

An Outline of Feminism Jurisprudence: Phases and Approaches from Nepalese Perspectives

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Abstract

Jurisprudence is a science of law. Whereas feminism jurisprudence is a philosophy of law based on political, economic and social equality of sexes. It began in 1960s and feminists believe that law is not neutral or impartial. They blame male written history which has created in a bias way it is an off-shoot of critical legal studies. There are some of the schools of feminist jurisprudence. They are as liberal feminism, radical feminism, postmodern feminism, black feminism, lesbian feminism, queer feminism, Marxist feminism. All of the feminists have the same agenda of establishing equal opportunities and equal rights for women in all sectors. After the promulgation of the Constitution of the Kingdom of Nepal 1990, judicial body played vital role to eliminate gender discrimination. The Interim Constitution of Nepal 2063 was more progressive than the constitution of Nepal 1990s in the issues of women's empowerment, reproductive freedom, equality and property entitlement. The Constitution of Nepal 2015 enlarges women's issues and has guaranteed several rights than the previous constitutions. The judicial bodies with constitutional mechanism are playing an effective role for the protection, promotion of women's rights in Nepal.

Key words: *Feminism, wave, school, approach, vindication, philosophy, movement*

Introduction to Feminism

Feminism is the belief that women should have equal rights to men. The Merriam-Webster Dictionary defines feminism as the theory of the political, economic, and social equality of the sexes. The word feminism is a legal, political, economic, social, cultural and critical movement which is developed from the women's movement more generally. Feminism is an 18th century movement originated for equality between the sexes. Feminist jurisprudence origins can be explained in a number of ways. One sees it as an off-shoot of critical legal studies (M.D.A. Freeman, 2008). There is not a single definition of what feminism is. A feminist is someone who supports equal rights for women. Simply put, feminism is about all genders having equal rights and

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opportunities. We know that achieving gender equality requires more than just changes to laws. There is no doubt that women are half of the world's population and creating equalities in all sectors make the world more prosperous.

Mary Wollstonecraft was an eighteenth-century British writer, philosopher, and feminist who is best known for *A Vindication of the Rights of Women* (1792). She advocates women's rights. In her seminal book she argues that women are naturally inferior to men because of the lack of education. But she suggests that men and women should be treated equally. She vehemently emphasizes the importance of teaching children to reason. She advocates the education of women. If they are treated equally as men, well-educated women will be good wives and mothers who ultimately and positively contribute the family, community and the nation as a whole. She vigorously argues that the cause of inequalities is the deprivation of the social, cultural, economic political rights including voting.

Simone de Beauvoir was a French writer, intellectual, existentialist philosopher, and political activist, feminist and social theorist. She is famous for her work *The Second Sex* (1949) has been called a feminist bible, which is the foundation of modern feminist movement. Being the Second wave/ radical feminist, she deals with the treatment of women throughout history and is often regarded as a major work of feminist philosophy. She strongly claims that feminism is the advocacy of women's rights on the grounds of political, social, and economic equality to men. She claims that a system of society or government is bias in which men hold the power and women are largely excluded from it.

Simone de Beauvoir states that women are not a minority like American Negroes nor the Jews. There are many as many women as men on earth. The men have only achieved since ancient time and females have gained what men have been willing to grant. The females have taken nothing but they have received only what the males have provided. They have no past, no history, no authority, no religion of their own, no political authority and they never unite as the proletariat united. The women have always been man's dependent, if not his slave. The male and female have never shared the world of equality.

She brings the light on sex discrimination and biasness since Plato to Post-modernism. The ancient Greeks abetted gender discrimination declaring the male to be the superior and the female the inferior. The concept of Charles Darwin *the Descent of Man* wrote that by choosing tools and weapons over the years, "man has ultimately become superior to woman" (Darwin's Descent man), but Blackwell's argument for women's equality went largely ignored until the 1970s when feminist scientists and historians began to explore Darwin (Ruth, 1990).

Considering the word 'feminist' evolved more than four hundred years after Christine de Pisan, the defender of feminism, who was a medieval writer and historiographer who advocated for women's equality. God created men and woman as equal beings. Since French revolution the voice of woman should have heard in the public arena and until 1900s the woman gained the voting rights. However, her outlook on women's issues is very similar to a mode of feminism that existed at the outset of the movement in the 1890's. Christine herself, however, lived a life idealized by many modern feminists that was totally contradictory to that of the typical female of her time, as the sole earner and head of the household. She was the first known French (and possibly European) woman to make her living by her pen, which she did to support her family and to create a more positive view of women in late fourteenth and early fifteenth century France.

A major feminist critic Virginia Woolf *A Room of One's own* (1929) hypothesizes the existence of Shakespeare's sister who is equally as gifted writer but dies without any acknowledgment for being a woman. Kate Millet's work *Sexual Politics* (1969) argues that a female is born but a woman is created. A.C Scales work on "Emergence of Feminist Jurisprudence" states the concept of Aristotle's *Nicomachean Ethics*, in which equality means to treat like persons alike, and unlike persons unlike.

Feminist jurisprudence is a philosophy of law based on political, economic and social equality of sexes. It began in 1960s and feminists believe that law is not neutral or impartial. They blame male written history which has created in a bias way.

From the above ground the equality requires more than just to change the laws. The laws need to be meaningfully changed and implemented. The law makes an important contribution to expand equality of opportunity for women. The sustained political will, leadership from women, proper policy-making are the best starting point of reform of women position in the society. So, law can be a tool to empower women. Their equal participation in politics, economic and educational arenas should be guaranteed.

International Instruments to Support Feminist Jurisprudence

In the present days many of the international laws, rules, treaties, conventions and movements have given priority to the women issues. Those issues support women's movements, ideologies and approaches across the world to form the feminist jurisprudence (NJA 2062). The given issues are as the Declaration on the Elimination of Discrimination against Women 1967, Convention on the Elimination of all forms of Discrimination against Women 1979, General Recommendation 19 on Violence against Women 1992, Declaration on the Elimination of Violence against Women 1993, Special

Rapporteur on Violence against Women, its Causes and Consequences – 1994, Fourth World Conference on Women in Beijing 1995, General Assembly Resolution 52/86 on Crime Prevention and Criminal Justice Measures to Eliminate Violence against Women 1997, Rome Statue 1998, Optional Protocol of CEDAW 1999, CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women 2000, UN Security Council Resolution 1325 on Women, Peace and Security 2000, UN Convention on Transnational Organized Crime 2000, Women, Political Parties and Social Movements in South Asia 2005, Human development, disparity and vulnerability: women in South Asia 2016 etc. From the results of those issues and movements, the concept of feminism has been changed dramatically in the 21st century. For example, today a 14 to 15-year old girl in the developing world has got more opportunities than ever before. Compared to previous generations, she is much less likely to live in extreme poverty, and has a better chance of growing up healthy and nourished. Thanks to shifts in laws, policies and social norms that have changed the world around her, she is more likely to be able to finish primary school and less likely to marry young and become a mother before she is ready. With more role models to look up to in the political leadership of her nation, this young woman can aspire to great things. Across the world, women are raising their voices, joining together with allies in governments, the private sector and social movements to insist that bold systemic change is possible.² So, feminism has become localized and particularized today but it is essential that this be recognized in an interdependent world.

Three Waves/ Phases of Feminism

There is no doubt that feminism is a social movement which has gradually improved the position of women. It refers to the belief in the social, political, legal and economic equality of the sexes, that each individual is a valuable human being in his or her own rights. Elaine Showalter, a prominent American feminist critic who introduces woman as a reader and woman as a writer. She has reconstructed the past history of women by dividing the three phases or states or waves of women writers. The history of the modern feminist movements is divided into three 'Waves'. Each of the wave has dealt with different aspects of the same feminist issues. First wave feminism, Second wave feminism and third wave feminism.

- **First wave or Feminine Phase (1840-1880/1960)**

Writers like Elizabeth Gaskell and George Eliot imitated and internalized the dominant male aesthetic standards. They wrote in male pseudonym. It is confined within voting rights and gender equality emerged in 1960s. In short first wave feminism focused on the fight for women's political power, as opposed to de facto

2 UN Women 2020, *Gender Equality*. Women's Rights in Review 25 Years After Beijing

which means the law and government that describes practices that exist in reality, even though they are not officially recognized by laws as unofficial inequalities. The key concerns of first wave feminists were education, employment, the marriage laws and the plight of intelligent middle class single women. Largely upper middle class white women responded to specific injustice they had themselves experienced. Their major achievements of feminine phase were to reform the girls' education system, participation in formal national examinations and some improvement in divorced and separated women's child custody rights.

- **Second wave or Feminist Phase (1880-1920/1970)**

The term commonly used to refer to the emergence in the late 1960s and early 1970s in Europe and America of a new social movement. Writers like Simone de Beauvoir, Elizabeth Robins and Oliver Schreiner who protest against male values. The radical feminists of this period advocated the actual legal and political right of the female. The second wave feminism had direct connections to civil rights movement. The women of the civil rights movements were fighting for total equality, not separating race or gender. Most importantly, the civil right movement began with a woman. There were prominent feminist thinkers as Betty Friedan an American feminist writer and activist whose book 1963 *The Feminine Mystique* is often credited with sparking/flashing the second wave of American feminism in the 20th century. Most importantly Simone de Beauvoir's *Second Sex* came out in France in 1949 and in the US in 1953. The second wave of feminism was successful not only because it led to changes in the lives of huge numbers of women, but also because the movement evolved over time.

The major achievement of this phase was that of shifting the attitudes. The radical feminists emphasized the need to end male domination, rejecting men, marriage and childbearing, using contraception became socially acceptable, legalization of abortion in controversial Roe v. Wade decision in 1973.

- **Third wave or Female Phase (1980/1990 to Present Time)**

Writers like Rebecca West, Kathrine Mansfield, and Dorothy Richardson were the most important female phase feminists who rejected both imitation and protest patriarchy and they established/developed the idea of female writing and female experience in the phase of self-discovery. This phase of feminism begins with the decade of 1990s with individual movement. The Third Wave of feminism was greatly focused on reproductive rights for women. Feminists advocated for a woman's right to make her own choices about her body and stated that it was a

basic right to have access to birth control and abortion. Rebecca Walker, 1992 in Ms. *Becoming the Third Wave*. I am not a post-feminism feminist. I am the third wave. In the 1980 and 1990s, third wave feminism was powered by middle-class women in their twenties and thirties concern expressed concerns with retaining second wave feminist agendas and tried to created new projects focusing on issues of race and sexuality and fighting the new backlash against feminism.

They incorporated the diversity of feminisms that emerged by the end of the century, created a new activist terrain and challenged the focus of older feminists on the agendas of the second wave. Though they may go to a demonstration from time to time, third wavers are far more likely to be active in arenas like queer theory, cultural studies, and critiques of popular culture. Finally, many third wavers see women's issues more as global issues, applauding the Beijing Conference on Women but concerned about China's human rights violations. Perhaps even more important they understand that their own participation in culture industries often puts others in the world at risk.

In this phase, socialist feminist perspective from third world countries became dominant and new concept such as empowerment, mainstreaming, affirmative action etc. came into focus as corrective measures.

Schools or Approaches or Theory of Feminist Jurisprudence

Feminist jurisprudence is a philosophy of law based on political, economic, social equality of sexes. This jurisprudence may be called theory or school or approach in the legal field which came to spread during 1960s onwards rampantly. Feminists believe that law is not neutral, impartial and fair because it has male domination. All the political, economic and social powers are/were at the hand of male since time immemorial. Male written history has created a bias concept of human nature, gender and social arrangements at large. The movement has given a great challenge to improve patriarchal concept of domination over female. There are some of the schools of feminist jurisprudence. They are as liberal feminism, radical feminism, postmodern feminism, black feminism, lesbian feminism, queer feminism, Marxist feminism and so on.

- **Liberal Feminism:** In liberal feminism concept of equality between male and female are highlighted. Equal rights should be provided to women as it is exercised by male. Male and female are equal and the concept of all rights and duties should be distributed equally. Hence, this approach is based on equality concept between male and female in each and every discipline where they are willing to

participate (Freeman MDA,1994) Elizabeth Gaskell, George Eliot, Wendy Williams, Herma Hill Kay, Mary Wollstonecraft and Harriet Taylor are major contributors of this theory of jurisprudence. They mainly concentrated to reform girl's education system, participation in formal national examination, employment and confined within voting rights and gender equality which emerged in 1960s.

- **Radical Feminism:** This school or approach of feminism basically rejects the concepts of liberal feminism. Radical feminism opposes existing political and social organization in general because it is inherently tied to patriarchy. This approach has a direct connection to civil right movement. Power and sexuality are the major focus on radical feminism which believes that woman is a class dominated by men as another class othering. So, radical feminism views patriarchy as dividing rights, privileges and power primarily by gender, and as a result oppressing women and privileging Men. Simone de Beauvoir, Elizabeth Robins and Oliver Schreiner who protest against male values. The radical feminists of this period advocated the actual legal and political right of the female. They believe that men and women cannot be equal in each and every field. Feminist activist of this concept are widely influenced from Marxist tradition and its critical aspect. Reservation and quota system are the outcome of this movement of this feminism. Radical criticizes male domination in each and every field. Writers like Simone de Beauvoir, Elizabeth Robins, Oliver Schreiner, Catherine A. Mackinnon and Christine A. Littleton are the major contributors of this concept.
- **Cultural Feminism:** Cultural feminism refers to a philosophy that men and women have different approaches to the world around them, and that greater value should be placed on the way women approach the world. In some cases, cultural feminism argues that a woman's way of looking at the world is actually superior to men. Cultural feminism focuses on women's differences from men. This feminism rejects all previous concepts of feminism. They are difference in physical and psychological aspect. Women are part of men and men are separate form women. And they view and understand that coordination between male and female is required. Male and female cannot live separately biologically and socially. In short, they cannot live in isolation. This feminism movement argues that society and social discipline are constructed and developed in coordination with male and female. Cultural feminists challenge the idea of patriarchal male domination and they claim that law reflects male values and needs to incorporate ignored women's values. So, some argue that there should be separate law for women and men. If the law recognizes special

rights for women, women can enter the public arena on equal terms especially in the sex rights, right to dignity, right to virginity, right to motherhood, and right to abortion and so on. Rebeca West basically emphasizes that reproductive health is the key matter of society and culture. Male cannot give birth; so, to continue the human generation female is necessary. Love and care from each side is necessary without any form of domination. Male has to support women especially in the time of pregnancy and children upbringings.

This perspective aims at uniting all women, regardless of ethnicity, race, class or age. The essence of being a woman is what makes women special and different compared to men. This female essence includes a greater emphasis on cooperation, relationships and peace, also referred to as an ethic of care which means respecting female values of care and nurturing and respecting child care in the home. In short cultural feminism believes in encouraging feminine behavior rather than masculine behavior.

- **Post-Modern Feminism:** Post-modern feminism developed during 1980s which believed that women had gained relative equality with men but wanted more. This feminism rejects all the existing philosophy and knowledge. The women are not obliged to follow any theory, system and practices which are dominating to them. It further believes that women could use their sexuality for empowerment and assume traditional female roles (motherhood) whilst simultaneously being in control of their lives. Women can accept any belief, tradition and practices which can give them absolute and substantial level of freedom. This is sometimes referred to as the triple burden wife, mother, career and women. It is woman's destiny to rule men. Not to serve them, flatter them or hand them for guidance. Nor to insult them, demean them or stereotype them oppressors. No truth is always existed, which is changing and ever changing is applied even for women. They can pursue unique method from where they get freedom. However, postmodern feminism does not necessarily limit to unnatural activities. Susan Faludi Backlash 1991 defines that women should be free to define themselves instead of having their identity defined them time and again by their culture and their men. Women are enslaved by their own liberation.
- **Marxist / Socialist Feminism:** Marxist feminism advocates revolutionary approach that calls for an end to capitalism through a socialist reformation. The capitalism treats women as prosperity. Inequality is the result of the economic structure not the attitudes or ideas. Marxist claims power has nothing to do with sex, but class,

wages and property that matters. Basically, socialist feminists argue that capitalism strengthens and supports the sexist status quo because men are the ones who currently have power and money. Those men are more willing to share their power and money with other men, which means that women are continually given fewer opportunities and resources. This keeps women under the control of men. In short, socialist feminism focuses on economics and politics. The fact in USA where women are typically paid less in their job than that of man. The major question arises why are women are paid less than men for the same work. The Marxist feminist point out that this difference is based on a capitalist system (Elizabeth 2020). They believe that family maintain patriarchal and class inequality. It serves capitalist agenda and is obstacle on women struggling for equality. Marxist sought capitalism and modernity as the enemy. Women are like men oppressed by capitalism, and hence the interests of men and women are not crucially different. Marxist feminism points out the roll of capitalism in the oppression of women. According to the concept of Engels, a prominent Marxist, inequality, dependence, political confusion and ultimately unhealthy social relations between men and women are the root of women's oppression in the current social context.

Marxist feminism historicizes reproduction in relation to production to better understand women's exploitation and oppression in capitalism. Marxist feminism also theorizes revolutionary subjectivity and possibilities for an anti-capitalist future. Socialist feminism developed from these socialist countries, like the People Republic of China, USSR and Eastern Europe, they sought to expand state support for women's equal access to rights, resources and to dismantle "gender" as a meaningful site of differential social values.

Feminism and Earlier Landmark Cases from Supreme Court of Nepal

The significant cases have been highlighted relating to gender issues which have been decided by the Supreme Court of Nepal. Among them two of the cases are widely discussed in society and among professionals.

- Mira Dhungana v. HMG Ministry of Law, Justice and Parliamentary Affairs and Others.³
- Annaprna Rana v. Kathmandu District Court and Others.⁴

The Supreme Court of Nepal in Mira Dhungana's case issued an order to the government to arrange necessary legal mechanism procuring an appropriate standard to address

3 37 NKP 6, D.N. 6013, AT 262, (2052).

4 Writ No. 2187 of 2053, decided on 2052/2/25, by the Division Bench of the Supreme Court of Nepal, comprising of Justice Arbinda Nath Acharya and Rajendra Raj Nakhwa.

the system of personal property. While in the Annapurna Rana's case, the Supreme court quashed the virginity test order' of the Kathmandu District Court, presupposing that the order had contravened the 'right to privacy' of the petitioner Annapurna Rana. Those cases highlight radicalism in the traditional settled system.

After the Constitution of the Kingdom of Nepal 1990, judicial body played vital role to eliminate gender discrimination and judiciary is considered as an effective mechanism for the protection, promotion, and realization of women's rights in Nepal. The Constitution of Nepal 2015 is a landmark political document which is appropriate for addressing women's issues subtly.

General Review of Annapurna Rana's Cases

During the time of 1996 onwards, the cases involving gender issues have been increasing in the Supreme Court of Nepal. In *Mira Dhungana V. HMG and others*,⁵ case a writ petition was filed under article 88(1) of the constitution raising the issue of marital rape committed by a husband on a wife. It also an act against her human rights. The court, thus, was the view that the marital rape is not permissible.

Similarly, the trend is also seen in the case of *Prakash Mani Sharma and others v. HMG and other*.⁶ The petition demanded the formulation of a statute relating to sexual harassment at workplace as well as public place and stated that the provision relation to sexual harassment in Muluki Ain (incest) is insufficient failing to cope up with the problem of society. Laws are reformed accordance with need of time and voice of the women.

Many of the Articles of Constitution 1990s have prohibited discrimination against women. Article 17(2) of the Constitution has mentioned that no discrimination shall be made against any citizen in the application of general laws on the ground of religion, race, sex, caste, tribes or ideological convictions or any of these. Article 17(3) provides that the state shall not discriminate against any citizen on ground only of religion, race, caste, sex or ideological conviction or of any of these. If the legal issues of Nepal remain static, it challenged not only the constitution of Nepal but also infringed international instruments of Article 2 of Universal Declaration of Human Right 1948 and Article of the United Nations Convention on Elimination of All Forms of Discrimination against Women 1979. In this case, Supreme Court of Nepal ordered the government to arrange necessary legal mechanism. So, government and the Supreme Court of Nepal have reformed the feminist jurisprudential issues yet a few lacks.

5 Writ No. 55, decision on, 19-01-2059 B.S.

6 Writ No. 2736, NKP5-25-10-2052 B.S.

Muluki Ain (11th amendment) Bill had guaranteed equal property rights on parental property and conditional abortion rights to women. It seeks to empower women by providing unmarried women equal rights to parental property and also granted a share in the husband's property to divorced and widowed women. It also bans the age-old practice of child marriage and polygamy. The bill legalizes abortion of fetus up to 12 weeks old under any circumstances provided it is done with the husband's consent and the help of the government authorized paramedics or surgeons. The Bill also allows victims of rape or incest to abort the fetus within 18 weeks. This verdict of Supreme Court tried to balance gender discrimination as well as social equality between the sexes as opposed to patriarchy and the sexism.

Afterwards, another landmark decision of Supreme Court quashed the virginity test order of the Kathmandu District Court, presupposing the order had contravened the 'right to privacy' in *Annapurna Rana v. Kathmandu District Court and Others*.⁷ This decision has introduced new dimension to sexuality, cohabitation and marriage. It looks a radical verdict for the existing society. This judgement was in favor of women rights. It highlighted some fundamental legal issues such as:

- Right to privacy is individual's right to control over the dissemination of information about him/her as it is one's personal possession.
- Mere sexual relationship does not create any change on the legal status of a women/ girl. Before marriage, they may practice cohabitation for years. Sexual relationship before marriage does not tantamount to marriage. From that ground the decision of SC is historic and landmark.
- This decision was a challenge and experiment to the exiting patriarchal social norms and values. It gave initial freedom and empowerment to the women who got reproductive freedom.

In this way, the court has been playing a vital role for addressing and reassuring women's rights and equalities.

Constitutional Provision of Feminism, and Decision of Supreme Court of Nepal

After the promulgation of the Constitution of the Kingdom of Nepal 1990, judicial body played vital role to eliminate gender discrimination. The Interim Constitution of Nepal 2063 was more progressive than the constitution of Nepal 1990s in the issues of women's empowerment, reproductive freedom, equality and property entitlement. The judicial and quasi-judicial bodies with constitutional mechanism are playing an

7 Writ No. 2187 of 2053 by the division Bench of the Supreme court of Nepal

effective role for the protection, promotion, and realization of women's rights in Nepal. The Constitution of Nepal (2015) enlarges women's issues and has guaranteed several rights than the previous constitutions. The 33% of parliamentary seats for women through legislation as envisaged under Article 84(8).⁸ Article 86 (2) says three members, at least one woman is to be nominated by the president in the Upper House as the recommendation of the Government of Nepal. The Supreme Court overturned the discriminatory laws and initiated the appropriate laws to empower women's rights.

Article 38 provides fundamental rights to the women which are (1) every woman shall have equal lineage right without gender-based discrimination, (2) every woman shall have the right to safe motherhood and reproductive health, (3) 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 on any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law, (4) Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion, (5) Women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination, (6) The spouse shall have the equal right to property and family affairs. Those constitutional and legal rights play vital and effective role for the protection, promotion, and realization of women's rights in Nepal. Some of the land mark cases of women rights and issues regarding feminist jurisprudence are given below:

The cases related to employment are Advocate Prakashmani Sharma v. HMG,⁹ and Rina Bajracharya v. HMG.¹⁰ Other cases regarding property are that of Advocate Sapana Pradhan vs. HMG,¹¹ and Meera Dhungana vs. HMG.¹² Similarly, cases related to rape are Jit Kumari Pangen Neupane et.al. v. Nepal Government,¹³ and Madhukar Rajbhandari v. HMG¹⁴. Another cases regarding discrimination are Meera Gurung v. Immigration Department,¹⁵ and Advocate Shyam Krishna Maske v. HMG.¹⁶ The case related to sexual harassment and trafficking is that of Fullmaya Magar v. HMG.¹⁷ The case related

8 The Constitution of Nepal. Art. 84 (8)

9 NKP, 2060, Vol. 9/10 at 726

10 NKP, 2057, vol. 5 at 376

11 Verdict date 2062/04/18

12 NKP, 2061, vol. 4 at 377

13 Writ No. 064-0035 of 2063

14 NKP, 2057, vol. 10/11 at 750

15 NKP, 2052, Vol. 6 at 462

16 NKP, 2061, Vol. 10 at 1254

17 NKP, 2061, Vol. 10 at 1312

to privacy is that of Annapurna Rana vs. GorakhSamsher.¹⁸ And finally the case related to murder is that of LaxmiBadi v. HMG.¹⁹

From the above-mentioned cases the judicial bodies since 1990 till date have played a vital role to eliminate gender discrimination. The judiciary has played an effective role for the protection, promotion, of women's rights in Nepal. Though the status of women in Nepal remains difficult in terms of health, education, income, decision-making, and access to policy making, the constitutional and legal practices are reinforced and empowered to them in the present time. Despite the fact that women still face systematic discrimination, particularly in rural areas in comparison to the city.

Conclusion

Feminism is a collection of movements and ideologies that seek to liberate all women who suffer from political, social, economic, cultural, anthropological, and critical phenomenon. It may be described as a body of thought which suggests that women are disadvantaged in both past to present time. This study includes law as a theoretical enterprise as well its practical and concrete effects in women's lives. Feminist jurisprudence aims at defining, establishing and defending equal political, economic and social rights for women. It seeks to establish equal opportunities for women in education, health, information, transportation and employment.

The modern feminist movements develop with three 'Waves or phases. Each of the wave has dealt with different aspects of the same feminist issues in the different ways. First wave feminists seek for voting right, second wave feminists search for m and third wave feminism. The feminism jurisprudence focuses on legal matter to protect women issues. The feminist movement is as old as the human civilization. It was, it is and it will be. There is controversial argument whether feminism jurisprudence is liberal, radical, cultural, postmodern and Marxist feminism.

The Nepalese feminism jurisprudence emerged a separate movement after mass movement 1990s with the verdict of the Supreme Court of Nepal. The two of the landmark cases of Mira Dhungana v. HMG Ministry of Law, Justice and Parliamentary Affairs and the case of Annapurna Rana v. Kathmandu District Court and Others are establishing and defending women property rights and right to privacy in a strong way.

After the promulgation of the Constitution of the Kingdom of Nepal 1990, judicial body played vital role to eliminate gender discrimination. The Interim Constitution

18 NKP, 2055, Vol. 8 at 476

19 NKP, 2060, Vol. 7/8 at 587

of Nepal 2063 was more progressive than the constitution of Nepal 1990s in the issues of women's empowerment, reproductive freedom, equality and property entitlement. The constitution of Nepal 2015 is one of the constitutions which provide equal opportunities in politics, economic, cultural and social rights for women. The constitution itself guarantees primary education, health and employment for women.

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