

ECO-FEMINIST JURISPRUDENCE: A MUCH NEEDED CHANGE IN THE PERCEPTION OF LAW

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ABSTRACT

The essay tends to focus on the emerging trend of ecofeminist jurisprudence in the field of recent legal developments. Recent legal professionals, sociologists and other responsible law-men have now started to feel the essence of a legal system that is equitably equal for different segments of population; with ecofeminist jurisprudence fitting in the requirement perfectly. The essay also discusses the potentials of eco-feminist jurisprudence in current global scenario, and also how the ecofeminist jurisprudence can be an answer to the various contemporary issues.

Keywords: Jurisprudence, Feminist Jurisprudence, Ecofeminism, Ecofeminist Jurisprudence, Equitable Development, Law for Life.

DYNAMISM OF LAW: THE NEED OF THE HOUR

Gone are the days and views describing archaism as fashion and vintage as the trend. Society is dynamic, for society has a life and dynamism assures life. Words like anachronous and incongruous have ceased to belong to a specified and limited arena, for nothing is absolute. And when nothing is absolute, why should Law be? Law is not some set of God-dictated-rules, rather simply an instrument of the Sovereign to ensure and exercise Control and Order over the State and its subjects. In order to effectively effectuate the effect of those effective commands of the Sovereign, as it seems, Law must be dynamic enough to match its pace with the needs of the ever-changing society. The same set of Laws and Regulations cannot be effectively effective for a society for eternity. The basic human nature may remain same over centuries, but our perception of that basic nature varies radically over years, prescribing strongly for a dynamic legal system to match its pace with the needs of the ever-changing society.

Changed is the society, changed are the age-old views. Over time, trend has turned into an epitome of obsolescence. Desirability has been redefined. What was once considered to be a necessity is now considered a waste. Time has changed, and synchronised everything with itself. At such a period of drastic transitions, the concept of eco-feminism arrived as the harbinger of the new era, the egalitarian era, with the eco-feminist jurisprudence as an aid to ensure the same.

THE THEORY OF ECOFEMINISM: A BRIEF INTRODUCTION

Getting to the basics, discussing about the theory of ecofeminism, the theory took birth from the post-modern feminism. Ecofeminism interconnects the triple domination of female, nature and the third world. It establishes the link between female and nature in a variety of ways. Spiritual ecofeminism does it by citing numerous examples of nature worship in the form of female goddesses in primitive tribal societies. Some do it the other way by considering the fact that women are the universal household managers and therefore have to suffer a great deal when environment degrades; for they face difficulties in collecting safe drinking water, food and timber. In times of economic crisis, they are the first who have to go without provisions such as food and medicine. The theory also successfully connects the domination of the first world over the third world, of the developed over the developing, and of the more-powerful over the less-powerful ones. The one thing they all have in common is that all such dominations are driven by a patriarchal superiority complex, or mindset, rather than a valid reasoning or logic. All such dominations are nothing but the result of the age-old social tradition of stratification on the basis of wealth, power, strength and talent.

The oppressive patriarchal tradition is hostile not only to the nature and natural resources but also to most of the things connected therewith. Cultural feminists, who explain feminism on the basis of motherly care and affection, also relate the nature, natural values of compassion and caring and the wildness of nature with the female under the scope of ecofeminism. The same perspective tends to associate wildness with female, and culture and traditions with the male. The male values of cultural and traditional discipline, in fact have always been suppressing the feminine wildness declaring it to be uncivilised. This way, the patriarchal mindset exploits not only female, nature or the third world but also every weaker section of the Earth that's unable to fight the male chauvinism.

THE ECO-FEMINIST JURISPRUDENCE: ORIGIN AND DEVELOPMENT

The eco-feminist jurisprudence isn't just another form of the much debated feminist jurisprudence. It's essentially different from the feminist jurisprudence even in the fundamentals. The feminist jurisprudence¹, more appropriately the feminist legal theory, focuses basically on 'gender'ⁱⁱ(conceptually) and 'women' (in practice), while the eco-feminist jurisprudence uses the gender just as a base to focus on all other forms of biasness and domination in existence. The feminist jurisprudence is a much debated as well as famous topic while the eco-feminist jurisprudence doesn't have much material on it and is limited to informal discussions and small-scale debates.

As described earlier, the eco-feminist jurisprudence is a relatively much younger concept and doesn't have much of the formal materials on it. Therefore, it's quite difficult to define the same. However, eco-feminist jurisprudence can be described as an jurisprudential extension of the eco-feminist thought and idea on the triple domination of female, nature and the third world nations and application of the thoughts and ideas developed therein to address all other forms of domination and exploitation. Unlike the feminist jurisprudence, it doesn't restrict its arena to only placing the female experiences in the Law. In fact, it aims at voicing every silence caused by domination and exploitation of the patriarchal-industrialist-western society by incorporating their views and experience in to the existing Law.

It perceives Law not as an instrument of the Sovereign to exercise control over the society, but as a tool for social development. For centuries, the Law has been the expression of the dominating to suppress the dominated. The ecofeminist jurisprudence aims for a change in the perception by trying to make the Law a voice of the age-old silence, an expression of the suppressed expressionlessness.

ENSURING AN EGALITARIAN SOCIETY THROUGH THE LAW

Owing to its origin from the post-modern feminism, the ecofeminist jurisprudence respects and values the differences over similarity. It places promoting of individual differences over forcing equality on someone. Forcing discipline and authority over someone is a value reflecting the male chauvinism incorporated in it, and ecofeminism avoids it. Ecofeminism accepts equality as the assimilation and promotion of differences in a society to enhance diversity in the society, in a constructive way.

In the establishment of an egalitarian society, the ecofeminist jurisprudence accepts the fact that every member of a society has equal rights with other members of the society, just like any other theory. What makes the difference is the perception of Equality in the eyes of Law. The ecofeminist jurisprudence perceives equality not as treating everyone equally but as treating the unequal unequally to make the same level of opportunities available to them. This way, this establishes an egalitarian society via eliminating unnecessary conflicts and disappointments in the society.

ECOFEMINIST JURISPRUDENCE AND SOCIAL DEVELOPMENT

The main purpose of Law is to promote social development through minimization of inter-group frictions in the society. And as far as social development is concerned, it's indeed a much debated topic. What development is and what should be the way to it have always been the two great questions before the sociologists and legal professionals. Interestingly, it seems that the eco-feminist jurisprudence has a solution to the question, in a great way. It seems logical to quote a story over here.

" There was a fish in a pond inside a royal palace. The king in the palace loved the fish very much. Out of affection, the king wanted to ensure maximum happiness for the fish. The king was very rich and prosperous. Everything the King used was of Gold. The whole palace of the King was endowed with attractive Golden jewelleries. One day, an idea did strike the King. The King thought, if the fish were to made really happy and prosperous, it must be kept surrounded with gold like me. The King ordered to immediately 'evacuate' the fish from the pond, and place it in a golden plate.

Next morning, when the King went to see the fish with all his excitement and THE FISH WAS DEAD."

The thing is that, concepts of development, prosperity, happiness etc are purely relative and vary from place to place, person to person and community to community. As the theory of Ecofeminism agrees with, development or empowerment cannot be imposed upon, it can only be encouraged. The ecofeminist jurisprudence upholds the ecofeminist thought of development through preservation of originality and attempts to ensure that through progressive laws. As described earlier, *imposition is a male value, and the theory of ecofeminism strongly opposes it.* Moreover,

greed for power is an inherent male value, which hinders development up to a great extent. After all, development doesn't need male values of imposition and strict discipline; it needs female values of encouragement, care and delegation of power.

THE PATHWAY TO A SOCIETY WHICH IS MODERN IN REAL SENSE

For centuries, the society as well as the Law has been dominated and controlled by pre-dominant male values of honour, discipline, culture, tradition etc. No doubt, they are essential for the systematic growth of a society; but everything needs a balance. Lack of female values of care, emotion, creativity, wildness is also necessary for the growth of the society. The thing is that the globe is in requirement of a perfect combination of Yin and Yang, a perfect balance of feminine and masculine powers and values. And as for the Law, it has been pre-dominantly male-dominated, for millenniums. The Law has for too long been the voice of the dominant. The Law has for too long been a mere instrument of the Sovereign to control the society. Now it's time to incorporate the experience and view point of the dominated in to it. Now, IT'S TIME TO MAKE THE LAW AN AID FOR DEVELOPMENT, SOCIAL SECURITY AND HARMONY. Let the Law establish a society free from all sorts of dominations and submissions, and exploitations.

REFERENCES

ⁱ (Christine Littleton defines feminist jurisprudence as) including all **'attempts to explain, critique, and change law on behalf of, and from the perspective of, women.'**

ⁱⁱ A family of different perspectives or frameworks used to analyse the actual, and the desirable, relationship between law and gender.' – Katherine T. Barlett in 'Perspectives in Feminist Jurisprudence'