



Assessing Constitutionalism and Gender Equality: An Analysis of Nepal's 2072 Constitution on Women's Rights

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Abstract : Human rights principles asserts the acknowledgment of human identity, respect for existence, and safeguarding of dignity and integrity, irrespective of differences. These principles, affirmations and standards are indispensable for human civilization's growth and sustainable development. The right to dignified living and autonomy form the cornerstone of democratic societies. Governance centered on justice and equity plays a crucial role in ensuring peace, protecting individual dignity, and addressing inequality and injustice. Constitutionalism significantly advances women's rights by embedding gender equality within a nation's legal foundation. Nepal's 2072 Constitution (2015 AD) represents a landmark step in promoting gender equality and securing women's rights. This article examines constitutional provisions concerning women's rights, analyzing their impact and the barriers hindering substantive equality and gender liberation. A qualitative, doctrinal methodology is applied, combining critical discourse analysis of theoretical works with an objective review of factual studies on Nepalese women's constitutional status. The study reflects achievements, persistent challenges, and gaps in implementing gender-sensitive provisions. It delves into intersectional factors obstructing progress, proposing reforms to bridge the gap between constitutional promises and women's lived realities. The findings reveal that while the legal framework is progressive, achieving comprehensive gender equality requires deeper reforms and societal transformation. The paper underscores the need for inclusive strategies that align constitutional aspirations with principles of women's human rights and gender justice, ensuring sustainable progress in Nepal's journey toward equality.

IndexTerms - : Constitution, Constitutionalism, Empowerment of Women, Gender justice, Human rights, Liberation.

1. Introduction: Constitutionalism and Women Human Rights in Nepal

Constitutionalism can be defined as the doctrine that governs the legitimacy of government action, and it implies something far more important than the idea of legality that requires official conduct to be in accordance with pre-fixed legal rules (Barnett, 2000). Henkin identifies popular sovereignty, rule of law, limited government, separation of powers/ checks and balances, civilian control of the military, police governed by law and judicial control, an independent judiciary, respect for individual rights and the right to self-determination as essential features or characteristics of constitutionalism (Rosen field, 1994). Constitutionalism forms the backbone of a nation's legal structure, ensuring the establishment and preservation of fundamental rights and freedoms under the rule of law (Dicey, 1885). It embodies the principles of limited government, legal accountability, and the protection of citizens' rights, thereby promoting social justice and equity (Tushnet, 2013). Constitutions are the most authoritative expressions of States' systems of governance and accountability and therefore pose potential opportunities for and threats to the advancement of gender equality (UN Women, 2018). The relationship between constitutionalism and women's human rights is intricate and profound. Women's human rights encompass the fundamental rights and freedoms that all women are entitled to, as recognized in international human rights law and enshrined in national constitutions and laws. Regarding women's rights, constitutionalism holds a transformative potential to address systemic discrimination and foster gender equality. As Pateman (1988) asserts, constitutions provide the framework for dismantling entrenched patriarchal structures, ensuring that marginalized voices, including those of women, are heard and represented. Women's rights are the freedoms and entitlements granted to women as part of the broader human rights frameworks and are grounded in principles of equality, dignity, and freedom from discrimination (Freeman et al., 2012). According to Bunch (1990), "Women's rights are human rights," reflecting the global consensus that gender equality is integral to the realization of universal human rights. Human rights constitute a set of norms governing the treatment of individuals and groups by states and non-state actors on the basis of ethical principles regarding what society considers fundamental to a decent life (Freeman, 2017). These norms are incorporated into national and international legal systems, which specify mechanisms and procedures to hold the duty-bearers accountable and provide redress for alleged victims of human rights violations (Marks, 2024). The human rights of women are the inalienable, integral and indivisible part of the universal human right system (Chatterjee, 2019). Issues commonly associated with notions of women's rights include the right to bodily integrity and autonomy, freedom from violence, and reproductive rights (Cook, 1995), to have political-social freedom, to enter into legal contracts, to have equal rights in family law (Charlesworth, 1994), to fair wages or equal pay, to have economic rights and to own economic justice (Boserup,

1970), to own property, to basic and fundamental rights, to sexuality rights and dignified living (Agarwal, 1994) with the incorporation of and encompassing all the social, economic, cultural, civil, political rights (Freeman, 2012), developmental and collective rights integrating the dimension of human right jurisprudence (Global Fund For Women, 2024).

Gender justice refers to the equitable treatment of individuals based on their gender, involving the removal of barriers that perpetuate inequality and discrimination. It emphasizes fairness in opportunities, outcomes, and access to resources while addressing systemic biases (True, 2012). Gender equality is crucial and a fundamental prerequisite for a nation's sustainable development. It signifies equal recognition, empowerment, and involvement of all genders in every aspect of public and private life while actively addressing and eliminating all forms of gender disparities. Equality of opportunity involves moving beyond formal equality, recognizing that substantive measures are needed to address structural inequities and historical injustices (Rawls, 1971). Formal equality, based on treating likes alike, fails to account for systemic disadvantages that inhibit true equality of opportunity (Young, 1990). Substantive equality of opportunity involves redistributing resources to eliminate systemic barriers and address the legacies of discrimination (Fredman, 2011). However, equality of opportunity is also partially based on an individual libertarian model as it seeks to limit the application of full redistributive justice. Equality of opportunity recognizes the shallow nature of formal equality and injects a substantive element into its framework (Fredman, 2002). Equality of outcomes is a substantive conception of equality, as it attempts to provide substance to the concept of equality (Fredman, 2011). Gender justice encompasses the removal of structural inequalities across social, economic, political, and cultural domains to dismantle the constructed hierarchies between men and women (Fraser, 2013). Socially constructed gender differences can only be addressed by transforming the cultural, political, and economic systems that reproduce them (Nussbaum, 2000). Gender justice is not a standalone concept but requires synergy across education, economics, and policy frameworks to ensure parity and inclusivity (Connell, 2009). To achieve gender equality, we must address the interrelated systems of oppression, including cultural and economic structures that perpetuate gender injustice (Crenshaw, 2019). Modern conversations about gender justice emerge from diverse origins: philosophical explorations of human autonomy, agency, rights, liberation, and capabilities; political debates centered on democratization and inclusive citizenship; and legal discussions focusing on judicial reforms and equitable access to justice. Gender justice frequently relates to transformative initiatives aimed at advancing women's rights through legislative reforms and addressing women's priorities in social and economic policies. Gender liberation, is a complete denial of patriarchal practices and claim over determining and defining gender and gender presentation (Shevek, 2023).

A constitution, as the supreme legal document of a nation, codifies the principles and provisions that safeguard individual liberties and human dignity. In contexts where gender disparities persist, constitutionalism becomes an indispensable tool for rectifying inequalities and empowering women (Baines, 2010). Nepal's 2072 Constitution (2015) stands as a progressive legal milestone, explicitly addressing gender disparities and prioritizing the protection of women's right by emphasizing the commitment to eradicating gender-based discrimination and ensuring women's empowerment. Despite its progressive provisions, the practical realization of gender equality in Nepal faces significant challenges. Structural barriers, cultural norms, and implementation gaps continue to hinder the full actualization of constitutional guarantees (Acharya, 2017).

2. Methods

This article examines the provisions in Nepal's 2072 Constitution that pertain to women's rights, assessing their impact and analyzing the barriers that continue to hinder the realization of gender equality. The research draws upon a range of academic literature, legal documents, and institutional frameworks to evaluate the Constitution's role in advancing women's rights in Nepal and to suggest potential reforms for more effective implementation. The study employs a qualitative research approach and bears a doctrinal methodology, utilizing critical discourse analysis of theoretical works along with an objective discussion of factual studies concerning the constitutional status of Nepalese women.

3. Results and Discussion

3.1 Historical Insights: Evolution of Women's Rights within Nepal's Constitutional Framework

The path toward gender equality in Nepal has been marked by significant socio-cultural and political challenges. From the era of feudal monarchy to the democratic movements that led to the establishment of a federal republic, the rights of women have remained central to legal reforms (Sharma, 2015). Despite various efforts, including the enactment of interim constitutions and legal frameworks, Nepali women continued to face entrenched systemic discrimination in both private and public realms (Acharya, 2017). This historical context is essential to understanding the profound significance of the 2072 Constitution, which aimed to address these deep-rooted inequities through specific provisions promoting gender equality and the empowerment of women (Khadka, 2019). Nepal's longstanding patriarchy and deeply ingrained gender-based discrimination are pivotal in understanding the complexities surrounding women's rights. Though the 20th century witnessed remarkable progress, such as the introduction of women's suffrage and global legal reforms, systemic gender bias remained pervasive. Women in Nepal still faced exclusion, violence, and marginalization, reflecting broader patterns of societal and legal inequality (Sharma, 2015). Persistent barriers to accessing rights and entitlements rooted in cultural norms, patriarchal practices, and limited access to legal resources continue to impede women's full participation in public and private spheres (Bhatta, 2018). Moreover, entrenched societal frameworks, characterized by status-based discrimination, widespread illiteracy, social fear, and ignorance, perpetuate gendered practices that hinder women's empowerment. These practices, deeply embedded in Nepal's historical, cultural, and societal fabric, reflect the complex interplay of legal, social, and political forces shaping women's status (Adhikari, 2020). Nepal, a diverse country with various ethnicities, languages, and traditions, has a complex tapestry of gender norms and practices. Women and girls in Nepal are disadvantaged by traditional gender practices like the dowry system, early marriage, son-preference, stigmatization of widows, seclusion of women, family violence, polygamy, and the segregation of women and girls during menstruation (Care International, 2015). These practices absolutely reflect and perpetuate societal norms and stereotypes about masculinity and femininity,

contributing to the reinforcement of gender inequality, gender differentiation and gender system (Roka, 2024). Ignorance in/ while gendered practices, is unenlightenment, refers to a lack of awareness, understanding, comprehension, consciousness or recognition of the diverse experiences and rights of individuals, particularly concerning gender. Ignorance, toxic guilt and fear are complex psychological and emotional states that can profoundly impact an individual's well-being, realization of substantive rights and accomplishing the integrity and dignified living. Ignorance and ignorant tendency can contribute to misconceptions, perpetuate stereotypes, and hinder progress that can lead to biased beliefs and discriminatory treatment (Roka, 2024).

Nepal's history of constitutionalism and judicial reform dates back to the 1940s and even earlier, during the *Kirat rule* from 900 BC- 300 AD (Shah, 1992). Subsequent dynasties based fairness, equality, and equity on Hindu religion, but judicial independence was not institutionalized, as the sovereign wielded unlimited authority over all branches of the government (Khanal, 1999). Nepal has implemented significant constitutional reforms. Nepal's constitutional history began with the enactment of *The Government of Nepal Act, 2004*, the first written Constitution of the nation. Although it incorporated fundamental rights and duties, the Act was short-lived, as it was repealed by the *Interim Government of Nepal Act, 2007*. The Interim Act was designed to govern the country temporarily until a democratic Constitution could be drafted by a Constituent Assembly (Wagle, 2000). The judiciary also played a role in shaping constitutionalism; for instance, Chief Justice Hari Prasad Pradhan emphasized that the Interim Government Act was part of a broader constitutional framework, including the royal proclamation of 2007 (Wagle, 2000). The *Constitution of the Kingdom of Nepal, 2015* marked significant progress, introducing universal adult franchise, multiparty democracy, and enforceable fundamental rights (Preamble, *The Constitution of the Kingdom of Nepal, 2015*). However, the *Constitution of Nepal, 2019* declared itself as the fundamental law of the land, invalidating inconsistent legislation (Article 1, *The Constitution of Nepal, 2019*). Despite its aspirations, it was a setback in terms of constitutional development. The *Constitution of the Kingdom of Nepal, 2047* represented a leap toward limited government and judicial independence, aiming to operationalize the rule of law (Preamble, *The Constitution of the Kingdom of Nepal, 2047*). This was followed by the *Interim Constitution of Nepal, 2063*, which established democratic norms, multiparty governance, fundamental rights, and the groundwork for a Constituent Assembly to draft a new Constitution. It enumerated extensive rights, including freedoms of speech, equality, justice, and social security (Articles 12–32, *The Interim Constitution of Nepal, 2063*). *The Interim Constitution of 2063*, along with previous legal frameworks, recognized the principle of gender equality, but their implementation remained inadequate and largely unfulfilled. The promulgation of the *Constitution of Nepal, 2072* marked a 'seismic and paradigm-shifting' era. Vesting sovereignty directly in the people, it established itself as the supreme legal authority. Article 1 ensures constitutional supremacy by invalidating inconsistent laws, while its preamble and provisions reflect commitments to gender equality, human rights, and social justice (Khadka, 2019; Tushnet, 2013). This Constitution, unlike its predecessors, incorporates gender-responsive provisions to address systemic inequalities faced by women, particularly in rural and marginalized communities. It aspires to bridge the gap between gender justice ideals and lived realities (Acharya, 2017; Sharma, 2015). Thus, the Constitution of Nepal, 2072, stands as a foundational framework for democratic governance, the rule of law, and social equity in modern Nepal.

3.2 Nepal's 2072 Constitution: A Landmark in Advancing Women's Rights and Gender Equality

The promulgation of Nepal's 2072 Constitution signifies a transformative phase in advancing gender equality and women's rights, representing a historic milestone in legal and social reform. It establishes a comprehensive framework aimed at addressing deep-rooted gender disparities and promoting equitable representation across all spheres (Poudel, 2017). This foundational document incorporates gender-sensitive provisions that dismantle systemic inequalities while aligning with international commitments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Platform for Action, and the Sustainable Development Goals (UN Women, 2020). Through the adoption of a federal system, the Constitution has restructured legal and institutional mechanisms, emphasizing inclusivity and strengthening avenues for gender justice (Shrestha, 2018). Nepal's constitutional identity as an independent, indivisible, sovereign, secular, inclusive, socialism-oriented, federal democratic republic underscores its commitment to social transformation and justice (Article 4, Constitution of Nepal, 2072). The framework not only safeguards fundamental rights but also integrates gender equality as a core principle, reflecting the nation's dedication to sustainable and inclusive development (Gurung, 2019). Nepal provides a unified federal citizenship that incorporates provincial identity and no Nepali citizen are deprived from the right of citizenship (Article 10). The 2072 Constitution establishes an extensive framework for gender equality and the protection of human rights of women, reflecting a commitment to upholding the principles of social justice and non-discrimination. The Constitution enshrines 'Fundamental Rights and Duties' ensuring judicial enforceability (Part 3, Constitution of Nepal 2072). Every person (regardless of sex, gender, sexual preference) have the right of dignified living (Article 16). The Constitution guarantees equality before the law and the right to equal protection, explicitly prohibiting discrimination based on sex. This principle of equality lays the foundation for ensuring women's human rights as upheld and protected, aiming to eliminate legal biases against women (Article 18). By clearly prohibiting gender-based discrimination, the Constitution plays a key role in addressing structural inequalities and securing equal opportunities and access to resources and social securities for women (Article 18, Sub-Article 2). Constitutional provisions against exploitation reaffirm the principles of dignity, equality, and non-discrimination, thereby promoting a society that respects and upholds the rights of all its members, regardless of gender (Article 29).

Anticipating 'Women's rights as fundamental human rights and entitlements of women', the constitution is manifested towards achieving gender equality, advancing the full participation and empowerment of women. The Constitution aims at effective ensuring the rights of women, provisioned as "Every woman shall have equal lineage right without gender based discrimination. Every woman shall have the right to safe motherhood and reproductive health. Women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination" (Article 38, Sub-Article 1,2,5,6) and aspires to increase women's representation in decision-making processes through affirmative action, stated as "Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion" (Article 38, Sub-Article 4). The Constitution underscores the right of women to live a life free from violence and discrimination, with mandates for

legislative actions to combat gender-based violence, provisioned as “No woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law” (Article 38, Sub-Article 3). The Constitution ensures access to justice for women by guaranteeing their right to seek legal remedies in cases of violation of their rights. It emphasizes the significance of establishing a legal system that addresses the needs of women, offering them sufficient support and protection through the guarantee of judicial safeguards (Article 46). The National Women Commission is established as a Gender Equality Mechanism (Article 252) with the key functions, duties and powers as specified (Article 253). The Constitution provides that women shall be entitled to special opportunities in education, healthcare, employment, and social security through the principle of positive discrimination. Similarly, it mandates that individuals holding the offices of president and deputy president must represent different sexes or communities. Furthermore, the Constitution stipulates that at least one-third of the total members elected from each political party represented in the Federal Parliament must be women, as specified in Article 84. A parallel provision applies to the legislature at the state level (Article 176). Regarding the National Assembly, of the fifty-six elected members, at least three must be women (Article 86). Additionally, in the composition of the House of Representatives and the National Assembly, one of the positions either president or vice president must be held by a woman. At the local level, the Village Executive is required to include four women members elected by the Village Assembly (Article 215). The Constitution envisions a governance structure aimed at advancing public welfare and fostering equity across all dimensions of national life. It underscores adherence to the rule of law, the protection of fundamental and human rights, the promotion of gender equality, and the principles of proportional inclusion, participatory governance, and social justice (Article 50). Furthermore, it mandates periodic reviews of the implementation of women’s rights, particularly for marginalized groups, based on human development indices and census data (Article 281). These measures underscore the Constitution’s commitment to fostering an equitable society, rooted in the principles of justice, human rights, and sustainable development (Acharya, 2017).

Nepal’s 2072 Constitution is a progressive document that acknowledges and endorse the right of women and gender equality as a fundamental human right. The preamble of Nepal’s 2072 Constitution affirms a dedication to fostering an egalitarian society rooted in social justice and equality, explicitly aiming to eliminate all forms of discrimination and oppression (Constitution of Nepal, 2015). It signifies the enforceability of fundamental rights as instrumental in advancing gender equality. By guaranteeing the right to equality, the Constitution ensures that women have equitable access to public services, justice, and opportunities, free from any form of discrimination, exclusion, or restriction (Koirala, 2016). Moreover, the Constitution’s emphasis on a ‘non-discriminatory framework’ strengthens women’s ability to assert their rights across critical domains such as education, employment, property ownership, and healthcare (Maharjan & Thapa, 2017). The incorporation of these constitutional safeguards has facilitated measurable progress in enhancing women’s rights within Nepal (Poudel, 2018). The legal recognition of gender equality within the Constitution has catalyzed a national discourse on gender liberation, amplifying the efforts of women’s rights organizations and civil society. These entities have been pivotal in advocating for gender-responsive policies, ensuring institutional accountability, and elevating women’s voices in public forums (Tamrakar, 2019). Through its mandate for political representation, the Constitution has created pathways for women to actively engage in governance and policymaking. This political inclusion has provided a platform to address gender-specific concerns and fostered a more representative and inclusive political landscape (Subedi, 2020). The constitutional validation of reproductive rights signifies a landmark achievement in promoting women's autonomy. By guaranteeing the right to bodily integrity, family planning, and access to healthcare, the Constitution has empowered women to make independent decisions about their health and well-being. While disparities in accessing reproductive healthcare remain prevalent in rural areas, these provisions have raised awareness and bolstered advocacy for women’s health rights (Acharya, 2022). This acclaimed constitution has played a prominent role in advancing ‘gender justice’ by establishing frameworks that uphold equality and the principles of non-discrimination, women’s human rights, the right to privacy, reproductive freedom, Intrinsic ownership rights, sexual rights, dignity, integrity, freedom, and liberty, as well as adhering to individuality and autonomy.

3.2.1 Legal framework and statutes in alignment with constitutional standards

The Country Civil (Code), Act 2074, embodies the core principles of gender justice aligned with constitutional values. It mandates equality before the law (Section 17) and prohibits discrimination based on factors such as origin, gender, religion, caste, disability, marital status, or geography. The Code ensures equal wages and social security regardless of gender (Section 18) and allows special provisions for marginalized groups, including women, Dalits, indigenous communities, and others, without deeming them discriminatory (Section 19). It recognizes gender equality within marriage by requiring mutual consent for property transactions (Section 90) and supporting individual autonomy in professional and economic activities (Section 91). Nepal has enacted various specific laws addressing gender justice, aligned with the constitutional commitment to equality and the principles of human rights. **Social Welfare Act, 2049 BS (1992)**: This Act empowers the government to implement programs supporting marginalized groups, including women, children, the elderly, and those affected by poverty, addiction, or social injustices (Section 4). **Civil Service Act, 2049 BS (1993)**: Special provisions allow women, Dalits, Adiwasi/Janajati, and others from backward areas to qualify for promotions with reduced minimum service periods (Section 21). **Good Governance Act, 2064 BS (2008)**: It emphasizes positive discrimination to empower women, alleviate poverty, ensure social justice, and uplift disadvantaged communities. **National Women Commission Act, 2063 BS (2007)**: Establishes the National Women Commission to promote women's rights, monitor legal provisions, and provide justice to women victims. **Domestic Violence Act, 2066 BS (2010)**: Defines and penalizes various forms of domestic violence while ensuring victims’ protection, compensation, and rehabilitation (Section 2). **Sexual Harassment Act, 2071 BS (2015)**: Ensures a safe workplace for women by addressing sexual harassment complaints and mandating action against perpetrators. **Witchcraft Act, 2072 BS (2016)**: Criminalizes accusations of witchcraft and ensures justice for victims of such practices. **Local Government Operation Act, 2074 BS (2018)**: Judicial Committees under local governments address disputes related to domestic violence, child support, and divorce issues.

3.2.2 Judicial Interpretation in advancing women rights and Gender Justice

Since the restoration of democracy in 1990, Nepal's Supreme Court has played a pivotal role in advancing gender justice through its extraordinary jurisdictional powers. The Court has issued landmark rulings on issues such as equality, non-discrimination, privacy, professional rights, reproductive rights, sexual orientation, economic rights, identity, and access to justice. These decisions have led to the creation of new laws, amendments to outdated statutes, the elimination of discriminatory provisions, and the establishment of policies aligned with constitutional and international standards. The judiciary has also curtailed harmful social practices and fostered public awareness while providing legal remedies. Public interest litigation has further enabled the Supreme Court to shape equitable public policy and address collective concerns. As noted by Malagodi, the adoption of a modified common-law system in Nepal has made the doctrine of *stare decisis* central to its legal framework, with binding precedents significantly influencing gender justice (Dhungel & Adhikari, 1998).

In *Mira Dhungana and Others v. HMG, Ministry of Law, Justice and Parliament Affairs and Others* (NKP, 2052, Vol. 6, pg. 462), women activists challenged discriminatory provisions in the Country Code, prompting the Court to direct the government to draft a gender-equal legal framework within a year. In *Sita Singh Poudel v. Public Service Commission* (NKP, 2057, pg. 434), the Court upheld reduced probation periods for female employees as positive discrimination, aligning with Nepal's constitutional mandates and obligations under CEDAW. Similarly, in *Rina Bajracharya v. His Majesty's Government, Secretariat of Council Ministers and Others* (NKP, 2057, No. 5, DN. 6898), the Supreme Court nullified a discriminatory regulation in the Royal Nepal Airlines, citing its violation of constitutional provisions mandating gender equality in terms of remuneration, work conditions, and other benefits. In *Sapana Malla Pradhan v. Nepal Government* (NKP, 2064, Vol. 49, DN 7880), the Court issued guidelines to safeguard the rights of vulnerable groups, including women and children, emphasizing confidentiality measures until relevant laws were enacted. Likewise, *Advocate Narayan Jha v. Tribhuvan University* (NKP, 2069, No. 2, DN 8765) required amendments to university laws to uphold substantive equality, social inclusion, and gender justice for marginalized groups. In *Rajendra Dulal v. Government of Nepal, Prime Minister and Council of Ministers* (NKP 2072, No. 1, DN 9320), the Court reiterated the principle of positive discrimination, underscoring the need for substantive equality by addressing inherent inequalities. Expanding on this principle, *Advocate Amar Bahadur Shah v. Government of Nepal* (NKP, 2074, No. 1, DN 9754) emphasized social inclusion and proportional representation of marginalized groups as pillars of democracy and rule of law. Likewise, in *Lili Thapa v. Prime Minister and Office of Council of Ministers* (NKP, 2061, Issue 9, DN 7588), the Court declared gender-based discrimination intolerable, asserting that such practices violate dignity, equality, and universal justice. The Court's judgments and other significant precedents continue to reflect its pivotal role in advancing and safeguarding women's rights in Nepal. These rulings reflect the judiciary's commitment to promoting gender equality, addressing systemic discrimination, and reinforcing constitutional and international obligations to uphold the principles of dignity, inclusion, and justice for women.

3.3 Impediments to Fulfilling Constitutional Commitments to Women's Rights

The 2072 Constitution of Nepal has been heralded for its progressive provisions on women's rights, marking a significant step in the nation's legal history. With strong legal frameworks that explicitly ensure gender equality, the Constitution aims to dismantle entrenched social injustices and provide mechanisms for advancing women's rights. It addresses the deeply rooted patriarchal systems in Nepali society and seeks to tackle gender-based discrimination through comprehensive legal provisions. Despite this, achieving tangible equality for women faces substantial challenges due to societal, political, and institutional realms.

Socio-Cultural and Institutional Barriers: One of the most significant impediments to the realization of women's constitutional rights is the persistence of gendered social norms and patriarchal values, which govern societal interactions and limit women's roles predominantly to caregiving and domestic responsibilities. These traditional roles often lead to social ostracism or violence when women step outside these boundaries (Dhungel, 2019). As a result, the practical enforcement of constitutional guarantees of freedom, equality, and liberation is severely constrained by these societal norms, which remain pervasive across both urban and rural areas.

Intersectionality and Marginalization: Gender inequality in Nepal is compounded by the principle of intersectionality, which recognizes how overlapping identities such as caste, ethnicity, class, geographic location, and disability intensify the discrimination faced by women. Marginalized groups, including Dalit women and indigenous women, endure multidimensional oppression, which limits their access to constitutional protections and leaves them disproportionately disadvantaged (Subedi, 2010; Tamang, 2009). Although the Constitution of Nepal includes provisions aimed at gender equality, these do not adequately address intersectional dimensions, resulting in policy gaps that fail to protect and empower the most vulnerable women (Bennett, 2008; Bhattachan et al., 2009).

Deprivation and Legal Constraints: While gender-based violence remains a pervasive issue in Nepal, the execution of constitutional provisions is hindered by institutional weaknesses and limited enforcement mechanisms. Factors such as legal illiteracy, entrenched socio-cultural barriers, and economic disempowerment continue to restrict women's access to justice (UN Women, 2019). Women, particularly in rural areas, face social stigma and fear of retribution, which discourages them from reporting violence or seeking legal remedies. Additionally, weak institutional frameworks, lack of gender-sensitive training for law enforcement, and insufficient funding exacerbate these issues, resulting in poor implementation of gender-sensitive policies (Thapa, 2020).

Economic Disempowerment and Structural Limitations: The economic disempowerment of women, driven by unequal access to education, healthcare, and employment, perpetuates dependency and limits women's ability to exercise political and social rights (World Bank, 2021). Despite constitutional guarantees for equal pay and equal participation in governance (Article 38), women in

Nepal, particularly in the informal sector, continue to face wage disparity and job insecurity (ILO, 2020). The undervaluation of women's unpaid labor in the household further entrenches economic inequalities (Acharya, 2018). While affirmative action measures have improved political representation, women's participation in leadership roles remains limited due to gender biases and political violence (Dahal, 2017).

Citizenship Rights and Discrepancies: Another key area of gender inequality is citizenship rights, which remain restrictive. The Constitution's provisions require both parents to be Nepali citizens for children to automatically acquire citizenship, disproportionately affecting single mothers and women married to foreign nationals (Manandhar, 2021). This restriction creates systemic gender inequality, influencing women's autonomy and undermining their rights, including the legal status of their children (FWLD, 2016).

3.4 Legal Void and Prospects: Pathways for Constitutional Reform and Enhancements.

The 2072 Constitution of Nepal represents a significant milestone in the pursuit of gender equality. However, despite the progress achieved, gaps between constitutional provisions and women's lived realities persist, signaling the need for targeted reforms and strategic interventions (Sharma, 2020). Bridging these legal voids necessitates addressing inherent legal shortcomings through amendments and policy enhancements to establish an equitable framework. A holistic approach, combining constitutional reforms with the dismantling of structural and societal barriers, is essential to achieving true gender liberation (Bennett et al., 2013). The effective implementation of gender-sensitive laws is vital for realizing the Constitution's vision. Legal provisions addressing inheritance rights, domestic labor recognition, protection from gender-based violence, and human trafficking require rigorous enforcement. The lack of adequate safeguards for marginalized groups such as Dalit women, indigenous women, and women with disabilities underscores the need for reforms to ensure equal protection under the law (Manandhar, 2021). Citizenship rights, a prominent constitutional shortcoming, perpetuate institutionalized discrimination as the requirement for both parents to hold Nepali citizenship for a child's nationality disproportionately impacts single mothers and women married to foreign nationals. Reforming citizenship laws is critical for upholding women's autonomy and ensuring gender equality (Acharya, 2018). While the Constitution mandates quotas to increase women's representation in federal and provincial legislatures, challenges persist. Women often face barriers to leadership within political parties, limiting their influence on policy decisions. Functional initiatives, such as leadership training, mentorship programs, and support for women-led policy initiatives, are necessary to ensure substantive representation. Political entities must be held accountable for supporting women's participation in decision-making processes (Dahal, 2017). Promoting women's economic independence is key to fostering gender equality. Educational opportunities, vocational training, access to credit, and entrepreneurial support are essential for enhancing women's financial autonomy. Addressing wage disparities, particularly for rural women, can empower them to assert their rights and contribute meaningfully to society (World Bank, 2021). Gender-sensitive curricula and public awareness campaigns targeting traditional norms are crucial for shaping equitable attitudes among future generations (UN Women, 2019). Robust enforcement mechanisms and accessible legal aid are imperative for ensuring that women can effectively exercise their rights. Specialized training for law enforcement and judicial bodies, along with the establishment of gender-focused units, can strengthen institutional responses to gender-based violence and discrimination. Independent oversight bodies can enhance accountability and promote justice for affected women (ILO, 2020). Technology-enabled legal education and advocacy platforms offer innovative solutions for public engagement and legal empowerment. Digital tools can facilitate access to legal information, support grassroots activism, and foster collective awareness of gender issues. These advancements can be instrumental in bridging knowledge gaps and driving societal transformation (Shrestha, 2022). Achieving gender equality in Nepal requires aligning constitutional reforms with inclusive policies that address social justice and human dignity. Strengthening institutional frameworks, challenging patriarchal norms, and promoting collective awareness are essential for building a more equitable society. By ensuring representation for women from diverse backgrounds, Nepal can advance its commitment to equality and social justice while fostering sustainable development (Bennett et al., 2013).

Area of Focus	Key Interventions
Legal Reforms	Revision of citizenship legislation; implement laws recognizing inheritance rights and the value of domestic labor; development of specific laws addressing specific concerns.
Political Participation	Strengthen leadership initiatives; ensure substantive representation that transcends mere quotas.
Economic Empowerment	Address wage disparities; provide vocational training and accessibility to financial resources.
Education and Awareness	Implement gender-sensitive curricula; promote awareness campaigns, grassroots advocacy and social mobilization.
Institutional Strengthening	Establish gender-focused units; provide specialized training for law enforcement, and proper implementation of legal system.
Technology and Advocacy	Develop digital platforms for legal education; support online advocacy initiatives and address digital parity.

(Table: Illustrating Key Recommendations for Advancing Gender Equality in Nepal)

3.5 International Legal Framework and Human Rights Practice

International human rights instruments emphasize proactive measures to uphold women's human rights, eliminate gender discrimination, and address violence and inequality that undermine women's dignity. These frameworks aim to align national laws with global humanitarian standards, advocating gender justice and substantive equality. The **United Nations Charter (1945)** establishes as a core objective the affirmation of equal rights for men and women, alongside respect for human dignity and fundamental freedoms without distinction of sex, race, language, or religion (Article 1, UN Charter). Similarly, the **Universal Declaration of Human Rights (UDHR, 1948)** reaffirms the commitment to human dignity and equal rights (Articles 1, 2, 7, UDHR). Nepal, as a member of the United Nations and a signatory to numerous international treaties, is legally bound to ensure gender equality under the Constitution of Nepal (Article 51) and Nepal Treaty Act, 1990 (Section 9). The **International Covenant on Civil and Political Rights (ICCPR, 1966)** and the **International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966)** mandate the elimination of discrimination and the promotion of equal rights across civil, political, economic, social, and cultural domains (ICCPR, Article 2; ICESCR, Article 7). The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)** is a cornerstone treaty outlining state obligations to prohibit gender discrimination and ensure women's full participation across public and private spheres. Notably, CEDAW requires member states to repeal discriminatory laws, establish gender-equal protections, and promote cultural transformation to eliminate stereotypes and gender biases (Articles 1, 3, 5, CEDAW). Further, the **Declaration on the Elimination of Violence Against Women (1993)** emphasizes the global responsibility to address physical, sexual, psychological and gender-based violence, underscoring the state's role in preventing such practices (Articles 1, 2, DEVAW). The **Beijing Declaration and Platform for Action (1995)** and subsequent global initiatives, such as the **Global Gender Gap Index (2022)**, continue to advocate for gender equality and measure progress, revealing Nepal and Bangladesh as leaders in South Asia in bridging gender gaps with over 69% and 71% closure, respectively. These international frameworks provide robust tools for advocacy, education, and policy-making, enabling states and global actors to promote gender equality and protect women's human rights effectively, representing a collective commitment to addressing gender-based discrimination and fostering an equitable sustainable world.

4. Conclusion: Beyond Constitutional Guarantees to Realizing True Gender Equality

Globally, the concept of gender justice has gained significant traction over time, with an increasing recognition that sustainable development cannot be achieved if half of the population remains marginalized. Gender justice involves incorporating women's rights and needs into the foundational structures of society. It prioritizes promoting equality, eliminating gender-based violence, and ensuring equitable access to vital social resources. Both national and international entities are now embracing inclusive, intersectional approaches to combat disparities and address gender-based injustices on a global scale. The overarching aim is to build a society where individuals, regardless of gender, thrive in empowering relationships, fully exercise their fundamental rights and freedoms, and are recognized as equal contributors to the social, political, cultural, and economic progress of their families, communities, and nations.

The Constitution of Nepal (2072 BS) stands as a pivotal milestone in advancing gender equality, establishing a comprehensive legal foundation for safeguarding and promoting women's rights. Nepal's constitutional and legal frameworks reflect significant progress toward gender justice and human rights, with discriminatory laws gradually being minimized and rectified. Social and human rights activists, along with governmental and non-governmental organizations, are collectively remarking a crucial role in advancing gender equality. Significantly, the Supreme Court of Nepal has played a pivotal role through its landmark judgments and continues to operate rationally. However, gender justice remains an unfulfilled goal, requiring more than legislative assurances. The realization of constitutional guarantees requires praxis approach of legal reforms, robust enforcement mechanisms, institutional strengthening, societal attitude shifts, cultural transformation, dismantling patriarchal norms and systemic barriers with improved access to justice. Holistic societal transformation, improved legal awareness, and culturally attuned reforms are essential and these initiatives must be driven by the principle of intersectionality, addressing the layered inequities experienced by women stemming from caste, ethnicity, and economic impediments. Despite holding higher constitutional status, Nepali women continue to face challenges in achieving substantive equality and empowerment. Future research should evaluate the long-term effects of the 2072 Constitution on gender equality, including comparative studies with similar legal systems to identify best practices. Empirical research focusing on intersectionality and marginalized groups can provide nuanced insights, ensuring that all women in Nepal fully realize their constitutional rights. This multifaceted approach is crucial for transforming constitutional ideals into lived realities and fostering an inclusive society committed to gender justice.

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