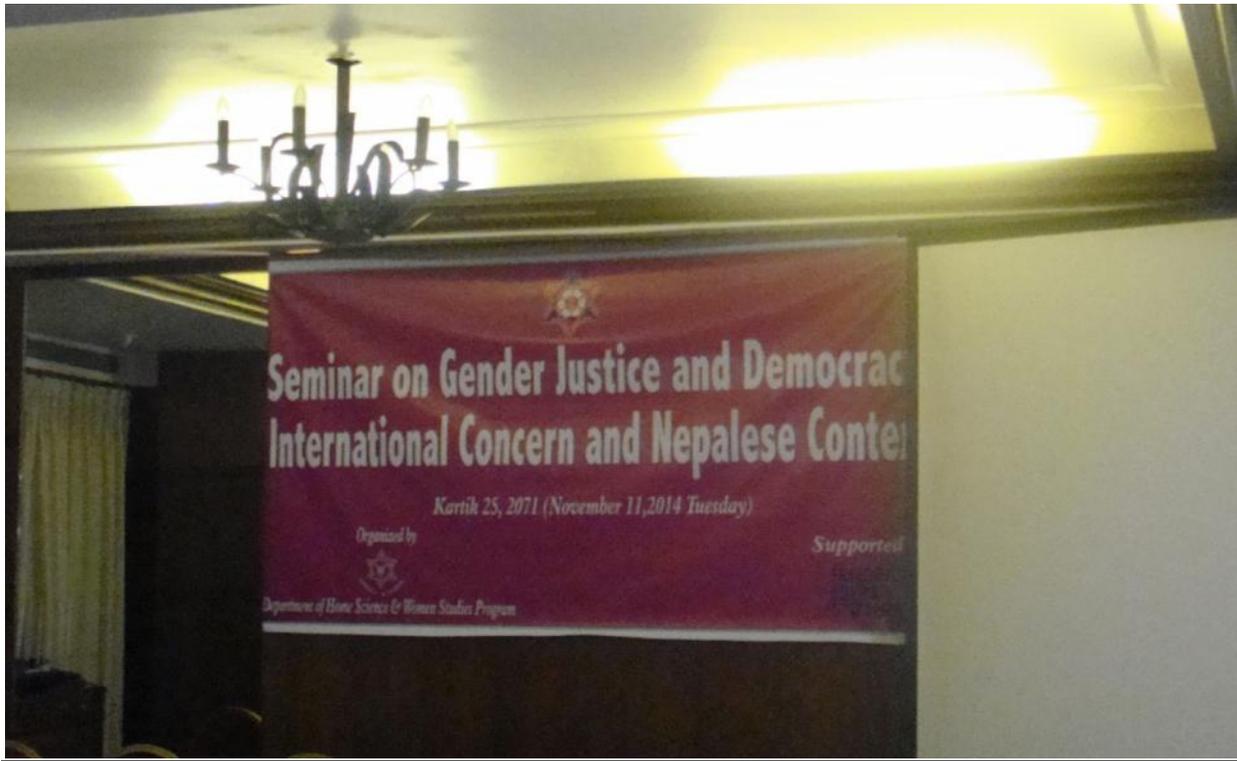


*A report of Seminar on*

**Gender Justice and Democracy: International concern and Nepalese contexts**



**Sponsored by,  
Friedrich Ebert Stiftung (FES), Nepal**

**Organized by,  
Central Department of Home Science  
Women's Studies Program  
Tribhuvan University**

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## **Introduction:**

Nepal is committed to gender equality and gender justice through its constitutional provision, legal reforms (with some specific provisions for gender equality) and planned development efforts. The Interim Constitution (IC) of Nepal (2007), following rights based approach has declared the rights to equality and non-discrimination as some of the fundamental rights of women and men. Accordingly, the Three-Year Interim Plan (TYIP 2007-2010) and successive Three- Year Plans (2010-2013 and 2013-2016) of Nepal envisioned building a prosperous, peaceful, inclusive and just Nepal. The plans continuing the goal of poverty reduction and good governance further envisioned the elimination of all forms of discrimination and inequalities, including gender inequality.

Nepal has also committed itself to almost all international women's human rights related instruments and declarations (the CEDAW and its Optional Protocol, BPFA, MDGs, UNSCR 1325 & 1820 and so on), which commit Nepal to constitutional and legal equality and ensure, among other, the rights of access to knowledge, resources, participation and opportunities.

In this context, a seminar was organized by the Central Department of Home Science and Women's Studies Program of the Tribhuvan University with the following objectives:

- To share the knowledge related to law and practices on gender justice and democracy and,
- Analyze gaps on law and practice for women's access to justice.

It was a half- day seminar conducted in two sessions:

### **i. Inauguration Session:**

Inauguration session was chaired by Associate Professor Ms. Anila Shrestha, Chief of Central Department of Home Science and Women's Studies Program. The Chief Guest of the program was Prof. Dr. Chinta Mani Pokharel, Dean of Humanities and Social Science of the Tribhuvan University. Mr. Dhan Bahadur Tamang, The Secretary Ministry of Women, Children and Social Welfare, Mr. Kashi Raj Dahal, Chief of Administrative Reform Commission, Ms. Samira Poudel, Gender Expert from FES and Mr. Dev Raj Dahal, Director from FES Nepal, Mr. Krishna Chandra Sharma, Director of CERID and Dr. Ram Krishna Timilsina, Principle of National Law College were the key note speakers of the seminar.

At the beginning, Prof. Dr. Uma Koirala from the CDHS&WSP welcomed all the distinguished guests. In her welcome speech Prof. Dr. Koirala expressed that it is an honor for the department to organize seminar in such a crucial issue every year and discuss on the topic intensively.

Associate Prof. Mandira Tamrakar form CDHS&WSP highlighted the objectives of the program. In her speech, Ms. Tamrakar noted that this type of seminar needs to be organized regularly to uplift the issues of grassroot level women.

Gender expert Ms. Samira Paudel provided a short introduction of the FES organization. In her speech, Ms. Poudel stated that the organization was first established in Germany in 1925 and in

Nepal it has been working since 1995. According to Ms. Poudel, FES works in the field of democratization, trade union development, media development, conflict resolution, good governance and gender. Ms. Poudel emphasized on the need of such types of workshop for dialogue on gender issues in Nepalese context.

Furthermore, Mr. Dev Raj Dahal added that FES works in the field of freedom, social justice (justice to weak), unification and peace. In addition, he mentioned that every people have the goal to enlighten. Education related to gender, gender equality and freedom especially to children, is needed for enlighten and this should be provided through community based institution such as school, mother groups and other institutions. He pointed out that gender blind faith sometimes leads to gender inequality. He emphasized that Democracy is a bottom up approach whereas, Bureaucracy is top down approach, therefore, educational institutions should not only provide knowledge, but also help to generate new knowledge.

On the occasion, Mr. Krishna Chandra Sharma CERID expressed that economic development cannot bring gender equality until harmful cultural practices and believes are changed. Cultural believes and thoughts cannot be changed within a short period of time. Gender discrimination exists even in developed country, for example in USA still there is inequality in salary between women and men. According to Mr. Sharma, political and economic changes are easy, but cultural change is not so easy, however according to him it is not impossible.

On the occasion, Mr. Ram Krishna Timalsina from National Law College mentioned that the concept of gender equality is not clear. Sometimes equality in caste and justice by law can minimize inequality in gender. Thus, we need to try to eliminate the unpleasant things and adopt good things for gender equality. According to Mr. Timilsina, addressing social, cultural and educational difference can be the major objective of gender equality. For this, different types of strategies in constitutional, social and cultural context need to be developed. He mentioned that the existing Constitution of Nepal has specific provision for Gender Equality and Gender Justice. Mr. Timilsina, further emphasized that elderly, educated and excluded people's knowledge and experience should be taken for social transformation, and this should be considered during Constitution making too. He concluded by saying 'equality should be in prospective of caste, class and gender'.

Mr. Kashi Raj Dahal, Chairperson of Administrative Reform Commission emphasized on the need of liberty, fraternity and democracy for gender equality. He further opined that equality with equity, dignity and non-exploitation for every citizen is needed to ensure gender equality. For this, the culture of silence needs to be broken. According to Mr. Dahal, any laws or the Constitution itself won't bring gender equality, unless people's thoughts, believes and blind faith towards cultural practices won't change.

Mr. Dhan Bahadur Tamang, form the MoWCSW said that there are different cultural practices within our society where women have power, equality and authority so, we can learn and adopt those positive things towards change. In the present context of Nepal, there are several Laws, Acts and regulations, which are in effect to bring gender equality and gender justice.

On the occasion, Prof. Dr. Chinta Mani Pokharel, the Chief Guest of the seminar said that education is the important base for gender equality. Therefore, gender sensitive education should be provided to both men and women. He emphasized that there is a need to provide home science and gender studies to both women and men so that male would also know the importance of home science and family in their real life. He further added that internship after degree is also needed which will help to capacitate the graduated in their respective field.

At the end of inauguration session, Ms. Anila Shrestha, Associate Professor of the CDHS&WSP and the Chair of the program thanked all distinguished guest and the participants for providing their time and input in the seminar. She proudly reported that Women Studies program has completed its 17 years and has been able to empower around 30 students each year. She further said that we are progressing towards gender equality, for example, law, Act, Rules and regulation have been changed in favor of women. However, women are still back warded which is causing inequality. Still it is difficult to get parental property for a daughter and citizenship to the children if she gets marry to a foreign citizen. There are different laws but due to the cultural thoughts and beliefs it is being difficult to implement them. She concluded by saying that gender equality is to be started from our own home.

The inauguration session was hosted by Ms. Ram Maya Lamichanne.

#### **Technical session:**

The technical session was chaired by Mr. Kashi Raj Dahal, Chairperson of the Administrative Reform Commission.

Two thematic papers were presented during the technical session. The first paper, entitled “**Gender Equality in law and practice**” was presented by Ms. Nar Kumari Gurung, an Advocate. Dr. Ram Krishna Timilsina, Principle of National Law College was the commentator of Ms. Nar Kumari Gurung’s paper. The second paper entitled “**Gender Justice, Theories and Practices: Application on Nepali context**” was presented by Dr. Bindu Pokharel, an Associate professor of the Tribhuvan University. Dr. Mira Mishra, an Associate professor of the T.U. was the commentator of Dr. Bindu’s paper. All the two papers with their comments are given in the Annex II.

During her presentation Ms. Nar Kumari Gurung, said that ‘gender equality’ and ‘non-discrimination’ are the core principles of international legal instruments, on which Nepal is committed. The existing Constitution of Nepal guarantees equality and non-discrimination on the basis of gender, caste, ethnicity, minority, disability and so on. There are various Laws, Act and Regulations, which protect women’s and girls’ rights. However, existing discriminatory values and practices are the major obstacles, which prevent women and girls for their access to rights and justice.

Giving the example of citizenship, Ms. Gurung said in spite of the principle of Non-discrimination provisioned in the Interim Constitution of Nepal, existing Law denies Nepali women the rights to provide citizenship to their children, especially born from foreign husbands, whereas, Nepali men automatically pass citizenship to their children even in cases of marriage to

foreign women. She concluded by saying there should have clear provision in such issues in the new upcoming constitution to be prepared by the people elected CA members.

Commentator Dr. Ram Krishna Timilsina appreciated the paper of Ms. Nar Kumari Gurung and said the presentation was good enough in its coverage. He further said that the existing constitution has provided equal right on parental property to both son and daughter, however, according to him, there should have will system in the matter of property rights. He mentioned that we are ahead than USA in the matter of participation of women at the policy and planning levels. Mr. Timilsina emphasized on the need to bring improvement in education as well as in cultural practices, behavior, etc. to address the issues relating to gender discrimination and inequalities. He further added that sometimes media play discriminatory role, so every media people need to be sensitized from gender perspectives.

As mentioned, the second paper was presented by Dr. Bindu Pokharel. In her paper Ms. Pokharel mentioned that the causes and consequences of gender discrimination, inequality and exclusion differ, which reflect injustice and affect on a person's social, economic, political and psychological condition. It is a matter of human rights, so gender justice should address the causes of injustice locally and globally. That was the reason, many feminists scholar reiterated that 'Theory of Justice' should address women's question seriously. Noyal Literate Amartya Sen's work on "Justice" also focuses on 'Gender Justice and Gender Inequality'.

Dr. Pokharel further mentioned as people's condition is related to other social factors; state recognition of the diversity of its population and their diverse needs is directly related to proper policy adaptation. The state must recognize differences of needs. She mentioned that different groups of people are facing different types of inequality (economic, political, social, cultural etc.), thus State must understand the construction of different types of inequalities to deal with these inequalities. She highlighted that it has been proved that hegemonic cultural beliefs are responsible for stereotypical gender images and construction of human psychology, so gender justice very much depends on the State's ability to understand hegemonic cultural beliefs and traditional practices that maintain or change inequalities. Only having policies do not bring desired result without proper implementation. Therefore, gender justice depends on proper implementation of the policies developed to include marginalized people in the governance processes. She further said that studies have shown that corruption obstruct proper implementation of the policies. Corruption is often resulted into injustice. Therefore reduction on the level of corruption prevalent in the institutions is necessary for gender justice.

Ms. Pokharel concluded by saying 'officials' efficiency and good intention' is needed for proper implementation of policies. People's awareness of their rights and the ways to secure them has been identified as the first step to empowerment. Empowerment is needed to have gender justice. After being aware they can find out the capabilities to fight with their domination and discrimination.

The second commentator, Dr. Mira Mishra, congratulated Dr. Bindu Pokharel for writing paper at such an important and relatively unusual topic. She stated that the paper tries to shed light on the importance of conceptualizing gender with justice. Dr. Mishra further said that Dr. Pokharel's paper discusses the meaning and importance of Gender Justice with various theorists'

write ups and has also linked up the Theory of Gender Justice in Nepali context. According to Dr. Mishra, such an attempt to dialogue with various theorists of Gender Justice has made the paper readable not only for Women's Studies/Gender Studies students and teachers, but for all those who work in the field of gender with different capacities.

Furthermore, to give the paper a fine shape, Dr. Mishra had added some few points in her paper, which are mainly:

- 'Feminism itself is about Gender Justice'
- Justice is linked with Gender since historical period'. During 17<sup>th</sup> c, when people started the question against authority (unquestionable authority-god, supernatural things, kings, priests), the discussion on justice started.
- Feminists have long been (with activism and academia) worked on social justice. From Mary Woolstone craft to Susan B. Anthony to Mangaladevi Singh and Sahana Pradhan, all seek for gender justice.

Dr. Mishra also highlighted that there are a number of theories on Justice. But these theories are inadequate in explaining gender inequality in particular. According to Dr. Mishra, 'inequality between the sexes is widespread'. Quoting Dr. Amartya Sen, Dr. Mishra stated that 'in recent years, some of the inequalities between the sexes have been narrowed down (for example in the field of education and health); even though it is still widespread and deep' and 'the situation is even worse in third world countries'. Sen's early 1990s powerful writing (Missing Women) on Female Feticide was taken as an example.

As per Dr. Mishra, other theorists also argue that contemporary theory of justice is unable to explain women's subordination position in the society. They just note that 'women work to feed for themselves and their children, still there are traditional constraints for women to engage at gainful employment'.

Dr. Mishra further emphasized that the above realities led theorists to think over alternative theory on Gender Justice and 'feminist theory could be one such theory'. Detail of Dr. Mishra's comment has been given in the Annex III.

## **Discussions:**

## **Questions and Recommendations**

Some major issues/questions and recommendations raised/made are:

- The seminar was mostly focused on the theory. It would be better if the data related to the work done by the government was also presented. Further the target that we have achieved of different International Convention and Declarations, such as BPFA, ICPD etc. that we have signed. These data would act as a review so that we can adopt new strategy for achieving it. As well the contribution made by the government, NGOs and other civil society groups and Academic institutions on gender justice, discrimination would also be highlighted in this type of seminar.

- The existing constitution of Nepal has granted the rights to parental property and for married women they have rights in husband's property<sup>1</sup>, still they are discriminated in practice. So the problem might be in the implementation of the constitutional or the legal rights. Due to this, violence against women, rape and other forms of human rights violation are being occurred day by day. Therefore such type of seminar should also review or assess the implementation of the national and international laws (of which Nepal is signatory) as well.
- It is appreciable to conduct seminar in these types of crucial issues, we need to gain knowledge theories from western countries and try to develop new theories for gender justice according to our context.
- One of male participants of the seminar highlighted that gender does not mean women only. Men are also being discriminated by empowered women. Therefore seminar on such crucial issue should accommodate the issues of discriminated men as well. He emphasized that we need to go through the equal distribution of capacity rather than resources which can bring equality. He further emphasized that law alone cannot bring change until there will be change in culture, blind faith, etc.
- Such type of seminar should address the diverse reality mainly the issues of third sex need to be highlighted.
- It is said that in Nepal there is more participation of women in the constitution making process or in higher level political decision-making positions than in developed country like America. But would it be sufficient to keep women as an ideal person?

### **Responses by the paper presenter:**

Ms. Nar Kumari Gurung agreed that gender equality does mean equality for both men and women. There are many problems of women and they do not have access to Law and Justice in comparison to male, so women were highlighted which does not mean men are excluded from gender. She shared a result of the research, according to which only 1 percent women have taken the property from their parents.

Dr. Bindu Pokharel admitted that the paper was biased against male justice and unable to include Third sex. She further said that adding women only can't bring equality; structural inequalities also need to be addressed. She concluded by supporting the quote of Amrita Sen that 'there need to be equal distribution of capacities rather than resources.

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<sup>1</sup> According to the 11<sup>th</sup> amendments of the Country Code of Nepal