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Empowering Her Voice: Examining the Constitutional Framework for Women's Political Participation in South Asia Countries

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ABSTRACT

Women had a crucial role in families and communities. They are essential to a child's upbringing because they provide their families with love, care, and support. Furthermore, women play a significant role in the development of communities and often hold leadership roles in local organizations. However, women have been marginalized and discriminated against for generations, kept in the background. But the value of women in society has come to light more and more in recent years. Contribution of women in society we cannot ignore. Still there are number of opposite words against women in society like lack of participation political life, violence, discrimination against women in society.

In this Paper researcher is discussing various International Treaties, conventions and constitutional provision of countries specifically southern Asia. Like, India, Sri Lanka, Bangladesh, Bhutan, Maldives, Nepal for participation of women in politics and Political rights.

Keywords: *Women Empowerment, Political Rights, Participation in Politics. International, National, Constitutional Provision, Southern Asian Countries.*

I. INTRODUCTION

The position of women in society is vital, as demonstrated by civilizations both ancient and modern. The women are the foundation of the family. It has been scientifically demonstrated that women have stronger minds and can manage any scenario with ease. Nevertheless, this is only one side of the story; there are many challenges that affect women on the ground, including domestic abuse, discrimination in the home and in society, low political engagement, etc. Different studies conducted by the government and NGOs that expressly support women's rights will demonstrate this in due course.

Taking into account these realities, considerable initiatives have been conducted by both

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national and international organizations to address issues pertaining to women, including discrimination and violence against them in society. Countries and international institutions have taken the lead in promoting women's empowerment. This involves establishing a legal foundation.

While all countries have taken these actions, the researcher has restricted his investigation to those in southern Asia.

(A) Statement of Problem:

Women and girls, everywhere, must have equal rights and opportunity, and be able to live free of violence and discrimination. Women's equality and empowerment is one of the 17 Sustainable Development Goals, but also integral to all dimensions of inclusive and sustainable development. In short, all the SDGs depend on the achievement of Goal 5. On an average, women hold only 7 percent of ministerial positions and 15 percent in national parliaments in all the 9 countries of the South Asia region. In countries like Iran and Sri Lanka – women have as low as 3 percent and 6 percent share respectively, in ministerial positions and 3 percent and 5 percent share respectively of women in parliament. Source: Progress of World's Women: Access to Justice, 2011-12, UN Women In India, women have a share of 10 percent and 11 percent respectively in ministerial positions and the national parliament. Source: Progress of World's Women: Access to Justice, 2011-12, UN Women Less than half of the South Asian countries (Afghanistan, Bangladesh, Nepal and Pakistan) have a Constitutional quota for women in their National Parliaments. Source: Progress of World's Women: Access to Justice, 2011-12, UN Women In South Asia only 7 percent women are members of political parties. Source: World Development Report 2011 Low representation of women leaders across South Asia: Bangladesh (18.5 percent women members); Bhutan (8.5 percent women in National Assembly); Sri Lanka (4 percent women). Source: UN Women & ICRW 2011 Increasing women representation in the political sphere: Nepal's 2007 Interim Constitution ruled that women must have at least 33 percent representation, paving the way for an increased role for women in politics. Source: Progress of World's Women: Access to Justice, 2011-12, UN Women Women's under-representation in the justice system: Across South Asia, women make up less than 5 percent of the police and less than 10 percent of judges. Source: Progress of World's Women: Access to Justice, 2011-12, UN Women Facebook Twitter²

Considering above fact, it is difficulty to achieved Gender equality by 2030 requires urgent

² UN Women Asia and Pacific, Facts and figures, available on <https://asiapacific.unwomen.org/en/countries/india/leadership-and-participation/fact-and-figures> last seen on 27/04/2024.

action to eliminate the many root causes of discrimination that still curtail women's rights in private and public spheres. For example, discriminatory laws need to change and legislation adopted to proactively advance equality.³ Hence, we have seen the existing constitutional, legislative framework of southern Asian Countries.

(B) Objectives of the Study

To study the various constitutional making by the southern countries for the to increase the participation of women in the Politics.

To Identify the problems for not women participation in politics apart from existing constitutional Provision.

(C) Scope and Significance

Every human being have fundamental rights it is include the to participate in politics aside from gender. Here researcher has identified specific geographical boarder this paper discusses position of women southern Asian countries.

Number of International and National report mentioned the role of women in politics is very low despite of constitutional provisions this is the fact; researcher is going to overlook the existing Constitutional Provisions; Keeping in mind that whether existing provision is sufficient or not.

Significance of women in society since ancient to modern civilisation highlights in various steps we are cannot ignore.

This research paper will have complied all the constitutional provision, which would help to understanding what is role of these laws in political empowerment of women.

(D) Literature Review

Women's Representation in Politics: An analysis of South Asian Countries, Tara Kumari Karki⁴ Studies emphasize the importance of women's political engagement and representation.

Challenges in Bangladesh, Nepal, and Pakistan include cultural barriers, lack of resources, and violence. Initiatives like Women's Parliamentary Caucus and gender-sensitive training programs aim to address these issues.

Discussion paper series on women's country political leadership, country Review women's

³ SDG 5: Achieve gender equality and empower all women and girls available on <https://www.unwomen.org/en/node/36060>. Last seen 26/04/2024

⁴ Women's Representation in Politics: An analysis of South Asian Countries, Tara Kumari Karki available on https://www.researchgate.net/publication/374477687_Women's_Representation_in_Politics_An_analysis_of_South_Asian_Countries last seen on 27/04/2024

political participation in south Asia Report Prepared by United Nation Entity for gender equity and the empowerment of Women. This report discussed about barriers to women's political participation in Bangladesh and supportive legislations and policies in Srilanka. Moreover, gender responsive governance in south Asia. Report is very limited scope⁵

Women in Politics in South Asia by Jayalakshmi Gopalan discusses the historical context and challenges faced by women in politics in South Asian countries.⁶ Women's Political Participation Report Asia-Pacific discussed Challenges in Women's Political Participation, Progress and Initiatives, Resources and Organizations and Legislative Efforts⁷

Considering All the review of existence literature discussed on the Importance of women in politics and challenges before women participation in politics. There is lack of comprehensive literature on the International, National constitutional framework on participation of women in politics. Therefore, in this research has been discussed the constitutional framework for participation of women especially southern Asian countries.

II. INTERNATIONAL FRAMEWORK FOR POLITICAL RIGHTS OF WOMEN

(A) Convention on the Political Rights of Women, 193 U.N.T.S. 135, entered into force July 7, 1954.

The United Nations Charter's principle of equal rights for men and women, recognizing that everyone has the right to equal access to public service in their nation and the right to participate in government either directly or indirectly through representatives chosen at large, as well as the desire to equalize the status of men and women in the enjoyment and exercise of political rights in line with the provisions of the United Nations Charter and the Universal Declaration of Human Rights, accordingly following rights available to All of Women in the world applicable to signatory countries

Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.⁸

⁵ Discussion paper series on women's country political leadership, country Review women's political participation in south Asia Report Prepared by United Nation Entity for gender equity and the empowerment of Women. Available on <https://iknowpolitics.org/sites/default/files/country-reviews-womens-political-participation-in-south-asia.pdf> last seen on 27/04/2024.

⁶ WOMEN IN POLITICS IN SOUTH ASIA, Jayalakshmi Gopalan, PRAJNYA RESOURCE CENTRE ON WOMEN IN POLITICS AND POLICY, Background Paper Series, Number 1, January 2012 available on <https://prajnya.in/storage/app/media/prcbg1.pdf> last seen on 27/04/2024.

⁷ Women's Political Participation in Asia and the Pacific, Professor Jacqui True, Dr. Sara Niner, Dr. Swati Parashar (Monash University) and Dr. Nicole George (University of Queensland) available on <https://iknowpolitics.org/sites/default/files/undpa-womens-political-participation-in-asia-and-the-pacific.pdf> last seen on 27/04/2024

⁸ Article 1, Convention on the Political Rights of Women, 193 U.N.T.S. 135, entered into force July 7, 1954.

Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.⁹

(B) The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁰

Adopted by the UN General Assembly in 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international convention. The Convention, which forbids discrimination against women in all contexts, including the public and private ones, acknowledges gender equality and serves as the main international legal tool for the advancement and defence of women's rights. 189 states have accepted CEDAW as of right now.

(C) The Declaration on the Elimination of Violence against Women in the Association of Southeast Asian National (ASEAN)

The ten ASEAN member nations signed the Declaration on the Elimination of Violence Against Women in the Association of Southeast Asian Nations (ASEAN) Region in Jakarta in June 2004. In accordance with CEDAW and the Beijing Declaration and Platform for Action from 1995, the ten member nations reiterate their commitment to eradicating violence against women through increased bilateral and regional collaboration. These are the International conventions and treaties protection of women.

III. CONSTITUTIONAL PROVISION FOR RIGHT OF POLITICAL RIGHTS FOR ESPECIALLY SOUTH ASIAN COUNTRIES

There are eight countries come under the preview of southern Asian like India, Sri Lanka, Bangladesh, Bhutan, Nepal, Maldives, Pakistan, Afghanistan.

(A) India

Preamble¹¹

Constitution of India is social documents it has taken very reformative stapes through the constitutional provision it commences from opening word of the preamble “We, The People of India” interpretation of the word “We” there is no gender discrimination.it is also highlighted by supreme court of India also. This is first word empower to women in political rights.

⁹ Article 2 Convention on the Political Rights of Women, 193 U.N.T.S. 135, entered into force July 7, 1954.

¹⁰ TREATIES AND CONVENTIONS PROMOTING WOMEN’S RIGHTS: AN OVERVIEW, Published 8 March 2023 in FACTS AND FIGURES available on <https://focus2030.org/Treaties-and-conventions-promoting-women-s-rights-an-overview> last seen on 27/04/2024

¹¹ Constitution of India, available on <https://legislative.gov.in/constitution-of-india/> last seen 27/04/2024

Article 14¹²

Equality before law. —The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

The foundation for gender equality in the political, economic, and social domains is laid by this clause, which is essential in guaranteeing that women have the same rights and opportunities as men.

Article 15¹³

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

Together, these provisions guarantee that discrimination against women is not arbitrary and permit affirmative action to rectify structural and historical gender imbalances.

Article 19¹⁴

Protection of certain rights regarding freedom of speech, etc.—

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(g) to practise any profession, or to carry on any occupation, trade or business Under this provision of article 19(a) and 19 (b) both article indirectly discussed about the participation of women.

Moreover, Constitutional amendment of 74th and 75th speak about the women participation in Local self-government.

¹² *ibid*

¹³ *ibid*

¹⁴ *id*

These are the exclusively discuss regarding to political rights of women. Apart from to this government has been taken initiative for increased participation of women in Central, state and local government.

(B) Bangladesh¹⁵

The Constitution of the People's Republic of Bangladesh was adopted by the Constituent Assembly on 4 November 1972 and became effective on 16 December 1972 one year after Bangladesh's victory in the War of Liberation. [As of 2018 the Constitution has been amended 17 times¹⁶

Important provision of Bangladesh constitution as follows

Article 27 Equality before law

“All citizens are equal before law and are entitled to equal protection of law.”

Article 28 Discrimination on grounds of religion, etc.

28. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.

(2) Women shall have equal rights with men in all spheres of the State and of public life.

(3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

Bangladesh has been taken various stapes towards women empowerment, here research has been highlight only political rights, which is sufficient to fulfil international convention and treaties.

(C) Sri Lanka¹⁷

Since its initial adoption by the National State Assembly on September 7, 1978, the Democratic Socialist Republic of Sri Lanka (Sinhala) Constitution has served as the legal framework for the island nation. It has been formally revised twenty-one times as of October 2022.

It is the country's third constitution overall, its fourth since the Dominion of Ceylon gained independence in 1948, and its second republican constitution, having replaced the 1972 Sri

¹⁵ The Constitution of the People's Republic of Bangladesh, available on <http://bdlaws.minlaw.gov.bd/act-details-367.html> last seen on 27/04/2024

¹⁶ Amendments to the Constitution of Bangladesh available on https://en.wikipedia.org/wiki/Amendments_to_the_Constitution_of_Bangladesh. Last seen on 29/04/2024

¹⁷ The Constitution of the democratic socialist Republic of Sri Lanka, Revised edition 2023, available on <https://www.parliament.lk/files/pdf/constitution.pdf> last seen 27/04/2024

Lankan Constitution.¹⁸

Article 12 Right to equality

12. (1) All persons are equal before the law and are entitled to the equal protection of the law.

((2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds

(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.

(4) Nothing in this Article shall prevent special provision being made, by law, subordinate legislation or executive action, for the advancement of women, children or disabled persons.

(D) Nepal¹⁹

Nepal's current constitution, the 2015 Constitution of Nepal (Nepali: नेपालको संविधान २०७२), governs the country. The Interim Constitution of 2007 was replaced by the current Constitution on September 20, 2015, which governs Nepal. The 308 Articles, 9 Schedules, and 35 Parts make up the Nepalese Constitution.²⁰

17. Right to freedom:

(1) No person shall be deprived of his or her personal liberty except in accordance with law.

(2) Every citizen shall have the following freedoms:

(a) freedom of opinion and expression,

(b) freedom to assemble peaceably and without arms,

(c) freedom to form political parties,

(d) freedom to form unions and associations,

(e) freedom to move and reside in any part of Nepal,

(f) freedom to practice any profession, carry on any occupation, and establish and operate any industry, trade and business in any part of Nepal.

¹⁸ Constitution of Sri Lanka, available on https://en.wikipedia.org/wiki/Constitution_of_Sri_Lanka last seen on 29/04/2024

¹⁹ THE CONSTITUTION OF NEPAL, available on https://ag.gov.np/files/Constitution-of-Nepal_2072_Eng_www.moljpa.gov_npDate-72_11_16.pdf last seen on 27/04/2024

²⁰ Constitution of Nepal available on https://en.wikipedia.org/wiki/Constitution_of_Nepal last seen on 29/04/2024.

18. Right to Equality:

(1) All citizens shall be equal before law. No person shall be denied the equal protection of law.

(2) No discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds.

(3) The State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds.

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or development of the citizens including the socially or culturally backward women, Dalit, indigenous people, indigenous nationalities, Madhesi, Tharu, Muslim, oppressed class, Pichhada class, minorities, the marginalized, farmers, labours, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward region and indigent Khas Arya.

(E) Pakistan²¹

The 1956 Constitution served as Pakistan's foundational legislation from March 1956 until the country's coup d'état in 1958. It was Pakistan's first adopted constitution after gaining independence. 13 segments, 6 schedules, and 234 articles were included.

Article 25 Equality of citizens.²²

(1) All citizens are equal before law and are entitled to equal protection of law.

(2) There shall be no discrimination on the basis of sex

(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children.

Article 17 Freedom of association:

(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order

²¹ The Constitution of Pakistan, available on <https://www.pakistani.org/pakistan/constitution/part2.ch1.html> last seen on 27/04/2024

²² Constitution of Pakistan of 1956, available on https://en.wikipedia.org/wiki/Constitution_of_Pakistan_of_1956 last seen on 29/04/2024.

or morality.

(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

3) Every political party shall account for the source of its funds in accordance with law.

These are the countries especially southern Asian have incorporated provision for the Protection of political right of women. In these papers there are countries excluded Afghanistan, Bhutan, Maldives; as long as concern their countries are follow in monarchy system.

IV. CONCLUSION

Concept of equality is universal it is accepted by all the democratic countries despite of geographical deviance of countries. All the countries of southern Asia incorporated the political rights of women in the constitution. These contraries are also providing legislative framework for to protection of political rights of women.

However, there are number of the factor making obstacle for free and fairly enjoy of political rights such as men dominie society, limited source of income, family responsivities, lower status in the society.

Further, it is also observing that even International Conventions and Constitutional provisions. Statues of women in effective participation is far away from text which is mentioned in the constitution; applicable to all the southern countries

Therefore, we have need to make collectively efforts required from the society itself. It will not be increase the Participation of women in the politics. This statement is open for the furthers research.
