherit property if they married before the age of 35. The Court held that such provisions violated the constitutional right to equality and Nepal's international obligations under CEDAW, affirming that daughters have equal inheritance rights regardless of marital status. This judgment became a milestone in advancing women's property entitlements and gender parity in Nepal.⁴¹

Nepal courts also come up with decisions with issues like reproductive rights, marital rape, privacy, and citizenship rights in a case⁴² and *Jit Kumari Pangeni v Office of Prime Minister and Council of Ministers and Others* (2008). The Court has also taken a stand against hurtful customs and exploitation⁴³ and addressed discrimination faced by marginalized communities in *Tek Tamrakar v HMG Cabinet Secretariat* (2005) and *Punyabati Pathak v Ministry of Foreign Affairs* (2005). Similarly, in different *Meera Dhungana* cases (2004, 2005, 2006), the Court worked to end discrimination in property, marriage, and dowry laws. Later cases like *Rama Panta Kharel v Office of Prime Minister and Council of Ministers* (2008) and *Achyut Prasad Kharel v Office of Prime Minister and Council of Ministers* (2008) also showed how the Court is trying to balance traditional values with modern constitutional ideas of equality. Altogether, these cases show that Nepal's courts have continuously worked for women's upliftment and equality, making the law a tool for real social change.

7. Comparative Analysis

As part of the South Asian region, our countries share many common principles, customs, and challenges. The problems related to justice, especially gender justice, are more or less similar across the region. However, after careful analysis, it appears that the Constitution of Nepal addresses women's issues more clearly and comprehensively than that of Bangladesh. Nepal's Constitution gives special attention to matters such as equality, participation, maternity rights, and other aspects of women's empowerment. It contains well-defined provisions and has also shown strong judicial activism, with courts frequently delivering women-centric judgments.

On the other hand, the Constitution of Bangladesh upholds the principles of equality and social justice and includes provisions for women's welfare. However, these are not dealt with as extensively or in as much detail as in Nepal. Moreover, Bangladesh has fewer landmark judicial decisions focused specifically on women's rights compared to Nepal.

Every country in South Asia faces its own challenges in achieving gender justice. No nation can progress effectively when half of its population continues to struggle for basic security, dignity, and equal opportunity. This situation affects not only each country's

⁴⁰*Pun Devi Maharjan v Government of Nepal (GoN), Office of the Prime Minister and Council of Ministers and Others* NKP 2065 (7981) (Supreme Court of Nepal) <<https://www.law.cornell.edu/gender-justice/resource/pun-devi-maharjan-v-gon-office-of-prime-minister-and-council-of-ministers-and-others>> accessed 30 October 2025

⁴¹ *Meera Dhungana v Office of Prime Minister and Council of Ministers and Others* Supreme Court of Nepal [2007] writ no: 063-WS-0019 of the Year 2060

⁴² *Sapana Pradhan Malla v Office of Prime Minister and Council of Ministers and Others* [2007] Writ No. 3561 of the year 2063 B.S. (2006)

⁴³ *Somprasad Paneru v Office of Prime Minister and Council of Ministers and Others* [2006] NKP 2063, Decision No. 7709

development but also the overall image of South Asia, especially in the eyes of the world. The Indian Constitution appears as a beacon of guidance when navigating the country's gender equality landscape, showing the way to a society that is more just and equal. Even though there has been a lot of progress, there are still obstacles to overcome, which serves as a reminder of how important it is to stick to the fundamental principles of equality, justice, and dignity for all.

The foundation for revolutionary change lies in the constitutional guarantees of gender equality, found in clauses such as the Right to Equality, the Directive Principles of State Policy, and specific provisions. In addition to upholding women's rights, these clauses enable them to exercise their agency, confront discriminatory acts, and establish their rightful place in society. It is impossible to overestimate the judiciary's role as the defender of constitutional principles. By establishing precedents for dealing with problems like sexual harassment, reproductive rights, and gender-based violence, landmark rulings have broadened the scope of gender equality. However, the judiciary's responsibilities go beyond making decisions; they also include promoting an accountable culture and making sure that legislative protections are implemented effectively.⁴⁴ The Constitution encourages women to participate in administration on an equal footing with men. But nationwide, this kind of involvement is really rare. They barely participate in Indian politics. The demand for 33 percent of the seats in the Lok Sabha and Vidhan Sabha to be reserved for women has resulted from this circumstance. The Constitution (73rd Amendment) Act of 1992 and the Constitution (74th Amendment) Act of 1992, which set aside seats for women in Gram Panchayats and Municipal Bodies, have contributed to women's political empowerment. Several causes, including financial dependence, social disadvantages, spousal abuse, illiteracy, and a lack of political understanding, push women back. Equal economic rights for women in terms of working conditions, pay, maternity benefits, equal compensation, property rights, succession, etc., are provided by several laws. These laws operate in accordance with the Directive Principles of State Policy and fundamental rights. Personal laws are established to give women the same social standing as men. Criminal law and process are in place to support victims of violence against women both inside and outside the country.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was created to shield women from sexual harassment at work. It seeks to give women a safe and secure work environment.⁴⁵ The Constitution (One Hundred and Sixth Amendment) Act 2023, which reserves one-third of seats in the Lok Sabha and State Legislative Assemblies for women, strengthened political representation. The Apex Court has acknowledged that social security programs, such as the Maternity Benefit Act 1961, which was revised in 2017 to extend paid leave to 26 weeks, are essential to women's right to livelihood and dignity under Article 21. Discriminatory personal laws have also been addressed by legislative amendments, such as the Muslim Women (Protection of Rights on Marriage) Act 2019, which made quick triple talaq illegal. Government initiatives to raise awareness of menstrual hygiene and provide access to sanitary pads go beyond legislation and demonstrate a broader commitment to substantive equality. These developments show

⁴⁴ N S Ambedkar, 'Upholding Gender Equality: The Role of the Indian Constitution' (2024) 14(5) *International Journal of Innovative Practice And Applied Research* 136 <<https://jesdrf.com/IJIPAR%20Vol%2014%20SI%205%20May%202024.pdf#page=141>> accessed 14 January 2026

⁴⁵ Gyan Chand Yadav, 'Constitutional Safeguards and the Pursuit of Gender Justice in India' (2025) 11(4) *International Journal of Science and Consciousness* 33 <<https://doi.org/10.5281/zenodo.18213243>> accessed 22 February 2026

that, despite ongoing implementation difficulties, constitutional provisions may result in concrete rights for women when combined with legislative intent and judicial sensitivity. To move forward, our first priority must be to ensure the effectual execution of the laws and international charters that these countries have already accepted. Gender justice cannot remain only a constitutional promise it must be a lived reality through strict enforcement, awareness, and regional cooperation.

8. Conclusion and suggestions

The voices for gender justice have been strong across the world, especially in the global south. But still, they are not always taken as seriously as they should be. Even though there have been many talks, reforms, and international commitments, the real issues that women face in daily life are often ignored or remain unsolved. Writers and academicians alike point out that even today, they are struggling with problems related to gender justice. Daniel Aguirre and Irene Pietropaoli argue that Nepal's transitional justice process after the civil war should not only focus on punishing crimes but also deal with the deep roots of inequality, especially gender discrimination. They explain that women suffered heavily during the conflict but were mostly left out from the peace and rebuilding process. They believe that real justice should be transformative, not to return to the same old unequal system, but to build a fair one where women have full participation, equality, and dignity in society.⁴⁶

In the same way, Bangladesh's experience shows both progress and ongoing struggles. As Hasle⁴⁷ points out that, even though the Constitution promises equality, poor women still face many hurdles like corruption, gender bias, and high legal costs. However, some positive changes are seen through organizations like BNWLA⁴⁸, which used public interest litigation and legal aid to help women access justice. The NU-shalish mechanism discussed by Hasle is a good example of local innovation, as it mixes legal awareness and community participation to make justice more accessible for poor rural women.

Even though there are still challenges, both Nepal and Bangladesh have tried to work within their own realities and limitations through law, international instruments, and social change. What matters now is identifying where the real problems lie whether in the law itself, its implementation, or in the mindset of society and addressing them honestly. Both countries can also learn from other SAARC nations like India, where the courts have been proactive in advancing women's rights. A comparative look at India, the largest democracy in South Asia and a fellow SAARC nation, offers a valuable lesson for both Nepal and Bangladesh. Over decades India's Apex Court has transformed provisions into a robust body of gender justice jurisprudence. Binding Guidelines against workplace sexual harassment has laid down, the right to privacy as a fundamental right with significant implications for women bodily autonomy, illustrate how judicial activism can fill the gap left by the legislature. More recently, the Apex Court ruling decriminalizing adultery and its progressive

⁴⁶Daniel Aguirre and Irene Pietropaoli, *Gender Equality, Development and Transitional Justice: The Case of Nepal* (International Centre for Transitional Justice 2012) < <https://www.ictj.org/publication/gender-equality-development-and-transitional-justice-case-nepal> accessed 22 December 2025

⁴⁷Lena Hasle, 'Too Poor for Rights? Access to Justice for Poor Women in Bangladesh' (2003) 29(1/2) *The Bangladesh Development Studies* 99 < <https://www.jstor.org/stable/40795683> > accessed 28 October 2025

⁴⁸Bangladesh National Women Lawyers' Association (BNWLA) < <https://bnwla.org.bd/> > accessed 30 October 2025

reading of reproductive rights in a series of judgment demonstrate the court's willingness to reinterpret constitutional norms in the light of evolving social realities. Overall, India's journey reflects that legal reform, judicial activism, and institutional infrastructure are necessary but not sufficient conditions for gender justice. Real transformation requires addressing structural patriarchy, caste based discrimination, and economic inequality, lessons that Nepal and Bangladesh too must internalize as they continue their own journeys towards substantive equality.

If these efforts continue with cooperation at the regional level, SAARC can move toward a stronger, collective framework for gender justice. Such unity will not only improve the condition of women in South Asia but also strengthen the global south as a region that stands for equality, dignity, and shared progress. Our hopes for a more just and inclusive future are reflected in the Indian Constitution. Its tenets serve as a moral compass, pointing us in the direction of a society in which gender equality is a lived reality rather than only a constitutional need.

The following suggestions are offered to strengthen the realization of gender justice in both countries and across the South Asian region:

- Both Bangladesh and Nepal must move beyond symbolic constitutional guarantees by establishing dedicated enforcement bodies with real authority, adequate funding, and independence from political interference. Nepal's National Women's Commission should be empowered with binding adjudicatory powers, while Bangladesh needs a comparable institutional structure rather than relying solely on policy-driven approaches.
- A major obstacle to gender justice in both countries remains the coexistence of discriminatory personal and customary laws governing marriage, divorce, inheritance, and property to align them with constitutional equality guarantees and CEDAW obligations.
- Both nations should advocate for a binding SAARC Gender Justice Protocol that establishes minimum standards, peer review mechanisms, and shared enforcement tools. Regional solidarity can help overcome domestic political resistance to reform, particularly on issues like trafficking, child marriage, and workplace harassment that transcend borders.
- Judges, Lawyers, and law enforcement officials should receive regular gender-sensitization training. Specialized family courts and fast track benches for gender-based violence cases should be expanded across both countries, particularly in rural and underserved areas where access to formal justice remains extremely limited.
- As Bangladesh's NU-shalish model demonstrates, community-based justice mechanisms can bridge the gap between formal law and lived reality. Both governments should formally integrate and fund civil society organizations, women's legal aid networks, and community mediators as complementary pillars of the justice system rather than treating them as a peripheral actors.
