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Feminist Jurisprudence in Practice: An Appraisal

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ABSTRACT

Feminist Jurisprudence is emerging theory to see the society and law from feminist point of view. Law is an instrument to change the society and feminist jurisprudence will definitely help to understand the law from feminist perspective. Feminist jurisprudence has tried to work at ground level. Mostly it is divided in to first wave feminism, second wave feminism and third wave feminism. Right from the Seneca Falls Convention and women are struggling till now. In practice Feminist Jurisprudence played important role to realise the rights and place of women in society. It is due to only feminist jurisprudence women fight for their voting right in America. Feminist jurisprudence originated in USA and UK but now a day it is working all over the world and gender issues are taken seriously in whole world. Second wave feminist jurist were mostly radical and produced the strong and conveying slogans e.g. sister hood is powerful' Consciousness rising, 'The personal is political' "The politics of human work 'Pro women line etc. They firmly believed that women could collectively empower themselves. Third wave feminism stated in 1990 and feminist jurists of third wave taken in to consideration age, race, sex and class. Age also plays important role in discrimination. They stated D.I.Y.-do it yourself. Women have to struggle them self for their problem. The objective of the paper is to understand the law and practical impact of feminist Jurisprudence.

Keywords: Feminist Jurisprudence

It is worthwhile to note that feminist jurisprudence has made a practical impact on the rise of women in society. For example the right to franchise which earlier had not been granted was granted after the struggle of feminist movement. It is pertinent to know the practical experience of feminist movement. Feminist jurist and scholars have divided the history of feminist movement into three eras which are known as feminist waves. These terms first wave feminism and the second wave feminism appeared for the first time in The New York Times Magazine in the writings of Marsha Lear in March 1968. The first wave was in the nineteenth and early twentieth century mainly concerned with women's right to vote throughout the world, particularly in the United Kingdom, Canada, the Netherlands and the United States. The second wave was in 1960's and 1970's. This refers to the ideas and actions associated with women's liberation movement related to propagating the legal and social rights of women. The third wave started in 1990 which refers to a continuation of a women

right and reaction to the perceived failure of second wave feminism¹.

Women struggled for right to vote in United Nations of America. The women suffrage movement fought for inclusion of sex in the text of fourteenth amendment. Litigant and lawyers raised sex discrimination issue and issue of women equality and succeeded to pass the nineteenth amendment to the constitution provided the right to vote for women. The second wave in 1960's developed a women movement from civil rights struggle, change the law to abolish sex discrimination and reorganise the legal profession. It was effort of a new generation of women's attorneys, manifested the relationship of theory and practice of feminist jurisprudence².

Gender is essential element of the Feminist legal theory and has developed and continues deep understanding of complex inter-relationship between gender and law. Theory and practice are the two sides of the coin and complementary to each other. Theory and practice of feminist jurisprudence shaped each other to complete the issue of gender equality in law and society. Feminist legal theory understood the intellectual means for arguments and debate for the issues of equality. Relationship between practice and theory is inevitable. Highlighting the importance of relationship of theory and practice great revolutionary and practical implementer of theory of Marxism has said "practice without theory is blind and practice without theory is sterile". Without theory practice is directionless and without practice theory is useless and crippled. Theory and practice are inextricably linked in this are because of the proximity between life, law and gender equality. Law reform, social change, legal doctrine developed by interrelationship between theory and practice. Feminist legal theory has been developed

¹History and theory of feminism.

http://www.gender.cowater-info.net/knowledge_baser/rubrication/feminism_e.htm accessed on 22/02/2015 at 11.15 pm.

² Cynthia Grant Bowman and Elizabeth M Schneider., Feminist Legal Theory, Feminist Law making, and the legal profession, 67, Fordham Law Review 250, 1998.



from women's experience in the legal profession and their contribution³.

First Wave Feminism

First wave feminism mostly extended feminist activity during the nineteenth century and early twentieth century in United States of America and United Kingdom. It emphasised on protection of equality and property rights for women and opposed chattel marriage and ownership of women by their husbands. In this period feminism focussed on gaining political power especially the right of women's suffrage. Women suffrage was the greatest success of the feminists. First wave feminism was campaigning for women's sexual, reproductive and economic rights at that time.

First wave feminist are Charlotte Perkins Gilman heavily influenced by Darwinism, Emma Goldman, existentialist radical feminist and Simone de Beauvoir, Foucault are prominent thinkers of first wave of feminism. Socio-economic function and its impact on the women's oppression is an old concept that was focus of the First wave feminist in USA, UK and Europe. Women's reproductive functions have either limited to domestic work or unpaid work. The domestic work and child care was unpaid and uncountable work of women.

In United States of America the "Public housekeeping" movements of 1890's to 1900's advocated the women's positive use of labour. With motherhood they also work in public sphere by obtaining the voting right, corruption free politics, education institution, support immigrants and forming peace movement etc. Gilman and Goldman debated that women are restricted and made socially unequal to men by household unpaid work and mothering⁴.

In the era of first wave of feminism industrialisation was in full swing by the middle of the nineteenth century. The feminist movement was also grown up as strong movement in western society. The women's movement impacted the society and fought for women's right in US and UK.

During the period of first wave feminism a landmark step was the organisation of a convention for women's Right at Seneca Falls, New York in July 19th and 20th, 1848. This convention is popularly

known as "Seneca Falls Convention" or "women Right convention". This convention was a unique in its character as it was first convention of its type organised by women right organisations. This convention was attended by near about 300 participants including 40 men⁵. This convention was popular as "a convention to discuss the social, civil, and religious condition and rights of woman". Basically this convention was an outcome of antislavery movement and most of the leaders who attended and presided over the different sessions were the leaders of anti slavery movement.

This convention adopted a declaration known 'Declaration of Sentiments' which was signed by near about 100 individuals (68 women and 32 men), some of them removed their name from the declaration after criticism from the civic society of the USA and only 50 names are there on the declaration. This declaration was basically about the equal rights of all men and women. According to declaration 'Life, Liberty and pursuit of happiness' are the inalienable rights of human being. The government must secure these rights. Declaration also announced "The history of mankind is a history of repeated injuries and usurpations on the part of man towards women, having indirect object the establishment of an absolute tyranny over her. To prove this let facts be submitted to a candid world. He has never permitted her to exercise her inalienable right to elective franchise. He has compelled her to submit to laws, in the formation of which she had no voice. He has withheld from her rights which are to the most ignorant and degraded men both native and foreigner"⁶.

Based on above argument, convention passed a resolution (ninth resolution of convention) for the suffrage of women. This resolution was most debated resolution the convention and was discussed at length. Many of the participants were opposed to the resolution arguing that this resolution is an extreme step. The main argument in favour of this resolution was given as 'power to make the laws is the right through which all other rights could be secured'. Finally it was passed and subsequently adopted by the convention.

This convention set the tone for women movement in the United States. This convention launched an organized American women's movement separate from the anti-slavery movement. however, the

³History and theory of feminism

http://www.gender.cowater-info.net/knowledge_baser/rubrication/feminism_e.htm. accessed on 22/02/2015 at 11.25 pm.

⁴Feminist perspectives on class and work

<http://standford.edu/entries/feminism-class> accessed on 1/01/2015 at 10 am.

⁵<http://www.historynet.com/seneca-falls-convention> accessed on 3/03.2015 at 10 pm.

⁶John Dick, Report of the women's rights convention, held at Seneca Falls, N.Y., July 19th and 20th 1848, 8 (1848).



women's of that time after convention focused primarily on achieving the vote, a right that was not granted to all American women until the passage of the 19th Amendment to the U.S. Constitution in 1920. But this convention also addressed numerous other issues related to women's social and legal status in the United States. Women leaders declared that women would 'employ agents, petition the legislatures, and endeavour to enlist the platform and the press on our behalf. This task was widely championed successfully in the coming years. As a result of this convention more local and state conventions were soon called and in 1850, just two years after Seneca Falls, the first national women's rights convention was held in Worcester, Massachusetts.

In this period the American women's rights movement was radical and attacked the family, the church, the states and law. They also recognised and attacked on the sex distinction and discrimination in society⁷. Foucault discussed about sovereign or monarchical power to model regulatory power. If women have any power in the society it is under surveillance of the male patriarchy in a particular place and time.

Sex is the pivotal factor in the proletarian of mechanisms normalisation and discipline. It is also centre of system of "dividing practices" that separate of the same, the delinquent, the hysteric and the homosexual. In seventh century Sovereign state has the rights over the life and death. Foucault calls it "bio-politics of the population" in which the state's attention turns to the reproductive capacities of bodies' birth health and morality. Utility and docility and submission depend on power.

The first wave of feminism in United States was mixed with the reform movements. It was supported by black women also such as Maria Stewart (1803-1879), Sojourner Truth (1797-1883) and Frances E.W. Haper (1825-1911). Women in America realised that absence of franchise right hampered the reformatory efforts and was injustice to women.

Suffragist confronts stereotype role of women and claim of proper female behaviour and talk. Firstly public persuasion for women was initiated which was not acceptable in America. Campbell had explained the situation of women in the then American society and has rightly explained that 'No true women could be a public persuader'. Secondly the supporters of the society who maintained the unequal status of women advocated that the

⁷Shulamith Firestone, **The Dialectic of Sex: the Case for Feminist Revolution**, 16 (1970 1st ed.).

women's place was in home to serve husband and rare children⁸.

The ultimate goal of first wave feminism was 'equal-opportunities feminism' or 'equality feminism' and not distinction between sex and gender. Biological differences were not reason for social and gender discrimination. First wave feminist in Europe, Mary Wollstonecraft's 'A Vindication of the Rights of Woman' (1792), was a great work in the wake of French revolution and still read as pivotal text in the liberal feminism. Other eminent contributions of this span of time are Virginia Woolf's 'A room of one's own' (1929) and Simon de Beauvoir's 'The second sex' (1949).

In her book 'A Room of One's Own' Virginia Woolf had explained the subordinated position of women. In this book she had explained through her characters the denial of education and intellectual works to women. As in her book when a woman was asked to give lecture on 'Women and fiction', she is being interrupted by the approach of Beadle, a university security guard. He enforces the rule, by which women are not allowed to walk on the grass, "Only fellows and scholars are allowed here, the gravel is the place for me"⁹.

Woman did not write in the beginning as it now, the obvious reason as Virginia Woolf puts it, "A woman must have money and room of her own if she is to write fiction."¹⁰ Money symbolizes power and freedom and a room of her own is to have contemplative thinking. Women are not allowed to think freely, the path was not smooth for them to travel. They had to undergo many hardships to enter into the world of art. Women were not allowed to read as in case of the narrator in, 'A Room of One's Own,' when she is inspired to view the manuscript in the library, she is told, "Ladies are only admitted to the library if accompanied by a fellow of the college or furnished with a letter of introduction"¹¹.

Simon has defined the women's biological to sociological background and utility of them. She

⁸ Charlotte Krollokke and Scott Anne Sorensen, **Gender Communication Theories and Analyses: from Silence to Performance**, 6-7 (2005 1st ed.).

⁹Virginia Woolf, *A Room of One's Own*, 139 (1929 1st ed.).

¹⁰ Virginia Woolf, *A Room of One's Own*, 126. (1929 1st ed.).

¹¹Virginia Woolf, *A Room of One's Own*, 145. (1929 1st ed.).



was multi dimension personality. She identified the reason of women as second sex¹².

Despite of liberal feminist, socialist Marxist feminists worked in workers union in the United States during first wave feminism. Russia was developing and acknowledged the women's rights. It was initiated by Rosa Luxemburg (1870-1919) in Germany, Alexander Kollantar (1873-1953) in Russia and anarchist Emma Goldman (1869-1940) in the United States.

The Second Wave Feminism

The second wave feminists mostly are radical feminist in late 1960 and early 1970. Beginning of second wave feminism is marked when Western welfare societies, when other "oppressed" groups such as Blacks and homosexuals were being defined.

The radical feminist movement of 1960 to 1970 produced an express slogan and was popular among the women such as 'Sisterhood is powerful', 'Consciousness raising', 'The personal is political', 'The politics of human work', the 'Pro-women line' etc. Second wave feminist strongly believed that women could collectively empower them. The second wave feminism was theoretically based on a combination of neo-Marxism and psychoanalysis. Shulamith Firestone, in her book 'The Dialectic of Sex: the case for feminist revolution' (1970) defined that patriarchy is inherent and sexual difference is fundamental than the class and race difference¹³.

Freeman compared the first wave feminism and second wave feminism that first wave feminism focussed on rights of suffrage, second wave focus on the issue of equality and gender discrimination, patriarchy etc. They also tried to understand the politics of personal life deeply rooted in the politics and reflecting sexist power structure.

The Second Sex is novel and philosophy by Simone De Beauvoir. The Second Sex is a detailed analysis of women's oppression. She defined that women is not natural but created by society. Masculine and feminine identity is given by the society. She also analysed social construction of women as other. Women live dispensed among men, worked at home, economically and socially depend upon husband or father. Women are intermingled in the class such as bourgeois women interact with bourgeois men only not with proletariat women,

12Virginia Woolf, A Room of One's Own, 145. (1929 1st ed.).

13 Virginia Woolf, A Room of One's Own, 145. (1929 1st ed.).

white women interact with white men not with black women¹⁴.

The debate of household unpaid work grew stronger because leisure and work at home is not easy to define. Motherhood is twenty four hour job without leisure. Productive and reproductive works for family by women have to be determined by total hour of working. The household activity must be accept as wage labour work done by gardener, nannies, domestic servant etc. and women should be given equal monetary importance for these household activities¹⁵.

The Second Wave of feminism is outcome of narrow attitude of first Wave feminism and started with Betty Friedan's 'The Feminine Mystique' (1963). The Second Wave proposed foundation of national organisation for women 1966 and emergence of 'Consciousness Raising' in late 1960's. White middle class women her unwillingness be treated as second class citizen in the boardroom, in education or in bed. In 1960 the struggled to stop trafficking, break existing laws to provide safe and accessible abortions and contradicted the older generation. They protested against sex roles which had traditionally defined, domestic and political relations and opened new possibilities for action and expansion of the capabilities of women. But there were some other aspects such as multiracial feminism and Consciousness raising.¹⁶

Second Wave Feminism was largest social movement in United States history. From mid 1960's to 1980 it was a strong movement. It expanded naturally and many scholars became the part of this movement spontaneously. Betty Friedan's 'The feminine Mystique' 1963 criticised the idea that women are only to child rearing and home making. This book is about the false believes of system and identity of women through husband and children. Real identity of women lost behind name of husband and children.

Class difference was an issue of feminist Jurists and it divides women on certain lines. The newly formed women's liberation movement was constituted mostly by circles of white women and

14Simone De Beauvoir, *The Second Sex*, translated Malovany Sheile Chevallier and Constance Borde, 65 (2011 1st ed.).

15 Feminist perspectives on class and work <http://standford.edu/entries/feminism-class> accessed on 1/01/2015 at 10 am.

16 Becky Thompson, Multiracial Feminism: Recasting the chronology of Second wave feminism, 28, *Feminist Studies* 338, 2002.



in this the most glaring separation between women was that of class. There was a conflict between the reformist vision of women's liberation which basically demanded equal rights for women within the existing class structure, and more radical or revolutionary models, which called for fundamental change in the existing structure so that models of mutuality and equality could replace the old paradigms¹⁷. Issues of the women from the privileged classes were able to make their concerns received public attention. They attracted mass media but at the same time the issues of working women or masses of women were never highlighted by mainstream mass media.

Bell Hooks has raised question on the central problem of Betty Friedan's *The Feminist Mystique's* "the problem that has no name". In this Betty outlines that the unsatisfied females felt about being confined and subordinated in the home as housewives. While this issue was presented as a crisis for women it really was only a crisis for a small group of well-educated white women. While they were complaining about the dangers of confinement in the home a huge majority of women in the nation were in the workforce. And many of these working women, who put in long hours for low wages while still doing all the work in the domestic household would have seen the right to stay home as freedom¹⁸. Among the first women activists who raised this issue of class in feminist movement were the Lesbian feminist. They were a group of women who had not imagined they could depend on husbands to support them. With class as an agenda feminist movement opened up the space where the intersections of class and race were made apparent.

There was felt need to address the differences among women which promoted the theory of different views and the differences of opinion between feminist movements. As a result, these differences in feminist thought gradually grew into so called 'identity politics' of present day. With addition of the identity question to second-wave feminism, new questions were raised. They questioned what they saw as a predominantly White, middle-class, and heterosexual feminist agenda and raised the issue of a differentiated-identity politics, based on the contingent and

17 Bell Hooks, *Feminism is for everybody: passionate politics*, 37 (2009 1st ed.).

18 Bell Hooks, *Feminism is for everybody: passionate politics*, 38 (2009 1st ed.).

diversified but no less decisive intersections of gender, class, race/ethnicity, and sexuality.

Lesbian Feminism

Some feminist are of the view that these movements weaken the overall feminist movement, yet they have their own importance. Most of the feminist movement was centred in the America, so naturally women of middle class of that society were in the middle of it. On this point there were various views related the women of other countries, areas and race. Lesbian feminists like social welfare and black feminists were critical of the exclusionary tendency within liberal, radical, and socialist feminism to see the white middle-class woman as the central figure of womanhood. Lesbian feminists take this point to some advance stage when they highlight the dominance of heterosexuality in feminist discourse. Lesbian feminists imagine the equality by challenging the hegemony of the white middle-class heterosexual woman. They emphasised the rights for the homosexual women.

Personal lives of men/women are structured in large part around relationships like sexual and otherwise. The idea to challenge the male/female relations are 'natural' is crucial for equal rights of women. Lesbians Feminists argued that 'to reclaim femaleness one must reject this middle class behaviour'. There are different views about homosexuality and Lesbianism. For essentialists homosexuality and homosexuality are viewed as distinct forms of sexuality, with Lesbianism and male homosexuality seen as different versions of the same abnormality. For social constructionists there is no natural or pure sexuality because sexuality is produced through various processes and regulation and control. Sexuality is developed through human action and history rather than biology or innate sex drive and is a social phenomenon which cannot be taken out of its social context. The confusions and contradictions caused by traditional ideas about sexuality are being challenged by new discourse by Lesbian feminists¹⁹.

Lesbian feminist are not advocating behaving like men, but rather 'rejecting markers of femaleness defined by men'. They have attempted to reorganise the world 'around different conceptions of femaleness and maleness'. The lesbian feminist believed hetero-sexism as the failure to see sexuality as political and 'heterosexuality is promoted as 'natural' and

19 Chris Corrin, *Feminist Prospective on Politics*, 124-125 (1999 1st ed.).



homosexuality somewhat unnatural tendency. In this way women derive all their status from men, which results in the economic and emotional commitment of women to men²⁰.

Lesbians feminist stressed to 'educate' women about lesbianism and seemed to be trying to 'reassure' rather than challenge, asserting similarities between lesbians and non-lesbians. Lesbians Feminists considered unity as crucial, and were concerned by what they saw as a lack of it in the movement because 'a very vocal group tries to assert superiority by, what appears to be, sexual preference'.

Simon de Beauvoir has also dealt this issue of Lesbianism in her book *The Second Sex*. She begins with the social perception of the lesbians "we commonly think of the lesbians as a woman wearing a plain felt hat, short hair and a necktie, her mannish appearance would seem to indicate some abnormality of the hormones. **Nothing could be more erroneous than this confounding of the invert with the 'viriloid' women. There are many homosexuals among harem inmates, prostitutes, among most intentionally feminine women; and conversely a great many masculine women are heterosexual. Sexologists and psychiatrists confirm the common observation that the major of female homos are in constitute quite like other women. Their sexuality is in no way determined by any anatomical fate**²¹". This explanation advocates for very normality of lesbians to the rest to the women against the general campaign that lesbians are not normal women and rare abnormal. She challenged the secondary nature of the women and advocated for the positive choice that some lesbian women are able to make do well in society. There are numerous lesbians among women artists and writers²²". This work of Simon was significant in testing long held beliefs about lesbianism as something unusual merely because it did not fit the boundaries of dominant philosophy if heterosexuality²³.

Black Feminism

²⁰ Mary Holmes, *Second Wave Feminism and the politics of relationships*, 23, *Women's Studies International forum*, 235-246, 2000.

²¹ Chris Corrin, *Feminist Prospective on Politics*, 131 (1999 1st ed.).

²² Chris Corrin, *Feminist Prospective on Politics*, 131 (1999 1st ed.).

²³ Mary Holmes, *Second Wave Feminism and the Politics of Relationships*, 131, **WSIF** 235-246, 2000.

Within the institutionalized race, sexes, class social system in society black females were clearly at the bottom of the economic totem pole. Initially, well-educated white women from working-class back grounds were more visible than black females of all classes in feminist movement. They were a minority within the movement, but theirs was the voice of experience. They knew better than their privileged- class comrades of any race the costs of resisting race, class, and gender domination²⁴. So, black feminists are critique of white feminists. They argued that white feminists had only paid lip service to the diversity of women's experience, noting that their reticence to 'speak for' black women perpetuated racism and effectively takes 'the burden of accountability away from white women and places it solely into women of colour'²⁵.

Most of the black feminist jurists organized black women and advocated for their rights to overcome relations of domination and white privilege and move the focus of racism beyond (white) self-examination and to make their differences with mainstream feminism overt, black feminist jurists referred to their stance as 'womenist'. The group of politico-legal conscious white females who were active in civil rights struggle understood the differences in their status and that of black women more precisely. But just because they participated in anti-racist struggle did not mean that they had dissociate from of white supremacy. But they thought that they were superior to black females, more informed, better educated, more suited to lead a movement.

These white feminist entered the movement erasing and denying difference, not playing race alongside gender, but eliminating race from the picture. Foregrounding gender meant that white women could take centre stage, could claim the movement as theirs, even as they called on all women to join. Bell Hooks critics this attitude of feminists of United States "The utopian vision of sisterhood evoked in a feminist movement that initially did not take racial difference or anti-racist struggle seriously did not capture the imagination of most black women/women of colour. Individual black women who were active in the movement from its inception for the most

²⁴ Chris Corrin, **Feminist Prospective on Politics**, 38 (1999 1st ed.).

²⁵ Bell Hooks, *Talking back: Thinking feminist - thinking black*. 47 (1989 1st ed.).





part stayed in their place”²⁶. Opposed to the general view a younger generation of black women of colour in the late '70s and early '80s challenged white female racism. Citing her own experiences Bell Hooks writes “I began to demand recognition of the way in which racist biases were shaping feminist thinking and call for change. At other locations individual black women/women of colour were making the same critique. We were demanding that we look at the status of females realistically, and that realistic understanding serve as the foundation for a real feminist politics²⁷.

There was tokenism in the early days of women’s liberation when black women and women of white colour invited to feminist events were expected to speak for black women only. Such a tokenism often did not allow black women to speak on the issues of motherhood or disability as she was considered as expert on race and only or primarily interested on race issue. It is still the case of some universities of United Kingdom that many women of colour are expected to teach on race issue whatever their knowledge, preference or job specification²⁸.

Black feminists raised their voice in United States through various organizations such as Black Women Organized for Action (BWOA) and the National Black Feminist Organization (NBFO), which worked to bring gender and race into the national consciousness and addressed issues of poverty, health, and welfare.

Patricia Hill Collins explained the exploitation of black women and need of black feminism. She emphasizes that people simultaneously experience and resist to oppression on three levels: the level of personal biography; the group or community level of the cultural context created by race, class, and gender; and the systemic level of social institutions. She advocated that the experience of multiple oppressions makes black women particularly sceptical of and vulnerable to dominant paradigms of knowledge and thus more reliant on their own experiential sources of information²⁹.

²⁶Chris Corrin, **Feminist Prospective on Politics**, 56 (1999 1st ed.).

²⁷Chris Corrin, **Feminist Prospective on Politics**, 57 (1999 1st ed.).

²⁸Mary Holmes, **Second Wave Feminism and the Politics of Relationships**, 23, **WSIF** 100, 2000.

²⁹Scott Appelrouth and Laura Desfor Edles, **Sociological Theory in the Contemporary Era**,

The presence of Black women’s collective wisdom challenges two prevailing interpretations of the consciousness of oppressed groups. One approach claims that subordinate groups identify with the powerful and have no valid independent interpretation of their own oppression. The second assumes the oppressed are less human than their rulers, and are therefore less capable of interpreting their own experiences.

Despite differences of age, sexual orientation, social class, region and religion, U.S. Black women encounter societal practices that restrict us to inferior housing, neighbour hoods, schools, jobs, and public treatment and hide this differential consideration behind an array of common beliefs about Black women’s intelligence, work habits, and sexuality. These common challenges in turn result in recurring patterns of experiences for individual group members. Despite differences created by historical era, age, social class, sexual orientation, skin colour, ethnicity, the legacy of struggle against the violence that permeates U.S. social structures is a common thread binding African-American women³⁰.

Prostitution

Feminism opposes prostitution on the grounds that it demeans women and strengthens the power politics of the male gender. Feminist considers sex work itself as inherently wrong but are supportive to sex workers. According to the radical feminist jurist the practice of prostitution in society reinforces and perpetuate climate of oppression. There is also a division about the role of prostitution among Radicals and liberals. There is range of perspectives about prostitution from that of an ordinary business transaction to an activity that degrades all women. This debate follows further that whether prostitutes are victims, and should be protected by eliminating the source of prostitution or should be considered free agents pursuing their legitimate economic interests.

Radical feminists are criticised to be mechanical in their analysis of prostitution, separating the moral and spiritual forces of relationships from the temporal forces. Prostitution oppresses women because its organized practice testifies to

334 (2011 1st ed.).

³⁰Scott Appelrouth and Laura Desfor Edles, **Sociological Theory in the Contemporary Era**, 334-338 (2011 1st ed.).



and perpetuates socially hegemonic beliefs which oppress all women in many domains of their lives.³¹ This oppression is not only the simple fact that because some women who participate in it suffer in the eyes of society. Feminist considers prostitution in view of a violent, thankless, and grim occupation that degrades not only the prostitutes themselves but the whole feminine gender as well. Radical feminism does not view prostitution as a victimless crime, but as a situation where men have reduced women to an image of being mere sexual objects. This condition allows men to unconsciously oppress extension of the power politics that govern social intercourse between men and women.

The prostitute, the woman as object, is defined by the usage to which the possessor puts her. Her subjugation is the signet of his power. Prostitution means for the woman the carnal extinction of will and choice. But for the man it once again signifies an increase in power, pure and simple. To call the power of the possessor, which he demonstrates by playing super pimp, divine, or to confuse it with ecstasy or communion, is to grossly misunderstand. "All the mouths that had probed her mouth, all the hands that had seized her breasts and belly, all the members that had been thrust into her had so perfectly provided the living proof that she was worthy of being prostituted and had, so to speak, sanctified her."³²

In her book *Female Sexual Slavery*, Kathleen Barry designated as sexual slavery all those practices, conditions and situations which place women in a position of sexual abuse, exploitation and oppression from which they cannot extricate themselves.

Among the institutions which confine women to sexual slavery, she includes prostitution-on the street or in brothels, marriage with battery, forced marriage, veiling and seclusion, incestuous family life, traditional genital mutilation, and the sanctioning of rape and pornography. Some of these are now well institutionalised while others are set in the framework of patriarchy. These practices are the manifestation of male sexual power used to colonise, exploit and oppress women. Rape is the primordial core of all such expressions of male sexual power, and it occurs

wherever sexual intercourse is coerced with or without overt violence.

Pornography

There is a difference among feminists about the pornography or their use of it in their lives. Some feminists urged that women should use pornography to overcome their fears about sex, to arouse sexual desires, and to generate sexual fantasies. These feminists advocated that women should feel free to view and enjoy all sorts of pornography, including violent pornography. They considered it a way to strengthen them. The other view opposed it and stressed that sexuality and gender are the products of the same oppressive social forces. There is no difference between gender discrimination against women in the boardroom and the sexual objectification of women in the bedroom.

Some thinkers insisted that pornography is nothing more than patriarchal propaganda about women's "proper" role as man's servant, helpmate, caretaker and plaything. There are three implications of pornography on women's life. First rape encourages men to behave in sexually harmful ways toward women. Second, it defames women as persons who have so little regard for themselves they actively seek or passively accept sexual abuse. It leads men not only to think less of women as human beings but also to treat them as second-class citizens unworthy of the same due process and equal treatment men enjoy.³³

Pornography is degrading to women and complicit in violence against women both in its production and its consumption. Andrea Dworkin and Catharine MacKinnon famous for their proposal for a law that defined pornography as a violation of women's civil rights, view women as an oppressed group, who, like other oppressed peoples, must struggle for their liberation against their oppressors-in this case.

Definition of term 'Pornography is the graphic sexually explicit subordination of women, whether in pictures or in words, that also includes one or more of the following (i) women are presented dehumanized as sexual objects, things or commodities (ii) women are presented as sexual objects who enjoy pain or humiliation (iii) women are presented as sexual objects who experience sexual pleasure in being raped (iv) women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt

31Stuart M. Robert, *Philosophical Perspectives on Sex and Love*, 74 (1995 1st ed.).

32Andrea Dworkin, *Women Hating*, 61 (1974 1st ed.).

33 Rosemarie Tong, *Feminist Thought: A Comprehensive Introduction*, 68 (1989^{1st} ed.).



(v) women are presented in postures of sexual submission, servility or display (vi) women's body parts-including but not limited to vaginas, breasts, and buttocks-are exhibited, such that women are reduced to those parts (vii) women are presented as whores by nature (viii) women are presented being penetrated by objects or animals (ix) women are presented in scenarios of degradation, injury, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual³⁴. Feminist formed organisation such as women against pornography in late 1970's. They provided education events, including slide shows, speeches, and guided tours of the sex industry in Times Square, in order to raise awareness on the content of pornography. Cruelty is the means by which men establish their dominance in pornography. Sadism is the real exercise of power which confirms manhood. The first characteristic of manhood is that its existence is based on the negation of the female-manhood can only be certified by miserable female degradation. This degradation never horrible enough until the victim's body and will have both been destroyed³⁵.

Pornography is the practice for long and nothing has changed for women, what has changed the public availability of pornography and the numbers of live women used in it. Now technology has made access of pornography easier than in past. The other change in pornography is that it has become more violent over past decades. The oppression of women occurs through subordination. It is the use of sex as the medium of oppression that makes subordination of women so distinct from racism and other form of discrimination. For women's subordination inequality itself is sexualised. It is made into experience of sexual pleasure, essential to sexual desire. Pornography is the material means of sexualising the inequality. This is why pornography is a central practice in the subordination of women³⁶.

Andrea Dworkin has described four main parts for social subordination. First there is a hierarchy in society. A social group is on top and a group on

34 Catharine A Mackinnon, Pornography: Not a Moral Issue, 9, Women's Studies International Forum 63-78, 1986.

35 Dworkin Andrea, Our Blood prophecies and discourses on sexual politics, 103 (1981 1st ed.).

36 Dworkin Andrea, Against male food: Censorship, pornography, and equality, Harvard Women's Law Journal 19-38, 1985.

the bottom. For women the hierarchy is experienced both publically and privately. Second, subordination is objectification. Objectification occurs when a human being, through social means is made less than human turned into a thing or commodity, bought and sold. Objectification is an injury at the heart of women. Those who can be used as if they are not fully human are no longer fully human in social terms. It also reflects in their behaviour and thinking. Third, subordination is submission. A person is at the bottom of a hierarchy because of a condition of birth. A person on the bottom is dehumanised, an object or commodity the situation of that person requires definitely obedience and compliance. That diminished person is expected to be submissive. There is no right to self determination any right to exist. In the condition of inferiority and objectification, submission is usually essential for survival. Oppressed groups must have to anticipate the orders and desires of those who have power over them. The masters not able to imagine a human like himself in such degrading servility and that servility is proof that the hierarchy is natural and that the objectification simply amounts to seeing these lesser creatures for what they are. The submission forced on inferior, objectified groups precisely, objectification is taken to be the proof of inherent inferiority and subhuman capacities.

Fourth subordination is violence. The violence is systematic, endemic enough to be unremarkable and normative, usually taken as an implicit right of the one committing the violence. Hierarchy, objectification and submission are the preconditions for systematic social violence against a group is both socially pervasive and socially normal, then hierarchy, objectification and submission are already solidly in place.

The Third Wave Feminism

"I have my own standards. I am my own judge and jury. I refused to look/do/say whatever it is I am supposed to do. I am burn bridges, but I don't want to go back there any way".

Bilyana Vujick, DIY Feminism

The third wave feminism began in early 1990. It was result of failure of second wave feminism. Third wave feminism avoided second wave shortcoming which was experience of upper middle class white women. The third wave ideology interpreted gender and sexuality, supporter of third wave was Gloria, Anzaldua, Beele Hooks, Chela



Sandroval, Cherrie Moraga, Andre Lorde and many black feminists³⁷.

In United States in early 1990 the new feminism was initiated with self reliance and had strategy for empowerment avant-garde or punk strategy of D.I.Y.- 'Do It Yourself'. This strategy was spreaded to United States and Europe. The third wave feminism criticised sexist language, appropriated derogatory terms for girls and women, they also invented new self-celebrating words and forms of communication and celebrated the dignity of women.

Third-wave feminists are motivated by the need to develop a feminist theory legal and politics that honour contradictory experiences and deconstruct categorical thinking. In *To Be Real: Telling the Truth and Changing the Face of Feminism* (1995), Rebecca Walker described the difficulty that younger feminists experience when forced to think in categories, which divide people into "Us" and "Them," or when forced to inhabit particular identities as women or feminists. Walker claimed that this is not because they lack knowledge of feminist history or because of the media's horrific one-sided portrayal of feminism. Quite to the contrary, younger feminists honour the work of earlier feminists while criticizing earlier feminisms, and they strive to bridge contradictions that they experience in their own lives. They embrace ambiguity rather than certainty, engage in multiple positions and practice a strategy of inclusion and exploration³⁸.

Third-wave feminism is not single ideology but diverse and chaotic. But they redefine feminism and create interest in traditional and stereotype feminine issues. They flaunt their femininity and redefine and reclaimed former derogative labels such as 'slut' and 'bitch' which were familiar in old society and understand the male dominant power. Natasha Walter in 'The New Feminism' (1998) embraces power. Third-wave feminists were clear and competent in nature and have the knowledge of power can fight for that³⁹.

³⁷History and theory of feminism.

http://www.gender.cowater-info.net/knowledge_baser/rubrication/feminism_e.htm accessed on 22/02/2015 at 10.12 p.m.

³⁸Becky Thompson, Multiracial Feminism: Recasting the chronology of Second wave feminism, 28, *Feminist Studies* 338, 2002.

³⁹Becky Thompson, Multiracial Feminism: Recasting the chronology of Second wave feminism, 28, *Feminist Studies* 17, 2002.

Third Wave Feminism was combination of plurality, "Consciousness Rising" and "The personal is political". It is kind of insurgent feminism exploded in 1980 and flourished in early 1990, which examine intersection among race, class, culture, sexuality and celebration of coalition politics of difference. It has been called the 'politics of hybridity' and 'multiple identities' of girls and women, especially in United States of America.

The contemporary issues related to immigration, class conflicts, multiple culturism, globalisation as well as empowerment mature, social activism for national and global human rights, so for feminist theory and practice. Gender and sexuality has become significant dimension and incorporated 'queer theory' (which argues that sexual identities are not fixed, and questions the social construction of heterosexuality as the norm) has become prominent part of the feminism. Third Wave Feminism as an intersections concept also excludes the white feminism. Black feminist has emerged strongly and affects the traditional intellectual taxonomies. Black women have been considered paradigm case of intersection identity⁴⁰.

Third Wave Feminism is intersectional theory and post structural both maintain strong social constructionist view of knowledge. This highlights the relationship between knowledge and power. They also understand how the people construct knowledge from different social positions, race, gender, class and global location of the women. Standpoint and post modern epistemologies recognise the feminism as a matter of research and discussion⁴¹.

Conclusion

Feminist jurisprudence is not prominent and known as theory of law, sometimes it is misunderstood by people but it plays a vital role in realising the women issues. Awakening of women is west results as state deal the women of issues seriously. Feminist jurisprudence practically helps women to understand the basic reason for discrimination. It also helps women to get power and consciousness about the gender issues.

⁴⁰Zack Naomi, Can Third Wave Feminism Be Inclusive? Intersectionality, Its Problems, and New Directions. (eds.) Alcoff Linda and Kittay Feder Eva, *The Blackwell Guide to Feminist Philosophy*, 193-207 (2007 1st ed.).

⁴¹ Zack Naomi, Can Third Wave Feminism Be Inclusive? Intersectionality, Its Problems, and New Directions. (Eds.) Alcoff Linda and Kittay Feder Eva, **The Blackwell Guide to Feminist Philosophy**, 193-207 (2007 1st ed.).



Now a day's women's rights are being taken into consideration. Patriarchy is rooted deeply in society, needed active participation of women to fight against the discrimination and atrocities against them. Feminist jurists have struggled a lot to get their rights. Even they had won their voting right through valiant struggle. Practically feminist jurisprudence helps women to understand their rights and ensures participation of every of women

from all classes in the struggle. Women are being divided into different groups. They are not able to consider themselves a deprived group which is one the biggest reason of their suppression. They are being divided on the basis of colour, caste and other aspects. Different waves of feminism helped women to find out solution of their problem and implementation of their philosophy.