Women's Property Right in Nepalese Society with reference to Manabanayasastra and Civil Codes

A Dissertation submitted to Central Department of Nepalese History, Culture and Archelogy

Faculty of Humanities and Social Science Tribhuvan University Kritipur, Nepal

For Partial Fulfillment of Master of Philosophy Degree in Culture

Submitted by

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TU Regd. No.7-3-999-385-2017

MPhil-PhD Program

Central Department of Nepalese History, Culture and Archelogy

Tribhuvan University

Submitted on April, 2024

Tribhuvan University

Faculty of Humanities and Social Sciences

Central Department of Nepalese History, Culture and Archaeology

APPROVAL LETTER

This research work entitled "**Women's Property Right in Nepalese Society with reference to Manabanayasastra and Civil Codes**" submitted to the Central Department of Nepalese History, Culture and Archaeology, Tribhuvan University, Sabita Thapa has been approved by the undersigned members of the Research Committee.

Members of the Research Committee

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RECOMMENDATION LETTER

I certify that this dissertation entitled "**Women's Property Right in Nepalese Society with reference to Manabanayasastra and Civil Codes**" was prepared by Sabita Thapa under my guidance. I hereby recommend this dissertation for evaluation by the research committee of Central Department of Nepalese History, Culture and Archaeology, Tribhuvan University, for fulfilment of the requirement for the Master of Philosophy in Culture degree.

Dr. Poonam Rajaya Laxmi Shah

Dissertation Supervisor

Date: April, 2024

DECLARATION

I declare that the dissertation titled ‘‘Women's Property Right in Nepalese Society with reference to Manabanayasastra and Civil Code (special references with Manabanayasastra and civil codes)” submitted to the Central Department of Nepalese History, Culture and Archaeology, Tribhuvan University, is original work. Throughout this dissertation, I have provided appropriate acknowledgements for all borrowed ideas and information from different sources. The findings presented in this dissertation have not been previously presented for the award of any degree or other reasons. Additionally, none of the contents in this dissertation has been published in any form before. I take full responsibility if any evidence is found against this declaration.

Sabita Thapa

MPhil. Degree Candidate

Date: April, 2024

ACKNOWLEDGEMENT

As I approach the conclusion of my dissertation for the esteemed Master of Philosophy in Culture program at the Central Department of Nepalese History, Culture, and Archaeology (CDNeHCA) at Tribhuvan University, I am filled with a deep sense of gratitude and achievement. This academic journey has been challenging yet immensely rewarding, and I recognize that it wouldn't have been possible without the support, inspiration, and guidance of numerous individuals, to whom I extend my heartfelt thanks.

First and foremost, I am indebted to my research supervisor, Dr. Poonam Rajaya Laxmi Shah, for her unwavering support, professional advice, encouragement, and intellectual insights throughout this academic pursuit. Her guidance has profoundly influenced the trajectory of my research, and I deeply appreciate her dedication and patience.

I also express my gratitude to the faculty, staff, and department head, Prof. Dr. Som Prasad Khatiwada, of CDNeHCA for fostering an environment that nurtured my academic growth and development.

Moreover, I am thankful to my family and friends for their constant encouragement and patience throughout this journey. Their steadfast support has served as a constant source of motivation and strength.

Special appreciation is extended to Mr. Bidhya Kanta Adhikari and Mr. Shamba Raj Lamichhane for their invaluable guidance and steadfast support during the preparation of my dissertation.

In conclusion, I am immensely grateful to all those who have contributed to my academic journey, and I am humbled by their support and encouragement.

ABSTRACT

The study has explored the property right of women in ancient to modern Nepal. This study has focused on the women's property right which was mentioned in Manabanayasastra and later civil codes which was enacted in medieval and modern periods of Nepal.

The study overviews the way of acquiring property which can be through gifts, through inheritance, and through work/earnings. This research is entitled "**Women's Property Right in Nepalese Society with reference to Manabanayasastra and Civil Codes"**. To study the concept of Woman's property right mentioned in Hindu laws, to examine the women's property right as mentioned in Manabanayasastra and its acceptances in later codes and to analyze, compare and find the changes in women's property rights in later was the objectives of this research.

This research is based on the qualitative method of research. The research is based on secondary data collected from sources are books, Journal, articles available in different libraries and research centers. This is more descriptive than analytical. This dissertation is prepared on the basis of Functionalist theory approach theories. The Functionalist theory of Emile Durkheim and Historical theory of Sir Henry Mine.

This study will serve as a valuable resource for individuals and organizations involved in the relevant subject. Additionally, the government of Nepal will find it helpful in developing the required policy program regarding parental property rights. This study has covered a wide range of topics related to parental property rights, including the definition of property, how it is seen and used in Hindu law, and the rights that are safeguarded by Manabanayasastra and laws.

Partition of inheritance, and Stridhan were regarded as a property right of women as mentioned in Hindu Law and also mention in Manabanayasastra. It was a significant legal code for the development of property right of Nepal. Only unmarried daughter had share in their father's property, however married women had no shares in father property., a women had no direct share in her husband property and Stridhan is the property right of women which is absolute right which was mentioned in Manabanayasastra. We can see the influences of Manusmiriti, religious text. Dharmasastra, custom and culture in Manabanayasastra . There are unequal laws on Inheritances, only unmarried daughters are

entitled, and these legal provisions were also followed by Muluki Ain 2020 B.S and civil code 2074.

Laws particularly on the property rights of women from Manabanayasastra , Muluki Ain 1910 followed by Muluki Ain 2020 to Muluki civil code 2074, it seems that law has been developed progressively in the matter of the property rights of the women.

We can see a huge improvement on the development of property rights of women this does not only indicate the development of the property laws but also the development of the standard of women of Nepal. But the provision guaranteed by Manabanayasastra was continuously adopted and changes as per the need and demand of the society. The property rights of women have now empowered women not just with the property or mines but also with the equality and equal dignity-as-men Law evolves gradually and silently out of interactions with social facts or conventions and bears, in due course of time, a character of law originates, grows and dies with the given society.

The customary practices of society are, therefore, the best sources of law. Likewise, our laws evolve in our society as changing nature of society. It has thus proved that customs play a decisive role in shaping the structure of law, and as a decisive factor, it leads to the development of law towards social acceptability. So, we can see lots of progressive development and changes in the law relating to the property rights of women till the date.

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LIST OF ABBREVIATION

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
FWLD	Forum for Women, Law and Development
GoN	Government of Nepal
HMG	His Majesty's Government
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The term "property" is frequently used to describe owned objects. Stated differently, property refers to those objects over which an owner may extend their ownership rights. Both mobile and immovable items, such as shares, lands, chattels, and obligations, are included in the property (Fitzerland, 2016, p. 411). The property may be obtained by inheritance, work-related profits, or donations. The latter also demands the capacity to work and make money, which calls for a certain degree of knowledge or talent as well as access to resources that may be used for production (land, capital). These requirements are also established and defined for women by social-cultural norms. Property rights exist at the nexus of the law, the state, politics, and the economy, and they are important because of their implications on economic performance and inequality.

It is often acknowledged that property is a crucial tool for empowering women. In addition to producing goods and services for income and consumption, assets can also be used to retain wealth, protect against shocks, boost worker productivity, act as a tangible symbol of status, and be passed down to next generations (Cooley, 1994). Strengthening women's control and ownership of material and financial assets gives them more clout in the home, boosts their economic independence, and gives them more say over the money produced by the assets (UN Women, 2023).

Male and female always comprise the two halves of the population in every society. However, the rights and opportunities are not equal between women and men in every society. The differences in the opportunities of life between male and female have forced female to bear an unequal position in society (Nanni, 2023). This unequal position can be seen in different sphere like economic, political, social and cultural.

Around 2000 years ago, classical Hinduism, or what is today known as Hindu tradition, began to take shape. This period marked the initiation of idol worship and the use of sacred symbols, leading to the development of various religious sects. Among these, the Shakta tradition emerged, venerating the divine as the universal mother. In the texts of

Hinduism, women were often exalted to the status of goddesses. Unlike many religions that are defined by a fixed set of beliefs or practices, Hinduism encompasses a broad spectrum of doctrines and rituals. However, in practice, Hinduism has not always upheld fairness towards women. The Smritis, traditional texts, sometimes contain passages that are derogatory towards women. Despite these textual prescriptions, the actual status of women in Hindu society has frequently been more favorable than what these texts dictate, though the opposite has also been true at times (Patel, 2013). This discrepancy has sparked discussions regarding the Smriti texts, including the Manu Smriti, which have historically hindered women's roles in leadership within families and in societal financial management, relegating them instead to supportive roles. Analysis on the role of women in Kautilya's *Arthashastra* reveals that women held specific duties and responsibilities that were vital for the functioning of state and society, indicating an acknowledgment of their integral role in governance and daily life in ancient India (Nagata, 1980).

Gender equality has a deep-rooted historical context of equality, such as during the Vedic and Lichhavi periods where women enjoyed substantial respect and autonomy in societal roles and religious practices. Women chose their husbands, played pivotal roles in decision-making, and were recognized as integral parts of religious and social spheres. Inscriptions from the Lichhavi era, like those established by King Mandev and his family, underscored women's significant societal contributions and autonomy. This historical perspective highlights a regression in gender equality, rather than progress, signaling a critical need for a re-embracement of ancient values of gender parity and respect.

Different systems of property rights exist among different people in historical parental property rights systems. Studies in anthropology and sociology have been conducted on the traditions surrounding parental property and inheritance, specifically the rule that only male children are eligible to inherit or have rights over it. Matrilineal succession is another system used in some cultures, in which property can only flow down the female line. In most cases, this means that the decedent's brother's sons will inherit it, but in other communities, the mother's daughters will also inherit it. Egalitarian inheritance is practiced by several ancient societies and the majority of contemporary governments; it excludes discrimination based on gender and/or birth order. Western nations worldwide consistently observe links between a child's gender, birth order, and life outcomes, including variations in the degree of property control: the first son has greater property

control than other sons. Scholars have defined parental property equal rights as the son's and daughter's rights regarding their parents' properties, their ownership rights over those properties, their right to obtain the properties that their parents have earned, their right to acquire properties through inheritance, and their ownership rights over a home, money, land, and other properties that their parents and forefathers have earned.

Hindu tradition holds that a woman has a right to her husband's property, hence equal property rights are meaningless (Malla, 2011). However, Hindu matrilineal groups' inheritance customs can be traced back to the ancient legal treaties known as the Dharmashastras, which divide property into two categories: separate property and joint family property based on the Mitakshara system. Widow women are only able to claim separate property if they are the only heirs and are not allowed to claim joint family property, which is divided into families. Under the Dayabhaga system, a man is the only proprietor of all of his belongings, giving him the freedom to dispose of them anyway he pleases. Property inheritance only occurs upon the man's death, at which point his sons inherit the rights to the man's belongings (Kadel, 2005). According to Manusmriti, male family members inherit property, but brothers should share their property with their single sisters, and single daughters also have the right to inherit their mother's jewellery after her death. Married women are not allowed to inherit property from other relatives; if they wish to do so, they must obtain their husband's consent (Luitel, 2004).

Nepal is a country of great geographic, cultural, ethnic, religious diversity. Across the diversity, the majority of communities in Nepal are patriarchal. In different historical periods, women were regarded as subordinates and supporting hands of their husbands on whom they depend for most of their needs. Their dependency shifts from father to husband and finally to son throughout their life cycle. In Nepal a few legal provisions were made to enhance the status of women (Acharya, 2020).

The position and status of women seems to be changing from age to age in different ways in different regions. The attitude of society towards women could not remain the same in different historical periods and different places. The status of women as mentioned in the Hindu religious scriptures is appreciated and they regarded women as goddess but later on, in practice, they were dominated and exploited (Acharya, 2020). The women in Hindu society were bound by a number of social, legal and religious barriers. However, women's

role in the family is inevitable and without them a family or society can never be imagined.

The tradition of property rights of a ‘Hindu’ starts from the age of the Rigveda (form 2500 BC to 1500 BC). The religious sacrament made the wife and husband as the couple and joint owners of the household. In 4th Rigveda the husband and wife are described as taking equal parts in sacrificial rites. Men and women had equal statue in the social rights, and they had equal share in responsibilities and duties (Neaupane, 2073).

The concept of Stridhan (Women's exclusive property) is as old as the Rigveda seems to have recognized the property as constituting a women's Stridhan. By the period of Upanishad and Smritis (1500 BS to 500 BC) it degraded the honor of women in terms of the issue of women's right to property. It is stated in Manusmriti that 'a wife, a son, and slave, these three are traditionally said to have no property; whatever property they acquire belongs to the man to whom they belong (K.P.Jayswal, 1980).

Women and men enjoyed equal status during the Vedic era. In those days, women were highly esteemed. As property rights were derived from one's participation in providing spiritual benefits, they participated in yajnas and offered funeral oblations (pandas) to forefathers. Women were also regarded as property heirs. As a result, they acquired equal rights to ancestral property in accordance to the amount they contributed to the offering of pandas to their ancestors. After then, the idea of trichina, which means "woman's property," was limited to transportable assets like money, kind, and decoration (Siddiki, 2072)

Similarly, Manusmriti are more regressive against women's property. And the brothers should individually give their virgin (sisters) something from their own portions, a quarter share of each one's own portions. So religious dogmas that prefer male superiority and female inferiority, are responsible for discriminatory approaches of legal system against women's dignity in every society (Kharal, 2015).

The laws and legal system of the nation are greatly influenced by the Hindu religion and cultural value system, which is primarily patriarchal. Because of this, women in Nepal have been subject to regulations that discriminate against them compared to men since

they were very young. Even though unmarried girls are legally given property rights, the data unmistakably shows the extent of the practice.

Morality and the law are like two sides of a coin. Basic moral presumptions are necessary for law to function, and morality cannot be upheld in society until it is accepted as legal.

Morality, ethics, and values have always taken centre stage in Nepali societies when it comes to how the society operates. Laws, like morality, are not entirely under the state's authority. Our society is constantly evolving, moving from a static to a progressive state. The shift from Manabanayasastra to the 1910 Muluki Ain, 2020 Muluki Ain, and the most recent adoption of the Muluki Criminal Code 2074 B.S. and Muluki Civil Code 2074 are examples of this. The collective byabahara of the populace is mostly governed by these codes.

Women are now on equal with men as a result of time's evolution. They own property and have a separate source of income. In a situation like this, laws had to change to keep up with society. As a result, several laws have been passed in the last few decades, such as Muluki Ain 1910, Muluki Ain 2020, and many others. These include the Manabanayasastra. Even a number of court rulings have been made to clarify legal ambiguities and provide the right interpretation. There has been more discussion on each of these statutes and rulings. Aim, also known as Nakabayashi, is important for establishing Nepal's first unified legal system. Numerous legislation in Nepal's legal document history are biassed against women.

For example, Hindu ideas, values, and social morality govern or have an influence on every element of Nepalese society. There is a proverb that states that a person who does not have a son would not have a seat in heaven after death. The rationale behind this is that the son's responsibility is to carry out the father's final rites. Because they are not suited for such rites, women were not permitted to carry them out. The Manusmriti, Muluki Ain (the Country Code), 1910, and Muluki Ain (the Country Code), 2020 gave preference to men over women based on sex in accordance with the aforementioned conception of Nepalese society.

Muluki Ain (2020) similarly stipulated that a female who is not married and under 35 years old cannot claim her parents' property, unless her parents had kindly given her some

property. Women who are single, married, widowed, or have a husband may use and dispose of whatever immovable or mobile property they have earned as they see fit. Any woman who is not a member of a joint family, whether married or not, may use and dispose of all of their share's moveable or immovable property as she pleases (Muluki Ain 2020).

Muluki Ain (2020) defines equal rights to access daughter about the property rights of women over their parents' property in the eleventh amendment. A daughter, however, could not be claimed under the previously specified condition after marriage. The more common properties of a daughter are Daijo and Pewa. The quantity of movable and immovable property that a woman received from her mother's parents, her parents' parents, and any additional property she has gained is known as her Daijo (dowry). Her Pewa (exclusive property) will consist of the movable and immovable property given to her by her husband or the coparceners of all the heirs, as well as the property she has increased from it and the movable and immovable property given to her by other relatives or friends on her husband's side (Muluki Ain, 2020) (Shrestha G. B., 2069).

The Nepalese legal system once contained a limited and conditional discriminatory provision pertaining to women's property partition rights. The constitution and national codes were gradually amended to address the concerns of interest groups and the dynamic structure of society. Discriminatory provisions pertaining to women's property rights were also attempted to be removed. The courts is crucial in eliminating discriminatory provisions pertaining to women's property rights. The main goal of this study is to direct the Nepalese Supreme Court towards the correction of gender-discriminatory property laws that affect women. Additionally, efforts are made to introduce the idea of women's property rights in international, political, and legislative fora.

Women property rights in Nepal has evolved significantly with subsequent changes in the property rights laws that continued to eliminate discriminations against women expanding women’s right to property. While this reformation was historical and revolutionary in Nepal’s context changes in laws alone is not sufficient to guarantee women’s accesses to these rights. It has been more than a decade since the change began; however, generally, these changes in laws are not seen translated into reality. The paper draws on a review of statutory legal frameworks on women's property rights. In this paper, we explore how

different norms around property rights affect women positions, and we look at changes in legal provision in different periods regarding women property rights in Nepal.

It is critical to recognise property rights as social relations among people, encompassing many different bundles of rights, which may derive from a variety of sources, including state law as well as religious, project, customary, and local law, in order to better understand women's property rights. This requires moving beyond narrow conceptions of property as statutory “ownership” of things.

1.2 Statement of the Research Problems

Women’s status is very pathetic in Nepal especially in the area of education, social, economic and decision making. The rules and regulations of Nepali society are based on patriarchal thinking, and it is important to remember that judges are a product and a part of this dominant hegemony. There is discrimination between man and women generally practiced. The status of women is defined in terms of their marital or sexual status; the right to *Ansha* is fragile, temporary and imperfect. A woman is entitled to her husband ‘s property not as an independent co-larcener but because she is his wife. What she receives in terms of *Ansha* from her husband is governed by the continuation of the marital relation with her husband. She can only continue to hold the right to *Ansha* until she remains chaste or sexually faithful to the husband. She is uncompromisingly and strictly prohibited to have sexual relation with any man other than her husband, failure to maintain which deprives her of the right to *Ansha*. A daughter is not entitled to *Ansha* because she gets her status changed by marriage.

Different norms around property rights affect the of women of different social positions over the life cycle. The laws plan and policies of Nepal have provided different rights to women as compared to international practices and other state practices but are there sufficient plans and policies made to meet the property rights provided by laws to women which can be seen partially.

The following are the statement of problems.

1. The study on women’s property rights as in Hindu law has yet to be research

2. Women's property rights mentioned in Manabanayasastra and its acceptances in later codes has to be studied.

3. What were the changes in women's property rights as mentioned in Manabanayasastra in later codes?

1.3 Research Question

This study is based on gender perspective. This study has been examining the status of women in property right in different era. This study focused especially on legal provision enacted in the medieval period and modern period. It has tried to examine women ‘s property right which was mentioned in is valid. Thus, the study had been headed towards finding the following questions:

On the basis of these problems, the research questions are set out as follows.

1. Is there any concept of woman’s property right mentioned in Hindu law?

2. What are the women’s property rights mentioned in Manabnayasastra and its acceptances in later codes?

3. What were the changes in women’s property rights as mentioned in Manabnayasastra in later codes?

1.4 Objectives of the Study

While researching Nepal in the historical perspective, research on the position of women regarding property right of Nepal customs norms values play vital role while enacting the laws. Dynamic nature of society and demand and interest of society discriminatory provisions regarding property gradually changed in laws. The overall objectives of this study are to know how people acknowledge, perceive, and mean on women property right and its transformation system from one generation to another generation, and to find out the affecting factors of unequal distribution of parental property and consequences of its on women’s life. The objectives of this research paper are as follows:

1. To study the concept of Woman’s property right mentioned in Hindu laws.

2. To examine the women’s property right as mentioned in Manabnayasastra and its acceptances in later codes.

3. The changes in women’s property rights in later codes is open for research are the problems of study.

1.5 Rationality of study

Many people of Nepal, who are working in legal fields, are not aware about details of legal history. This study mainly focuses to the practices of women ‘s property right and access of women‘s right in their parental/husband's property by caste/ethnic composition and examines the constraints for women to get parental/husband property. Hence exploring the provisions of that codified law is very much useful in our legal system.

1. To explore the provision related to property rights of women in Hindu laws.

2. This study provides details information about property right of women mention in Manabnayasastra and its acceptances in later codes.

3. The findings may be the significant reference source for the person and institution that are associated in concerned field and also will be useful to Nepal government for further formulation of the necessary policy program on property rights of women.

1.6 Methodology of the Study

This research is based on qualitative research. The research is based on secondary data collected from sources are books, Journal, articles available in different libraries and research centers. This is more descriptive than analytical.

Secondary source was utilized to gain knowledge about legal codes and Hindu law a significant legal document of Nepalese legal System. Research philosophy based on constructive method; this research has applied Functional theories.

1.7 Limitation and delimitation of the Study

This research paper only focused on legal provision related with women property in Nepal. The paper consists only about the provisions of property rights regarding women, their comparative study and analysis based on the Manabnayasastra, Mulki Ain 1910 B.S, Mulki Ain 2020 B.S and also, the Civil Code 2074 and its application to address the issue role of judiciary in Protecting and promoting the property right of women.

1.8 Organization of the study

This paper consists of seven chapters where the first chapter deals with the general background along with the limitation and objectives. The second chapter deals with the Literature reviews. The third chapter deals with Research Methodology, fourth chapter deals with Woman's property right in Hindu laws, fifth chapter deals women's property right in Manabanayasastra and acceptance in later codes, sixth chapter deals with analyze/compare the changes in women's property rights in later codes and seventh chapter deals with summary and conclusion.

CHAPTER TWO

REVIEW OF THE RELATED LITERATURES

The definition, types, dimensions, and theological perspectives surrounding women's property rights, as well as the allocation of those rights between sons and daughters, were all very effectively covered in this chapter. A description of the theoretical and conceptual framework based on reviewed literature was included, along with details on the historical status of women's property rights, research findings, scholarly articles, national and international journals, laws and acts of developed and developing nations by continent and globally, international convention declarations, national and local practices, laws and acts, and international research findings. The general status of women's property rights, as well as tendency, trend, and pattern, were also covered in this chapter. Information spanning antiquity to the present is described here.

2.1 Books

Adrian Sever, 1996, *Aspect of Modern Nepalese History*

This book examines and analyses various aspect of government of modern Nepal. The authors describe rules and regulation of modern period of Nepal. This book provides the information of civil code 1910 and influences of British legal system in Nepalese legal system. It also mentions the influences of British in civil code 1910 which was issued by Janga Bahadur Rana. So, the researcher has been benefitted to explore the fact rules and regulation of modern period of Nepal. While the book provides valuable insights into the governance and regulations of modern Nepal, it appears to offer only a surface-level examination of the Civil Code of 1910 and its historical context.

A.S. Altekar, 1956 , *The position of women in Hindu Civilization*

This book focusses on the position of Hindu women in particular period of Indian history. This book described the position of women in Hindu Civilization from prehistoric times to the present days, this book deals with the position of women in society and their religious status and proprietary right of women. This book shares a knowledge position and status of Hindu women in the main civilization of ancient and modern times. While the book offers valuable insights into the societal and religious status of Hindu women

from prehistoric times to the present day, it appears to provide a broad overview without delving deeply into the specific legal and property rights afforded to women in different historical contexts.

Bishal Khanal, 2000, *Regeneration of Nepalese Law***.**

In this book, the author has attempted to look at the formation and development of the Nepalese legal system. Author Khanal has elaborated the historical development of the legal system of Nepal. He has successfully highlighted the drawbacks of the legal system in each of the historical stages. The book is a unique Nepali law literature providing valuable insight into the legal history of Nepal especially of ancient and later medieval period with pertinent legal reasoning to understand the persisting legal issues. The valuable insights remained herewith related to judicial system of Nepal in these two phases, it highly contributes to the researcher for the accomplishment of the research. While the author effectively outlines the evolution of Nepal's legal framework and highlights pertinent legal issues, there appears to be a gap in the discussion regarding contemporary challenges and reforms in the legal system.

Bishal Khanal, B.S. 2073, *Nepalko Nyaya Prashshashan: Aitihasik Simhabalokan* (*Justice Administration of Nepal: Historical Survey*).

This book has also supported the researcher to proceed in the research. The author of this book has provided some information about the justice system of Kirati. This book provides information about the judicial concept under the Kirata dynasty. The book further supplies information about the justice system under the Lichchhavi period. The author has also supplied some information about the organizational chart of the justice administration under the Lichchhavi period. The book also provides some information about the justice system of the Malla period. The source remained in the book has supported to find out the political, religious and cultural changes in Ancient and later Medieval period. While the author provides information about the justice systems under the Kirata, Lichchhavi, and Malla periods, there is a need for further exploration of how these systems functioned in practice, their effectiveness in delivering justice, and their influence on governance structures and societal norms.

B.R Vajracharya, S.R Baksi, & S.R Sharma,1993, *Cultural History of Nepal* (1st Ed).

The book has illustrated the historical background of Nepal, religion of people. In the historical background the book has described about the Lichchhavi period of Nepal. The book provides plenty of information about the medieval period. The book provides some valuable information about King and their contribution. From these all sources, the researcher has been befitted to elaborate all sources to describe about the cultural, religious and administrative role of the kings of ancient and later medieval period of Nepal. From this book researcher gather information of medieval period of Nepal. While the author provides valuable information about the kings and their contributions, a deeper analysis of their administrative policies, religious affiliations, and cultural influences could enhance our understanding of Nepal's historical development.

Dinesh Raj Pant, 2065, *Nyayabikashini (Manabanayasastra)*

This book has discussed about provision stated in Manabanayasastra first legal code of Nepal. Which was enacted by King Jayasthiti Malla. The book explains the provision stated in Manabanayasastra and explains legal provision made by King Jayasthiti Malla mainly on *Ghar Nirnaya* (law related to housing), *Kshetra Nirnaya* (law related to land management), *Jata Nirnaya* (law related to caste system), Manabanayasastra (law related to administration of Justice). This book gives knowledge about the social reforms, economic reforms, religious reforms, and judicial reforms made by Jayasthiti Malla and Procedural law and Ordeal system in Malla period. This book also briefly explains legal arrangement, the judicial system and organization of court and also mentions capital punishment. This book has helped the researcher to know the legal provision of property right of women's guarantee by Manabanayasastra. While the author briefly mentions social, economic, religious, and judicial reforms initiated by Jayasthiti Malla, a deeper exploration of the socio-political context in which these reforms were implemented and their lasting implications on Nepalese society would enrich our understanding of this historical period.

Dr. Bal Bahadur Mukhia, & D.N. Parajuli, 2077, *Law Relating to property in Nepal.*

This book discussed the concept of Property and law related to property in Nepal. This book discussed the historical development of property laws in Nepal. In this book the

author dealt with major provision of property right that are mentioned in National Laws. This book lacks to discuss provision regarding women's property right in-depth and comparative study on legal provision regarding women's property right so this has brought to light on that matter. While the author presents a thorough examination of the legal framework surrounding property rights, including their historical evolution and key provisions in national legislation, further research could explore how these laws are interpreted and applied in practice.

Devi Prasad Kandel, *2001, Property rights of women in Nepal*

This book discussed the historic changes in property rights law, and the status of Nepali women in this book author discuss about the property rights of women in Hindu Society, and mention that the daughters could get the parental property (patrimony) in inheritance only if she had no brothers. This book has helped researcher to gain the knowledge of status of women in Nepal. There remains a research gap in exploring the contemporary legal reforms aimed at addressing gender disparities in property rights. Future research could delve into the evolution of property laws in Nepal, particularly those pertaining to women's inheritance rights, from a historical to a contemporary perspective.

Daniel Wright (2007). *History of Nepal: With an Introductory Sketch of the Country and People of Nepal.*

In this book, the author has written the Vamshavali or genealogical history of Nepal. He has written history from mythological period of history, extending through Satya, Treta and Dwapar Yug or ages. This book contains numerous curious legends regarding the temples, towns and holy places of the country. The book also provides some information about the founding of the Gupta dynasty, Kirati dynasty, Lichchhavi dynasty or Surya Banshi. The book has presented details information of ancient and early medieval history of Nepal. This book has helped researcher to gain knowledge of laws enacted in the medieval period. However, while the book serves as a valuable resource for understanding Nepal's past, there remains a research gap concerning the specific legal provisions and their implications for governance and society during this period.

D.R Regime, 2007, Ancient *Nepal*.

In the book, author describes in different successive phases the political history of the country from the earliest time to the end of the Lichchhavi period. The paleographic and archaeological data belonging to various reigns have been systematically described with reference to the evidence available through these records. It provides a valuable information about the cultural/religious and political position of ancient Nepal. This book has helped researcher to gain the knowledge of laws enacted in ancient Nepal. However, this book lacks to discuss provision regarding women's property right in-depth and also comparative study on legal provision regarding women's property right so this research fulfill the gap.

D.R Regmi, 2007, *Medieval Nepal: Early Medieval Period* (Volume -1).

In the book, the author mentioned the Early Medieval History of Nepal (750- 1530). In the book, the author describes sources of early medieval history. This book described the historical phenomena related to King Jayasthiti Malla and his descendants. In the book the author has described about social and economic condition of Nepal in the Middle Ages up to the 16th century A.D. It has mentioned the historical information about the Kathmandu valley up to the time before the rise of King Jayasthiti Malla and the contribution of Jayasthiti Malla while enactment of Manabanayasastra. However, this book lacks to discuss provision regarding women's property right in-depth and also comparative study on legal provision regarding women's property right so this has brought to light on that matter.

D.R Regmi, 2007, *Medieval Nepal (Vol. II)*.

In the book the authored has described about a history of the Kingdoms from 1520 A.D to 1768 A.D. The book described the kingdom of Kathmandu. He has listed the name of kings of Kathmandu. The book briefly describes about the judicial reforms of medieval period of Nepal. However, this book lacks to discuss provision regarding women's property right in-depth and also comparative study on legal provision regarding women's property right so this research fulfills the gap of Knowledge.

Dhan Vajra Vajracharya and Kamal P. Malla, B.S 2064, *The Gopal Rajavamshavali*ko Eihastik Bibechana (*A historical analysis of Gopal Rajvamshavali)*

The Gopal Rajvamshavali is not merely history: it is a rich source of economics, social and above all cultural history to which Dhanvajra Vajracharya gives scanty or no attention. There is hardly anything in Dhanvajra Vajracharya manuscript on the development of property right in land, on emerging caste structure, the evolution of coinage, the social structure and the administrative system, on trade and costs of living. This book gives knowledge of early medieval periods and contribution of Malla kings for legal social and economic development. This book describes the evolution of Jayasthiti Malla and reason behind enactment of Manabanayasastra so, the researcher has been benefitted to explore the fact about Jayasthiti Malla and their contribution. This book lacks to discuss provision regarding women's property right in-depth and also comparative study on legal provision regarding women's property right so this has brought to light on that matter.

Dr. Balaram Kayasta, 2065, *Prachin Tatha Madhyakalin Nepal (Nepal under Ancient and Medieval Period)*

This book has been an infallible source for the researcher. The author of this book has mentioned the ancient and medieval sources of the history of Nepal. The book has briefly described about the law and administration of the past Nepal. The book provides some facts about the law and administration of past Nepal. The book provides information about the administrative system in Nepal. This book briefly describes the social, judicial and other reforms made by King Jayasthiti Malla. Likewise, the book has also described about the administrative and social condition under the Malla dynasty. This book has given information about contributions of Jayasthiti Malla for the development of the legal system. Similarly, researcher studied legal provisions made by Jayasthiti Malla in Mananyayasastra from this book. However, this book lacks to discuss provision regarding women's property right in-depth and also comparative study on legal provision regarding women's property right so this has brought to light on that matter.

Damodher Ghimire, 2078, *Nepal Legal System*

This book provided information about the development legal system of Nepal. In this book author deals with evolution of Hindu Legal and influences of Hindu law in Nepalese legal system as well as influences of other legal system on Nepalese Legal System. From this book researcher get information of legal system of Nepal before and Codification of laws. This topic of the book has been a valuable source of information to develop this dissertation. However, this book lacks comparative study of legal provision regarding women's property right, so this research fulfills the gap knowledge.

Dewarikaman Joshi, 2079, *Civil Law & Justice,*

This book has provided information about right and duties of people and provided information about the principle of law and its implementation. This book mentions the provision of property rights of civil code 2075 and deals the debatable issues related to property. In this book the author deals with constitutional development in the context of property. This topic of the book has been a valuable source of information to develop this dissertation. However, this book lacks comparative study on legal provision regarding women's property right, so this has brought to light on that matter.

Debarati Halder and K Jaishankar, 1998, *Property Right of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India*

This book has given information about the Hindu law of ancient India, which addressed the rights of Hindu women to inherit property and the relationships between men and women as well as between social and ethnic groupings. The clause found in Manu smiriti is mentioned in this text. For the researcher, this book has proven to be an invaluable resource. The property rights of Hindu women have been discussed by the book's author in ancient, medieval, and contemporary Indian historical sources. The book includes a brief description of the previous Nepali legal system and government. This book has helped the researcher to know about property right of Hindu women however, it has nothing to do with Manabanayasastra and other code. So, this research has filled that gap in knowledge.

Dhana Vajra Vajrachary's , 2056, *Madhya Kalka Abhilekha*,

This book is collection of inscriptions and copper-plates belonging to later Malla Period in the history of Kathmandu Valley, Patan and Lalitpur area. This book provides information about the cultural history of the kathmandu valley and give information of the status of women which were mention in inscription in different era.

Dhana Vajra Vajrachary's , 2068, Purbain *Madhya Kalka Abhilekha*,

Dhana Vajra Vajracharya, 2030, *Lichhivian Kalka Abhilekha*

This book provided information about inscriptions in Lichchhavi period that was found in different place of Nepal. This book provides information about the cultural history of the Kathmandu valley. Author collect the and maintain the records of inscription of Lichchhavi period. Author also translates and interpretation the inscription. This book help researcher to collect the information the status of women which were mentioned in inscription in different era. The development legal system of Nepal. In this book author deals with evolution of Hindu Legal and influences of Hindu law in Nepalese legal system as well as influences of other legal system on Nepalese Legal System. From this book researcher get information of legal system of Nepal before and Codification of laws. This topic of the book has been a valuable source of information to develop this dissertation. However, this book lacks comparative study of legal provision regarding women's property right, so this research fulfills the gap knowledge.

Gayendra Bahadur Shrestha, 2069, *Family Law*

This book has provided information about family laws of Lichchhavi, Malla and shah period. This book mention about the influences of Dharmasastra in civil codes like Muluki Ain 1910, Muluki Ain 2020 and this book also discussed amendment the laws related to right of women which strengthened the right of women. Author discusses the comprehensive right providing women in Muluki Ain 2020. This topic of the book has been a valuable source of information to develop this dissertation. However, this book lacks comparative study on legal provision mentioned in different codes regarding women's property right, so this has brought to light on that matter.

Gayendra Bahadur Shrestha, 2069, *Muluki Dewani Sahita 2074",*

This book mention about provision of the civil code 2074. The author mentions the provision of civil code 2074 with explanatory note with precedent. This book has provided information about provision of property right of women and author relevant every section with precedent which is very useful for research. However, this book lacks to discuss provision of Manabnayasastra and comparative study on legal provision mentioned in different codes regarding women's property right so this has brought to light on that matter.

Gayendra Bahadur Shrestha, 2075, *Hindu Jurisprudence, Nepelese Legal System and Comparative Law,*

The author of this describes the Hindu jurisprudence and concept of family law. It talks about the provision of women's property right of Nepal. The author discusses historical development of Nepalese legal system where it gives the information about legal provision regarding property right of women with explanatory note. However, this book lacks to discuss provision of Manabanayasastra and comparative study on legal provision mentioned in different codes regarding women's property right so this research fulfills the gap knowledge.

George Ritzer, 2011, *Sociological theory.*

This book examines structural functional theory. According to the author, Structural functional theory is a sociological perspective that views society as a complex system made up of interconnected parts that work together to maintain social order and stability. It highlights the interconnectedness of many social institutions and their roles in preserving society's general ability to function. This theory also looks at how institutions and social structures influence people's behavior and support stability and well-being in society. It acknowledges the interdependence of institutions and social structures in meeting the needs of people and society at large. It also incorporates the idea of social stratification, which contends that social inequality and the division of labor are essential to society's ability to function. There isn't a comparison of this book's legal system to that of Nepal.

Kedhar Dahal, 2076, *Dewani Sahita ko Bakhyamatic Tipinne*

This book mention about provision of the civil code 2074 and edits the precedents presented earlier in relation to the Civil Code 2074. The author mentions the provision of the civil code 2074 with explanatory note. This book provided the explanatory note of every section of code which is very useful for research. However, this book lacks to discuss provision of Manabanayasastra and comparative study on legal provision mentioned in different codes regarding women's property right so this dissertation helps in understanding contemporary laws.

Hariram Joshi, 2077, *Nepal ka Prachin Avilekh,2077,*

The book deals with history, language, literature, culture, art and many other fields of knowledge of Lichichivi period. This book is useful for this researcher to gain the knowledge of ancient history and culture and it will provide the primary knowledge of inscription. This book present the details information of inscriptions of Lichchavi period that was found in different place of Nepal.

Krishna B. Thapa, 1995, *Main aspects of socio-economic and administrative history of Nepal***.**

The book provides some information about the formation of Nepali society. The book has incorporated some ideas about the medieval king Jayasthiti Malla as the initiator of new social order. His role in social reforms has been highlighted in the book. The book includes the content about the contribution of King Jayasthiti Malla to form so many castes on the basis of their profession. The book has pinpointed the weakness of the Manabanayasastra for including all people to the category of Hindus. Thus, he has opined that when we see overall categorizations of people into many caste divisions, it seems that it was not so progressive step. The book provides that the social reforms of Jayasthiti Malla thought solved the social problems of the period, it was not progressive move. The book has marked the role of king to develop a syncretic tendency towards each other which resulted that these people accepted and followed the principle of peaceful coexistence. In this regard, there was no point of property rights to the women those days. However, this book lacks to discuss comparative study on legal provision regarding women's property right so this has brought to light on that matter.

Laxmi Narayan Dhungel, 2080, *Comparative study of Law and Nepalese Legal System*

This Book explore the knowledge regarding concept of comparative law and major legal system. In this book author describe the historical development legal system of Nepal. from this book researcher gain a knowledge of different legal system as well as the social and reformation during ancient and modern era of Nepal. In this book researcher lack to describe provision of Manabanayasastra regarding women's property. So, researcher will complete lack of these books.

Laxmi Prasad Kharal, 2018, *Property Law in Nepal, Comparative Study of Muluki Civil Code*

This book provided information about the development legal system of Nepal. In this book author deals with evolution of Hindu Legal and influences of Hindu law in Nepalese legal system as well as influences of other legal system on Nepalese Legal System. This book has provided information about property laws of Lichchhavi, Malla and shah period. This book mention about the influences of Dharmasastra in civil codes like Muluki Ain 1910, Muluki Ain 2020 and this book also discussed amendment the laws related to right of women which strengthened the right of women. Author discusses the comprehensive right providing women in Muluki Ain 2020. This topic of the book has been a valuable source of information to develop this dissertation. However, this book lacks to discuss provision of Manabanayasastra and comparison with other codes regarding women's property right so this has to bring to light on that matter.

Namita Aggarwal, 2000, *Jurisprudence (Legal Theory).*

This book examines the historical school of Jurisprudence. The Historical School of jurisprudence is associated with figures like Friedrich Carl von Savigny. Namita Agarwal emphasizes the importance of understanding law within its historical and cultural context. This approach suggests that legal principles and systems evolve over time in response to the needs and values of society. Historical School thinkers argue that law cannot be understood solely through abstract reasoning or universal principles; instead, it must be studied as a product of specific historical, cultural, and social conditions. This perspective has influenced legal thought significantly, particularly in understanding the development of legal systems and the interpretation of laws. However, this book lacks to analyze the legal provision of women's property right into detail.

Prakash Wasti, B.S. 2079, *Hamro Kanuni Itihasko Nalibeli*.

The book has mentioned about legal histories of Nepal. The author has mentioned about the legal arrangement of Nepal under these periods. This book provides some information about some offenses and penal system in ancient and medieval period of Nepal and from this information the researcher has incorporated the judicial role of ancient and later medieval kings. However, this book lacks to discuss comparative study on legal provision regarding women's property so this has brought to light on that matter.

Dr. Pesal Dahal, 2057, *Nepal Ko Itihas*

This book emphasized the sources of history, and this book has wide introduction about Lichchhavi and Malla dynasty. This book describes the rise of Lichchhavi and Malla dynasty Malla and the social, economic and cultural status of Malla. This book is helpful to gain the knowledge the raise of Lichchhavi and Malla dynasty and their social, economic and cultural status. From this book researcher take the information of social status of women in Malla period. Legal status of women property right was not discussed so this book has to bring to light on that matter.

Ram Niwas Pandey. 2008, *Nepal through the Ages*.

This book has provided information about some cultural heritages of Nepal. One separate heading is with this book on Nepalese society during the Malla and Early Shah period. This topic of the book has been a valuable source of information to develop this dissertation. However this book lacks to discuss comparative study on legal provision regarding women's property right so this article lacks to discuss comparative study on legal provision enacted in different era regarding women's property right, so this dissertation helps in understanding the contemporary laws.

Rewatiraman Khanal, B.S. 2059, *Nepalko Kanuni Itihasko Ruprekha* (*An outline of Legal History of Nepal*.

The reviewed literature addresses the ancient justice system and the judicial system under the Lichchhavi and Malla period. It has provided some information about the justice system under the Malla period. It has also provided details about the judicial system of the Malla period. This book describes the main sources of law are Hindu Scriptures

(DharmaSastras) i.e Sruties, Smirities, Manu Smirities, Vrishapati Smirities, Yagyavalkya Smirities. And kings of subsequent dynasties began to promulgate laws with the advice of Dharmadhikara (the owner of justice) and pundits. In this book the author taught about social, economic, administrative and judicial reforms that were done in the Malla period. This book discusses medieval history and about the legal system of Malla period. The book has explained about the origin of Nepal and describes about the royal dynasties of Nepal, i.e, the Gopalas, Mahispal, Kirat, Lichchhavi, Malla and Shah and their contribution for the development legal system. So due to this needed source, the researcher has benefited. This book has helped researcher to gain the knowledge of status of women in Nepal. In this regard, there was lack of discuss in property rights to the women those days. However, this book lacks comparative study on legal provision regarding women's property right, so this research fulfills the gap.

Salahuddin Akhtar Siddiki, B.S. 2072, *Manusmritiko Kanuni Byabastha: Nepalma Paribarik Bibad*.

In this book the author has described sage Manu, who is said to the manager or code giver of human society. The book has provided some valuable information about Malla rule. As per the information provided in the book, there are numerous references in inscriptions related to religious texts. So, in that era, religious scriptures were regarded as the main source of the constitution. The book highlighted the great role of the king in the administration of justice. The book has provided some information about the judicial and legal system of Nepal under ancient and later medieval period. However, this book lacks comparative study on legal provision regarding women's property right, so this dissertation helps in understanding the contemporary laws.

Sushma Baskota Baral, 2063, *Nepal ko kanoon Itihas ra Sandarva*

This book describes legal system of various dynasties of Nepal and also talk law are Hindu Scriptures (DharmaSastras) i.e Sruties, Smirities, Manu Smirities, Vrishapati Smirities, Yagyavalkya Smirities. The book has explained about the origin of Nepal and describes about the royal dynasties of Nepal, i.e, the Gopalas, Mahispal, Kirat, Lichchhavi, Malla and Shah and their contribution for the development legal system. In this book he taught about social, economic, administrative and judicial reforms that was done in the Malla period. The author discussed medieval history and the legal system of

Malla period and also discussed about provision of Manabanayasastra namely, the laws on house', the laws on area', the laws on caste' and 'legal rules for human justice'. This book gives knowledge about the social reforms, economic reforms, religious reforms, and judicial reforms made by Jayasthiti Malla and Procedural law and Ordeal system in Malla period. This book has also briefly explained about legal arrangement, the judicial system and organization of court. However, this book lacks to discuss comparative study on legal provision regarding women's property right so this has brought to light on that matter.

Dr T. Padma & K.P.C. Rao, 2011, *Law of Property*

This book describes the concept of property and legal right on property. This book has provided information about right and duties of people and provided information about the principle of law and its implementation. This book mentioned about of Hindu law on Property regarding property. The author describes the sources of property law and discusses the major legal system. From this book researcher get conceptual knowledge of property laws. However, this book lacks the ability to discuss Nepalese legal provision regarding women's property right, so this research fills the gap regarding the comparative study which is lacking in this book.

Dr. Yubaraj Sangroula, 2010, *Jurisprudence, The philosophy of Law Oriental Perspective with Special Reference to Nepal*

The book provides philosophical understanding of laws. This book discussed Sir Henry mine, historical school of thought. This book suggests an evolutionary pattern in the development of legal systems. Legal systems develop in or affect 'static' and 'progressive' societies. The author discussed the involving three stages of laws, first stage emerges solely from the personal commands and judgments of patriarchal rulers; Maine refers to this second development period as 'the epoch of customary Law' and third period is dominated by codes, he calls this period as 'era of codes. This book has helped the researcher to know about the legal system, however, it has nothing to do with Manabanayasastra and its code. This research has filled that gap in knowledge.

Sir Emile Durkheim, 1893, *Division of Labor in Society*

This book provided information about the structures and function of Society's body is regarded as structure made up of society. In this book author discussed five great institutions, they are Family (rear, care, nurture, protect, provide, consume), Educations (gurukul, now school), Economic (occupation), Political (rule/law/ advice/ fulfill basic need of civil citizen) and Religious (it transmits moral and ethical values/ control mechanism). He has mentioned that "law" of the division of labor as applying not only to human societies, but to biological organism. This book has helped the researcher to know about the legal system, however, it has nothing to do with Manabanayasastra and its code. This article lacks to discuss comparative study on legal provision enacted in different era regarding women's property right, so this dissertation helps in understanding the contemporary laws.

2.2 Articles/ Journals

Bijay Prasad Mishra, 2013, *Property Right issue in Nepal: A Brief Note*

This article mentions the general concept of property and describe about constitutional provision about women's property right. This article provides the information about role of Supreme court for the protection of women right to property in Nepal. This article lacks comparative study on legal provision regarding women's property right, so this has brought to light on that matter.

Nutan Chandra Subedi, 2009, *Elimination of Gender Discriminatory Legal Provision by the Supreme Court of Nepal with Reference to Women's Right to Property*

This article provides the information about concept of women's property right in Nepal and also described about provision of gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. This discusses the role of judiciary for the protection of women right to property also discussed various cases decided by Supreme court of Nepal. This article has helped researcher to gain the knowledge of status of women in Nepal and role of judiciary. This article lacks comparative study on legal provision regarding women's property right, so this has brought to light on that matter.

Pandey, B., 2013, *Women's property right movement and achievement of the 11th amendment of civil code from gateway to Nepali politics and civil society*

This article described about women property right which is guaranteed after women's moments in Nepal. This article helps researcher to know about women in Nepal can enjoy their right to inherit property from birth. But when they marry any property will be returned to the parent's family. The new law establishes a wife's equal right to her husband's property immediately after marriage, rather than after she reaches 35 years of age or has been married for 15 years as before. A widow's right to claim her share of property from the joint family after the death of her husband, and to use this property even if she gets re-married, is now also established in law. This article has helped researcher to gain the knowledge of status of women in Nepal and women property right which is guaranteed in Muluki Ain 2020 and eleventh amendment. This article lacks comparative study on legal provision enacted in different era regarding women's property right, so this research fulfills the gap.

Rajendra Pradhan, Ruth Meinzen- Dick, Sophie Theis, 2018 *Property rights, Intersectionality, and women's Empowerment in Nepal*

This paper discussed property as an important resource for empowering women and policies made for strengthening women's rights to property, especially to physical assets such as land and livestock. This paper helps researcher to get knowledge about the basic concept of women's property and the local norms and practices that affect the property right of women were received for the paper. This article lacks comparative study on legal provision enacted in different eras regarding women's property right, so this dissertation helps in understanding the contemporary laws.

Sushila Karki, 2012, *A judicial Response to Gender Justice: A Bird's Eye View*

The judicial response and the initiative of judiciary for the betterment of gender friendly laws were received for the paper. This paper described the legal provision right of the women. This article has helped this research to give knowledge on gender equality regarding property in Nepal. This article lacks comparative study on legal provision enacted in different era regarding women's property right, so this research fulfills the gap.

Sashi Adhikari Raut, 2013, *An introduction to family law of Nepal*

This article discussed women's property in Nepal. This article has helped this research to give knowledge on the types of women's property guaranteed in different laws in Nepal. The author describes legal provision mention in various laws related to women's property right in Nepal. This article lacks comparative study on legal provision enacted in different eras regarding women's property right, so this research tries to answer lack of this research.

Shuvan Raj Acharya, 2076, *Features of the Country Civil (Code) of Nepal*

This article discusses about the prevailing domestic laws in Nepal. This article critically analyses features of the civil code, 2074 and discusses the structure of civil code. The author describe provision on Family Relation and discuss laws related to properties which was enacted in Civil Code, 2074. This article lacks comparative study on legal provision enacted in different eras regarding women's property right, so this research tries to complete the lack of these articles.

Umesh Prasad Acharya, 2013 *Status of Women in Nepal: A Critical Analysis of Transformational Trajectories*

This article described about the status of women in Nepal and this article helps researcher to know about status of women in ancient to modern Nepal. This article critically analyses changing value systems in the Nepalese society and the corresponding social and political transformation that has greatly altered the status of women. This article lacks comparative study on legal provision enacted in different eras regarding women's property right, so this research fills the gap.

2.3 International Treaties

Universal Declaration of Human Rights (UNHR), 1948

This convention guarantees women effective protection against discrimination and addressed both the equality and equity issues. the Convention described as an international bill of rights for women, and stated as follows; Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental

freedoms in the political, economic, social, cultural, civil or any other field. This convention repealed all laws that discriminated against women, enacted new laws to prevent discrimination against them, and included measures for gender equality in domestic legislation. Thus, the goal of this study is to examine how international treaties are incorporated into national legislation.

International covenant on civil and political rights (ICCPR) 1966 and International Covenant on Economic, Social and Cultural Rights (ICESCR)-1966, this convention are the prime international human right instruments that have established as formal convention of human rights for all men and women equally. According to this convention, property is a means of achieving human prosperity and is therefore closely linked to an individual's development. Men and women have equal rights to own, hold, and dispose of property since international human rights legislation protects their inherent dignity. This convention assures that no one will be treated unfairly because of their gender and asserts that everyone is equal before the law. It also indicates that no law can be justified if it prevents women from owning property, either directly or indirectly. This covenant obliges the state party to ensure equal justice concerning economic, social and cultural rights without any discrimination including sex and also made provision that person, either man or woman can achieve the meaningful dignity, self-determination and inheritance rights if there is no discrimination of economic, social and cultural rights. So, this research tries to analysis the implementation of international treaties in national laws.

Convention on the Elimination of all kinds of Discrimination against Women (CEDAW)-1979

This convention illustrates the idea that international law frequently offers stronger safeguards than local law by providing a broad definition of discrimination against women. Women's rights are guaranteed by this treaty in a number of domains, including politics, the government, the workplace, health care, and other spheres of social and economic life. The convention aims to address pervasive social, cultural, and economic discrimination against women by providing special protections for women, including "temporary special measures" to advance women and protect maternity. States are required to modify social and cultural patterns of condition that stereotype either sex or place women in an inferior position. The commitment of state parties who have signed the convention to guarantee equality and eradicate prejudice is mentioned in this

convention. Through suitable constitutional and legal arrangements, women of signatory states shall be able to exercise their rights, including the right to property. This agreement stipulated that women should have the same rights as men to enter into contracts and manage property. It also specifies that the ownership, acquisition, management, administration, enjoyment, and disposal of property shall be equal for both couples. Therefore, the aforementioned international treaties all stress the need to repeal laws that discriminate against women in a variety of areas, including their ability to own property. This treaty help researcher to know the provision enacted regarding property right of women and national obligation to implement in national laws. So, this research tries to analysis the implementation of international treaties in national laws.

CHAPTER THREE

RESEARCH METHODS

3.1 Introduction

This chapter deals with the research methodology in which the researcher has collected the necessary qualitative data for the study. This chapter especially discusses the rationale of the study, justification of the study area, justification of the research design of research, question setting for interview, research designing, the universe and sampling size, method of data collection, tool and technique for data collection, source of data and information, analysis of the information obtained from the field work etc. There are various types of data collection methods in research. It is the nature of the study which determines the appropriate and proper methods for data collection, wherever possible. For the secondary data, various relevant articles, publications, research reports, journals and books are consulted. Review of literature has helped to make systematic research to explore the problems faced by the respondents along with the reasons of not practicing the women in property in Nepal and legal provision mention in Nepalese legal codes in different period.

3.2 Methodology of Paper

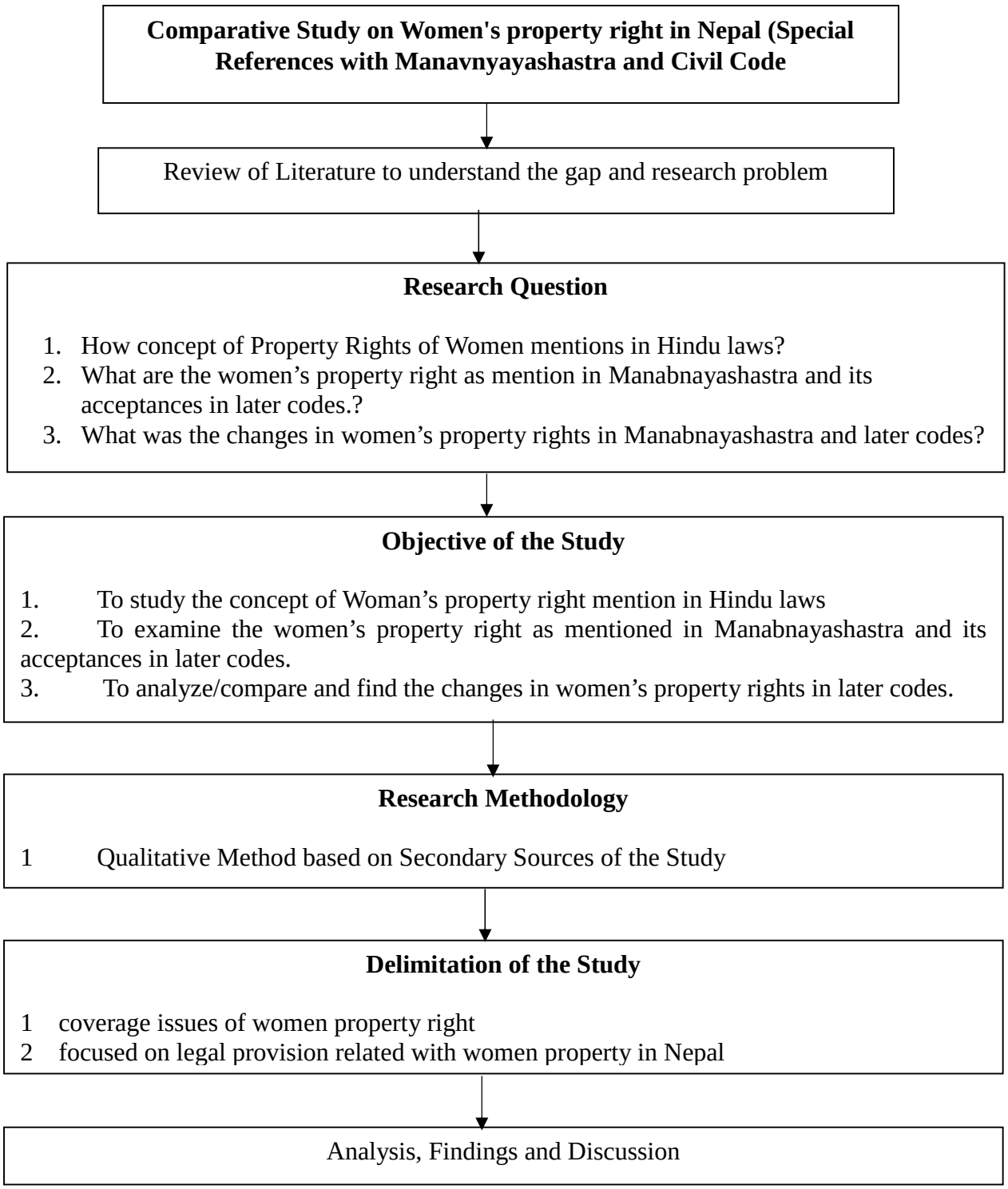
This research is based on qualitative research. The research is based on secondary data collected from sources like books, journal, articles available in different libraries and research centers. This is more descriptive than analytical.

Secondary source was utilized to gain knowledge about property right of women in Nepal. Research philosophy based on constructive method; this research has applied Functionalism theories.

3.3 Research Design

Figure 1

Research Design



Cross-sectional descriptive and analytical research designs serve as the foundation for this investigation. This study examined the perceptions and practices of people as well as the sociocultural, political, and economic influences on the equal rights of men and women to parental property. It did this by gathering qualitative material from secondary sources. Qualitative data was gathered through close examination of non-human animal societies at the micro level and examined in a variety of national and international journals. reports on empirical research, declarations from national and international agreements, and scholarly works. The basis of this study was a historical method, and the conclusion was reached using the subjective positivist research paradigm. Both descriptive and exploratory designs have been used to describe and investigate the subject. The notable distinctions between women who own assets and those who do not have them have been explained by the exploratory design. The consequences of women's property rights in many sectors have been described using a descriptive study design. This study's primary goal is to comprehend women's property rights generally.

3.4 Method of Data Collection

To achieve the research's objectives, the best and most up-to-date model was used to gather information from secondary sources. These sources included scholarly publications, government and non-government organization reports, publications, national and international journals, publications, laws, acts, and policies, individual research reports, theses, declarations of international and universal conventions, and searches across various websites.

3.5 Limitation of the Study

This study has widely covered the issues of women property right i.e., concept, definition, practice, perception, policy and programs address by Nepal. There have been restrictions to collect and analyze the irrelevant information which means researcher has not collected the information besides women property rights. Here, the researcher can’t claim that this small sample size can generalize the whole nation. But somehow, it will be helpful to conceptualize the importance of issues to formulate the part of policy program and to intervene the present problems regarding women property right.

3.6 Theoretical Approach

Historical School of Legal Thought (Theory of Law and Legal Development in Nepal)

Legal history suggests an evolutionary pattern in the development of legal systems. Legal systems develop in or affect ‘static’ and ‘progressive’ societies.

The development of Law is considered as involving three stages. The first stage emerges solely from the personal commands and judgments of patriarchal rulers; Maine refers to this second development period as ‘the epoch of customary Law’. The third period is dominated by codes. With the spread of writings, the ‘epoch of customary Law’ quickly withers away. Maine calls this period as ‘era of codes.

Sir Henry Main oversimplified primitive society and as such failed to see the complexity of primitive society. However, Sir Henry Main failed to see that primitive society was complex, diverse and barely universal. It has been revealed since his work that primitive society was not as rigid as Sir Main claimed.

Social Role Theory

Social Role Theory, proposed by sociologist Talcott Parsons in the mid-20th century, posits that the roles individuals occupy in society shape their behaviors and societal expectations (Parsons, 1951). In many societies, including Nepal, traditional roles have often designated women primarily to domestic responsibilities while reserving property ownership and management roles for men. These traditional gender roles are deeply embedded in both societal attitudes and legal frameworks, affecting women's rights and access to property.

Social Role Theory provides a useful framework for examining how societal roles influence individual behaviors and societal expectations, especially in the context of property rights and gender roles in places like Nepal. Traditionally, roles assigned to women often involved domestic responsibilities, while property ownership and management were typically reserved for men. This gender-specific division of roles influenced both legal frameworks and societal attitudes toward women's property rights.

Functionalist Approach

The Functionalist Theory of sociology was introduced by Emile Durkheim, who is frequently referred to as the father of functionalism. It presents society as a complex system whose many parts interact to preserve stability and cohesiveness. He compared society to a living thing, in which every institution serves as an organ essential to the survival and general well-being of the entire. This theory highlights how social systems are interrelated and function as a whole to uphold social order and guarantee the survival of cultural norms and values (Thompson, 1982).

A number of important organizations play important roles in this framework; their functions are different yet related. The family institution is fundamental; it provides people with emotional and financial support as well as nurture, protection, and socialization. Transmission of cultural norms and preparation for social and economic involvement are the two main functions of education, which has evolved from traditional institutions such as 'gurukul' to contemporary schools. Collectively, these establishments not only promote personal development but also enhance social harmony by instructing and assimilating individuals into the broader community (Ritzer, 2011).

Moreover, economic and political institutions are vital for the material and administrative well-being of society. The economic institution handles the production, distribution, and consumption of goods and services, essential for societal sustenance. In parallel, political institutions, through governance, law enforcement, and policymaking, ensure societal order and meet the basic needs of citizens. Alongside these, religious institutions imbue moral and ethical values, offering a set of beliefs that guide behavior and foster community cohesion. Durkheim’s theory underscores that these institutions, while distinct, are deeply interwoven, each playing a critical role in maintaining the balance and functionality of society as a whole.

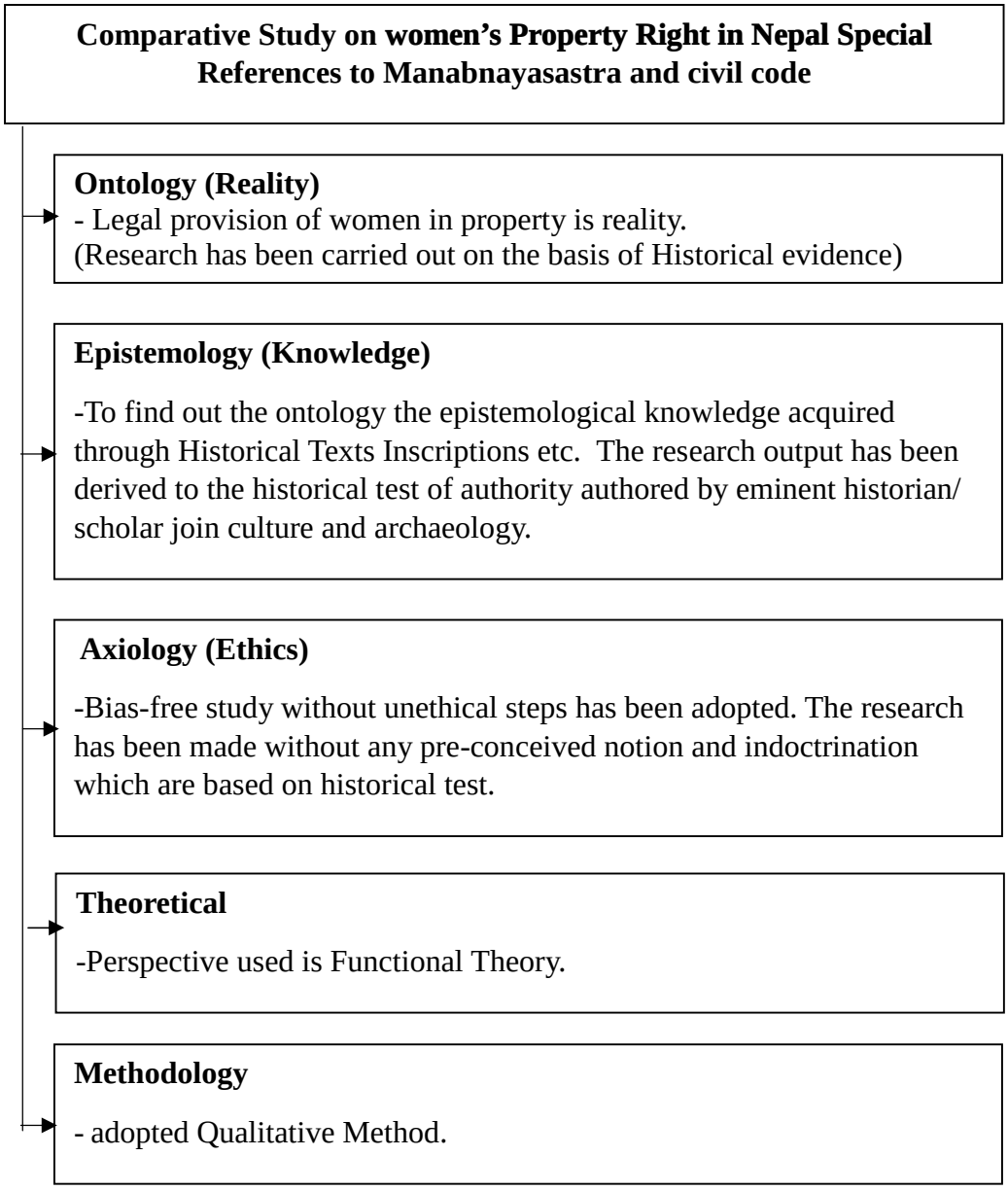
3.7 Reason for selecting the study Area

I have chosen his research area to gain the knowledge about the social, economic, religious, and judicial condition of women in term of property and also know the provision of different legal codes enacted in different period in Nepal special focused on women property right.

3.8 Conceptual / Theoretical and Research Philosophy

Figure 2

Conceptual/Theoretical and Research Philosophy



3.8.1 Ontology

Ontology is the branch of philosophy that deals with questions about the nature of reality. In the context of studying legal provision of women's in property, ontology asks questions like: What is the nature of the reality legal provision regarding women's property right. Research has been carried out on the basis of historical evidence.

3.8.2 Epistemology

Epistemology deals with the ways researchers acquire knowledge and the nature of knowledge itself. To find out the ontology the epistemological knowledge acquired through Historical Texts Inscriptions etc. The research output has been derived from the historical test of authority authored by eminent historian/ scholar join culture and archaeology. For the study of legal provision regarding women's property rights mentioned in Nepalese legal codes, a combination of interpretivism and critical realism was used.

- Interpretivism: This study has adopted interpretivism and has acknowledged the fact that interpretations and understanding of the law related to women's property right as per Nepalese legal codes. The study has explored the knowledge acquired on the law related to women's property right as per Nepalese legal codes.

3.8.3 Axiology

Axiology is associated with researcher's values and ethics that influence the research process. For the study of position of women in property mention in Nepalese legal codes, this study prioritized respect local beliefs of legal provision and its application today. Bias-free study without unethical steps has been adopted. The research has been done without any pre-conceived notion and indoctrination which are based on historical test. Laws were changing as the need and demand of society.

3.8.4 Theoretical

The research philosophy of this study used are Historical school of legal though, social role theory and functionalist theory.

3.8.5 Methodology

The research is qualitative. The research has been designed to find out the legal provision regarding women's property right in different era, so it can be a qualitative study not quantitative. This research adopted qualitative method.

CHAPTER FOUR

WOMAN'S PROPERTY RIGHT IN HINDU LAWS

It is crucial to recognize property rights as social relations among people, encompassing many different bundles of rights, which may derive from state law as well as a variety of religious, project, customary, and local laws, in order to fully comprehend women's property rights in practice. This requires moving beyond limited conceptions of property as statutory "ownership" of things. We go over how these important ideas apply to women's property rights in this part.

Nepali state law and many customary or local laws classify property in two major ways: (Shrestha H. R., 2017, p. 8)

1) Moveable (chal) property and immoveable (Achal) property, and

2) Joint (collective) property of the household and personal property of individuals.

In ancient property and inheritance was based mainly on Hindu norms and values. There are two kinds of specifically women's personal property which are received as gifts, namely *pewa* and *daijo* (dowry). There are some differences in the definitions of *daijo* and *pewa*, as well as in property rights to these two categories of property, in customary laws. (kharal, 2015, p. 48) All moveable and immoveable property given by a husband or his coparceners with their consent in writing as well as those given to her by other relatives and friends on her husband's side as well as any increment made or occurring thereto, is *pewa*. Women have absolute right over their *daijo* or *pewa* and may dispose of it as they wish.

In customary law, *pewa* is understood as gifts given by a woman's natal family before marriage, or sometimes after marriage, over which she ideally is supposed to have absolute rights. (kharal, 2015, p. 48). The term women's property is 'striangsadhana' (women's property), mention in Hindu law. (Kadel, 2005)

4.1 Status of Women in Hindu Society

In the Vedic period, women and men were treated equally. In actuality, women had the swayamvar custom, which allowed them to select their husbands. Everybody has heard at

least one story about Draupadi selecting her own spouse. The term "better half" (ardhangini) was used to refer to wives. Not just in principle, but also in reality, they were not superior halves. They were heavily involved in decision-making.

The gods Sita-Ram, Radha-Krishna, Laxmi-Narayan, and Siva-Parvati were named with the goddesses since they were incomplete without their better halves.

Manusmriti writings state that when women are respected, divinity arises and that when women are mistreated, all deeds, no matter how honorable, are in vain. This demonstrates how it was morally required of everyone to treat women with love, compassion, and respect.

When it comes to the Lichhavi era, a woman named Charumati created the first avilekh (inscription) in history, "Chabahilko Avilekh." She has stated that she wished to obtain purusatwa and escape satitwa in her next birth despite all acts of generosity and religious observance. Even though the avilekh has been interpreted in a variety of ways, it is clear that women in the Lichhavi era were educated and entitled to make contributions to society (Joshi, 1973, p.82).

Changunarayan Sthanko Maandevko Avilkeh, founded by King Mandev, mentions the Sati system. Following the death of his father, King Mandev prevented his mother from self-immolating (sati), indicating that the sati system was voluntary. This option was chosen by those who freely requested it. It developed into a crucial tradition during the Middle Ages (Joshi, 1973, p.23).

For her late husband, Paramabhimaani's daughter-in-law Aabhiri founded Pashupatiko Aabhirigominiko Avilekh. This suggests that the sati system was not mandatory, and that women were respected and allowed the liberty to fulfill their religious obligations as they saw fit, even after their husbands passed away (Bajracharya, 1973, p.170). Nonetheless, we observe a significant shift in the Sati system as we approach the Malla regime. It was a woman's religious obligation to burn herself on her deceased husband's funeral pyre. In few instances, sisters and mothers have also been shown to sacrifice their lives on the funeral pyre of their siblings or sons, in addition to wives. While King Biswajeet Malla of Patan's mother permitted herself to burn on her son's funeral pyre, King Mahendra Malla of Kantipur was followed by his sisters, in addition to his wives. The count of spouses

who became sati increased steadily: nine wives of King Pratap Malla, and the same number for King Nripendra Malla and Sriniwas Malla. When King Parthivendra Malla passed away, the number rose to twenty-four, and when King Yognarendra Malla passed away, the greatest number was thirty-three (Regmi, 1965, p.713-14). We observe how standards and values are changing to suit the desires of the guys. Why women had the option of the sati system during the Lichhavi period is unknown, though.

The Pashupati Tilgangako Mandevko Avilekh, which King Mandev built for his mother, demonstrates how women held a unique place in society and were showered with love, respect, and recognition (Joshi, 1973, p.34).

Lajimpaatko King Mandev created the temple Chyamsindurko Avilekh, which honors his wife's beauty and intelligence. This demonstrates that women were valued and given equal treatment. Bishnupadukako The King wanted Fediko Avilekh to be formed so that the queen may continue her duties. From this, we might infer that husbands cherished and acknowledged their wives, maintaining their equality (Joshi, 1973, p.38).

During the Lichhavi era, queens were referred to as "Shree," the highest honor. Bhuktani, the wife of King Mandev, established Lajimpaatko Gunawatiko Avilekh in memory of her father, demonstrating that women were permitted to acknowledge their biological relatives even after marriage (Joshi, 1973, p.40).

Bijayawatiko Suryaghatko Bijayawati, Mandev's daughter, founded Avilekh. She has expressed gratitude to the avilekh queen. It also discusses Princess Bijayawati's schooling. It says she was a trained dancer and singer in addition to having a wide range of other abilities. Unknown Devlaav, who Bijayawati married, is still unidentified. However, the fact that Devlaav remained in the kingdom of Mandev after his marriage provides important proof that the Dolaji system—in which a husband takes on his wife's name after marriage—began to be used from that point on. This avilekh thus shows that women were given education and skills, and that these skills were valued through avilekhs in order to support them (Bajracharya, 1973, p.88).

King Basantadev founded Thankot Aadinarayanko Basantadevko Avilekh. According to this avilekh, Jayasundari, the sister of Basantadev, was granted a birta (village) to govern. The populace was instructed to heed Jayasundari's advice, and any who disobeyed were

punished. Regarding the political standing of women during the Licchavi era, this avilekh provides explicit guidelines. Entrusting Jayasundari with the job of managing the entire village, including administrative tasks and oversight, demonstrates the faith placed in her leadership and abilities. Additionally, it highlights the idea that women were thought to be just as capable of ruling (Joshi, 1973, p.92).

In addition, Sitapailako Basantadevko Avilekh states that Jayasundari erected numerous infrastructures, including taps, out of devotion for her father and herself. Mrigasthali A woman by the name of Maanmati, who is defending some land as guthi, is mentioned by Jane Baatoko Ramdevko Palako Avilekh. Therefore, women in the Licchavi era had equal opportunities to contribute to society and were not limited to household chores. They were even urged to use their expertise, construct infrastructure, and become well-known (Joshi, 1973, p.587).

During the Vedic and Lichhavi eras, the status of women in society was marked by considerable respect and autonomy. In the Vedic period, women enjoyed a status of equality with men, participating actively in choosing their spouses through practices like swayamvar and engaging in decision-making as ardhangini, or "better half," truly reflecting their significant roles both in religious and societal contexts. They were often mentioned alongside gods, highlighting their indispensable roles as divine counterparts, such as in the pairings of Sita-Ram and Radha-Krishna. This era was characterized by a cultural ethos where the honor and respect of women were seen as pivotal to societal prosperity and moral righteousness, as emphasized in Manusmriti’s verses that extol the societal benefits of honoring women.

Transitioning to the Lichhavi era, women's roles remained influential and respected. They were active in societal contributions, as seen in the establishment of inscriptions like the “Chabahilko Avilekh” by Charumati, showcasing women’s involvement in religious and social activities. Inscriptions from this period also reflect a society where women could exercise religious duties independently, and the sati system, while present, was not compulsory, indicating a respect for women's autonomy even in widowhood. Furthermore, women like Jayasundari held political authority, managing entire villages, indicating a recognition of their capability in leadership roles. Overall, these periods highlight a historical context where women were valued, respected, and integral to both

domestic and public spheres, with their decline in status in subsequent eras marking a significant shift from these earlier traditions.

4.2 Provision of Property in Hindu Law

Hindu laws are a law which is based on Hindu theologies. Based on Hindu laws are Eastern civilization, Aryan culture and Hindu religion. It is a Vedic law, which regulated the behaviors of Hindus lives in Bharatvarsa from very beginning of the Hindu civilization. It is successfully regulated the Hindu Behaviors more than five thousand years. (Pandit, 2006). Hindu law is regarded as most ancient laws in world and Hindu scripts are regarded as the voice of God. The sources of Hindu law are Vedas, shrutis, smritis, commentaries, customs, and royal's edicts.

Hindu Jurisprudence is a reflection of Hindu religion in this regard. Hindu law thus changed to reflect the evolving society. Sociologists and jurists agree that the Hindu legal system is distinct from other legal systems worldwide. It is unknown when Hindu law first came into existence. It is acknowledged that this legal system is the oldest in existence after hundreds of years of human existence. This legal system exhibits a certain continuity, likened to the massive Ganges river pooling together, diluted by the constant inflow of tributary rivers and rivulets, and expanding over a growing territory, to use the words of Monier. The legal system was constantly evolving, absorbing new principles created by eminent jurists such as Yagnakaya and Vigneswaran, among others, and adapting to a changing society through the incorporation of customs and usages (Kheral, 2018)

A "Hindu's" tradition of owning property dates back to the Rigveda period (2500–1500 BC). It spans the periods of the Dharma sutras, Epics, and the early Smritis (500 BC to 500 AD), the later Smritis, Commentaries, and Digests (500 AD to 1800 AD), and the later Samhitas, Brahmanas, and Upanishads (1500 BC to 500 BC) (Neaupane, 2073)

Hindu law governs the two types of school they are Mitakshara and Dayabhaga. This school mention about the matter of property and succession.

Mitakshara Law

This school is propounded by Vigyaneswors. In simple terms it is a school of thought which is known as “Inheritance by birth”. Under this law, a son inherits his father’s property just as he is born. Mitakshara was practiced in Hindu religion and custom. It talks about property rights, property distribution, and inheritance (Tirpathee, 2073). A man might leave his self-acquired property to which he made a will under the Mitakshara School, which applied the doctrine of possession by birth to the distribution of inherited property. The next three generations were considered coparceners, and they received the joint family property. However, the joint family property might be divided at any moment and reverted to separate property. Sons in Mitakshara School therefore possessed an exclusive birthright to joint family property. Women are powerless to demand division and have no rights. The Mitakshara School's inheritance law was predicated on the concept of blood relationships. There is no such restriction under the Daya Bhaga School, and each coparcener has fulfilled his right to separate his unique portion of the joint family property. In summary, the foundation of Mitakshara was the "principle of ownership by birth." (Pandit, 2006).

Daya Bhaga Law

Jimutsvahana is the founder of this school. The foundation of this school of Hindu law is the idea of spiritual gain. It says that until their father's passing, children had no claim to ancestral property. Daya Bagha based on the ownership by death concept. In terms of property rights, women are granted equal rights in their husbands' properties in addition to stri Dhan (Pandit, 2006)

The partition of property in the Daya Bhaga Scheme was extremely straightforward. In the event of an intestate man's death, his property was presumably split equally among his sons. If he had shared the common property with the brothers, then his share would be divided among the sons, and the brothers' property (a portion equivalent to his own) would be set apart. The Daya Bhaga School's law of succession was founded on the idea of divine profit or religious value. After the owner of the property passes away, the Daya Bhaga School inherits the property. Dayabagha School had limited place for the ideas of son's birthright and the devolution of property by survivorship (LawBhoomi, 2024)

4.3 The Concept of Woman’s property in Hindu Law

In the Hindu tradition, a woman is entitled to her husband's property making equal property rights irrelevant (Malla, Property Right of Nepelese women, 2011). In another hand, the Hindu inheritance practices among matrilineal groups are usually traced to the ancient legal treaties the Dharmashstras where property is divided into two forms i.e. joint family property and separate property based on Mitakshara system and widow women can claim the separate property but only limited in the absences of son or men heirs and also women could not claim the joint family property which is not divided into family. In Dayabhaga system, man is absolute owner of all his property, so he has right to 32 dispose all property as he wants and the inheritance of property takes place only at the man's death where rights for property directly goes to his sons (Aggarwal, 2000). Manusmriti mentions that the inheritance of family property passes to male member of family but brother should share his property with his unmarried sister and unmarried daughters also have rights to get jewelers of mother after the death of mother but married women cannot collect the property from other relatives however; if she wants to collect the property from her own income then she must take permission from her husband (Luitel, 2004)

The position of woman was weak in the early uncivilized age (before 2500 BC.) and she was only subordinate to male. She had no rights and privileges. Ancient Palestine law regarded woman as a piece of movable property to be bought and sold. During Vedic period (2500 B.C. to 1500 B.C.) in Hindu civilization the position of woman had been better. But the property right of women was not recognized in those days too (Parashar, 1992). The religious sacrament made the wife and husband as the couple and joint owners of the household. In the Rigveda, the husband and wife are described as taking equal parts in the sacrificial rites. Men and women had equal status in the social rights, and they had equal share in responsibilities and duties. As in the Vedic period, the property right of woman was unrecognized during the period of later Samhitas, Brahmans and Upanishads (1500 to 500 B.C.) (Kheral, 2018).This tradition continued in Hindu society for centuries. Women were not allowed to study the holy Hindu books-Vedas and Purans. Besides, only males were the performers of all religious rituals of the family.

In early times, the property rights of women were recognized in almost all civilizations due to patriarchal societies and weak biological conditions of women. Woman herself was used as a movable property of husband. As in other early civilizations, woman was

regarded as cattle, movable property and tutelage of husband in Hindu civilization too. The kings and gamblers staked away their wives. Thus, the wives were the property of husbands. The Sanskrit literature regarded women: as goddess, co-partner, half part of man (Ardhangini), mother of civilization, etc. (Neaupane, 2073)

Since the Vedic period, movable property like ornaments, jeweler, apparel etc. were recognized as women's own property. It was under the category of Stridhana. The Vedic age states that there were six varieties of Stridhana. They were, (Shrestha G. B., 2075, p. 103)

a) Gifts given by father at any time

b) Gifts given by mother

c) Gifts given by brother adjured to Sansad

d) Gifts of affection given by husband after the marriage) Presents given by anybody at the time when the bride is taken to her new home.

Besides, some movable property also began to be conveyed to woman as Stridhana in the 7th and 8th century A.D.

According to Sanskrit literatures (Dharma Sutras) the exclusive property of women (like *daijo*, *pewa*, ornaments etc) would be inherited by their daughters after mother's death. The unmarried daughter would be given priority to inherit mother's property (stridhana). The sons could get their mother's stridhana only when they had no sisters. But Manu stated that the property of deceased mother would be divided equally among sons and daughters (Monier Williams, 1982). However, mostly the Hindu religious scriptures recognized daughter's right over deceased mother's property.

The property of woman cared from natal house had monopoly right of female. She could dispose of and donate such movable and immovable property according to her will. The woman was not free to expend movable property given to her by her husband. But after husband's death, the widow had right to her deceased husband's property. YajyaValkya stated that the property of a sonless deceased person would be owned by his own widow (Monier Williams, 1982)."

According to Katyayana, except the property of woman granted by her parents and other relatives, her own acquired would be the property of both husband and wife. Male alone were copartners of the property. We find that down to 300 B.C., the widow's right to inheritance in her husband's property was not recognized (Cooley, 1994).

4.3.1 Dharmashastra and Woman's Property Right

When studying the Dharma sutras and Smritis, there is no clear provision of women property, but the words mentioned in Dharma sutras and smritis like Manu, Jaimini, Megh Atithi, etc., it is clear that even in ancient times, women owned property and the owner of that property was also a woman.

In the course of time, the Smiritikar made a rule and declared the right of a woman over the property. In Smiritikar quoting the view of some earlier writers, he has shown that the jewelry belongs to the wife, and the property given by the wife's in-laws also belongs to the woman. But even the Dharmasutrakar himself cannot fully accept that. (Neaupane, 2073)

In, it is said that a girl gets her mother's jewelry. In Vasishtha Dharma sutra, it is said that the girls (daughters) will share whatever the mother has got during marriage. In this way, there are different views on women property relationship in Dharma sutras and Smritis. Following issues Hindu scriptures will be discussed regarding women property in Baudhayana Dharmasutra (Shrestha G. B., 2075, p. 103)

(a) What is Stri-Dhan?

(b) What rights did women have over women and property?

(c) What was the system of succession to women and property?

Woman's Property (Stri-Dhan)

Literal means of Stri-Dhan is property of women. From the time of Gautama (गौतम) till now, the word 'Stri-Dhan' has been used continuously. It is appropriate to know the true intention of Dharma Sutrakars and Smritikars in this regard. According to Manu, six types of property given in front of Agni at the time of marriage, given with love by brother, mother or father is women's property as well as gifts given by relatives of women at the time of marriage were calculated as women property.

Vedas do not advocate gender-bias of any sort. In relation to women, the total approach in Vedas is towards gender-equality, gender-justice, honor, and dignity with rights of self-

determination. The status and role of women as depicted in Vedas, i.e., feminism is highly positive, constructive, healthy and balanced. However, Hindu law was more favorable to right and privilege to son. Manu says a son and a slave are declared to have no wealth of their own; the wealth, which they earn is of the man to whom they belong." In Hindu law the power of son to acquire property for himself was very early recognized. However, women had no authority to earn property. She had no absolute ownership on the ancestral property. She had only conditional ownership upon property. (Neaupane, 2073)

The wife had absolute control over the property which is received from her husband as affectionate presents or as a present from her parents or their relations. Generally, the husband has no right to take any part of his wife's peculium without her consent. However, she could not dispose the peculium received from her husband.

Katyayana in his Smriti clearly refers to the distinction between Stridhana (absolute property of women) and the property, which was women's estate or limited estate. He writes that a widow should use the husband's property moderately, which after her death would go to the husband's heir. This was the main feature of a woman's estate as illustrated by the widow's estate. The properties acquired by the wife using her skill and the property given to her by persons other than relation were subject to control of her husband. (Mukhia, 2077)

Manu enumerates six kinds of properties namely gifts before nuptial fire, gifts at the time of bridal procession, gifts in token of love, and gifts from her mother, father and brothers. According to Mitakshara, the word Stridhana (women's property), meant any property held by woman without any technical significance. Wife by virtue of her marital tie becomes co-owner with her husband in everything that belongs to him. (Kheral, 2018) However, this right has very little practical value, in as much as it neither fetters the freedom of the husband to deal with the property according to his pleasure, nor invests the wife an independent control over it.

Thus, in the Hindu tradition, a woman is entitled to her husband’s property making equal property rights irrelevant. In another hand, the Hindu inheritance practices among matrilineal groups are usually traced to the ancient legal treaties the Dharmashastras where property is divided into two forms i.e., joint family property and separate property based on Mitakshara system and widow women can claim the separate property but only

limited in the absences of son or men heirs and also women could not claim the joint family property which is not divided into family. In Daya Bhaga system, man is absolute owner of all his property so he has right to 33 dispose all property as he wants and the inheritance of property takes place only at the man's death where rights for property directly goes to his sons (Shrestha G. B., 2075, p. 105). Manusmriti mentions that the inheritance of family property passes to male member of family but brother should share his property with his unmarried sister and unmarried daughters also have rights to get jewelers of mother after the death of mother but married women cannot collect the property from other relatives however; if she wants to collect the property from her own income then she must take permission from her husband (Luitel, 2004).

4.4 Provision of women's right to partition share in the Manusmriti:

The following provisions have been made in the Manusmriti about women's right to partition share: (Buhler G. , n.d.)

• In chapter IX, No. 118 of Manusmiriti made the provision of partition states that one-fourth share shall be required to be given by the brothers from their share to unmarried sisters.

• No.127 and 130 of the provision of partition have the provisions that a father who has no son shall adopt a son born to his daughter as adopted son with the right of performance of sacred traditional rituals. Such adopted son shall be entitled to right to partition share as son.

• No. 195 of the provision of partition states that the daughter is entitled to their mother's properties such as dowry and personal properties as son. The same provision also states that the daughter is entitled to claim as son over the dowry and other properties of her mother after the demise of her mother.

• Similarly, in No. 104 of the provision on partition has the provision that the wife shall have equal right over the share of husband. The reason thereof is that sons do not have right over such properties up to their life.

• N0.130 of the provision on partition states that son is treated as soul of father and daughter is treated accordingly. Therefore, no one has right over the properties of father until there exists an adopted daughter born to the daughter.

• No. 192 states that after the demise of mother all properties of mother shall be required to be divided equally to all sons and daughters born to her.

• No. 131 states that all the properties and dowry obtained by mother at the time of her marriage shall be entitled by her daughter after her demise.

• No. 217 states that all the properties of son who has no children such properties shall be entitled by her mother after completion of a certain age of her son.

• No.199 states that no woman is entitled to collect and dispose the properties (to make ornaments also) of joint ownership or her without permission of husband.

• No. 200 states that the ornaments worn by women during the life of her husband such ornaments shall not be entitled to her sons, daughters and co-partners.

• No. 134 states that if a son is born to father after being adopted a daughter as adopted daughter such son and adopted daughter shall be entitled to equal share of the properties of their father. No right of adopted daughter shall be deprived in such situation.

Hindu women's legal right to inherit property has been restricted from the earliest times. Patriarchal Hindu society provided women with property known as *stridhan* However, women were denied property rights to the ancestral or marital landed property, and their right over succession of the landed family property was limited (Altekar, 1956) .With the emergence of different schools of Hindu law, the concept of *stridhan* started expanding its literal and legal meaning, granting women more rights to certain forms of property.

4.5 Analysis

Keeping in view the matters discussed above, it is evident that the historical and legal frameworks around women’s property rights in Hindu laws have evolved significantly over time. Initially, during the Vedic and Lichhavi periods, women enjoyed a high degree of respect and autonomy, actively participating in societal and religious functions, and

even holding positions of authority. However, these rights and roles have seen a regression, influenced by changing societal norms and legal stipulations over centuries. The current legal frameworks, while still rooted in traditional Hindu laws, show a complex interplay of historical values and modern interpretations. Despite historical periods where women were considered equal to men and integral to the societal fabric, the prevailing legal norms still reflect a patriarchal bias that limits women's autonomy in property rights. This reflects a persistent underlying notion that they should be always under the domination of men, a view that contradicts the earlier more progressive roles women held in Hindu society.

CHAPTER FIVE

WOMEN PROPERTY RIGHT IN MANABANAYASASTRA AND ACCEPTANCE IN LATER CODES

5.1 Legal Framework Regarding Property rights of women in Nepal.

In ancient time, property and inheritance was based mainly on Hindu norms and values. There are two kinds of specifically women's personal property which are received as gifts, namely *pewa* and *daijo* (dowry). There are some differences in the definitions of *daijo* and *pewa*, as well as in property rights to these two categories of property, in customary laws. All moveable and immoveable property given by a husband or his coparceners with their consent in writing as well as those given to her by other relatives and friends on her husband's side as well as any increment made or occurred thereto, is *pewa*. Women have absolute right over their *daijo* or *pewa* and may dispose of it as they wish (Shrestha H. R., 2017, p. 29).

Nepalese laws from the ancient period until the establishment of democracy in 1951 were based on religion, local customs, and royal edicts. Law is considered to be a branch of religion. Many of the rules were based on social customs, traditions, culture values, and religion. Traditional concepts of fairness and impartiality under the laws of religion were basic rules of justice. The kings of subsequent dynasties began to promulgate laws with the advice of Dharmadhikara (the owner of justice) and pundits.

Although the king Jayasthiti Malla promulgated Nyayavikasini which is known as Manabanayasastra in the year 1380 (Khanal R. R., 2059, p. 40), it is very helpful in modernizing our judicial system today. In addition to many subjects that are legally valid even in modern times, it appears from the study that some of the theoretical subjects that we should adopt now while modernizing the law have remained in the then state. Limited property right like Inheritance property should be shared by sons, daughters have the right to inheritance after mother's death, property should be divided equally among sons, wife's *pewa* Dhan and widow property should not be divided, father-and mother property share should also be kept when dividing, unmarried sister's share is also equal, if there is no son, the daughter will, and if there is no daughter, the Kulvandhavs (कुलवान्धवहरु) will get

Aputali had mentioned in Nyayavikasini also this code made provision of Stridhan (Nayabikashin, 2065).

The status of Nepalese women improved to some extent by the law of the land codified in 1910 B.S., during the reign of King Surendra. Many seals and ordinances were issued for the purpose of exempting women from capital punishment. Provision of Partition, Stridhan, and Aputali were mentioned as a right of women in property (Sever, 1996, p. 42).

Few legislations have been enacted after the revolution of 1950-51 A.D. The civil Muluki Ain of 2020 B.S. has brought revolutionary change on the social status of woman. It legalized inter- caste marriage, banned polygamy, strengthened the position of divorce-seeking women and conferred a few inheritance rights to property. The amendments of the Muluki Ain, 2020 B.S. have further extended the social and economic rights of woman in Nepal. It has been amended for 12 times till date so as to cope with the changing society in the aspect of crimes, gender-based equality, and property matters while the eleventh amendment of 2058 has considerably tried to avoid the discrimination between male and female in their property rights. (Khanal, 2001)

The legislation related to industrial sector has seen clear intention to take measures to improve the status of women. The law states that male and female workers shall be paid equal wages for equal works.

The constitution of 2047 B.S. is an essential and progressive document which protects the rights of women in Nepal. Section 3 of Article 11 on the "Right to equality" states: "All the citizen are equal before law and are equally protected by law". Besides this, the constitution announces that "no discrimination shall be made against any citizen in the application of general laws on the ground of religion, race, sex, caste, tribes and ideology" (The Constitution of Kingdom of Nepal, 2047). It has given incentive to women for improving their position by making separate plan. The discrimination against any constitution discards citizen in respect to appointment to the government service or any other public service on the grounds of religion, race, caste, tribes, sex, and ideology. Man and woman get equal pay for equal work. All citizen is provided with equal right to acquire, use and dispose of property. Women's rights as part of human rights and gender justice are integral to social justice. Women are inevitable complement of human. So, the

violation of women's right is deemed to be the violation of the rights of entire human society (The Constitution of Kingdom of Nepal, 2047). The property right is the subject of economic justice that is needed by every human being in order to subsist as a human person in society.

Initially narrow and conditional discriminatory provisions regarding the right to property partition of women existed in the Nepalese legal system. Gradually with concerns of the interest groups amendments were brought in regard to women's right to property in the constitution as well as the national code.

Indeed, women's right to property was the most and intensively discussed issue in various workshops and seminars at local and central level, after the promulgation of the Constitution of Kingdom of Nepal, 2047, which ensured to eliminate discriminatory legal provisions through the initiation of judiciary.

Since 2002, women's property rights in Nepal have evolved significantly with subsequent changes in the property rights laws that continued to eliminate discriminations against women expanding women's rights to property. While these reformations were historical and revolutionary in Nepal's context, changes in laws alone are not sufficient to guarantee women's access to these rights. It has been more than a decade since the changes began, however, generally these changes in laws are not seen translated into reality.

Muluki Ain 2020 was replaced after the enactment of civil code 2074 and equal inheritance laws were incorporated and made provision sons and daughters equal sharers in property division, regardless of their marital status. The civil code 2074 ensures daughters to an equal share of the property as long as they remain unmarried. If a daughter receives her share before marriage, she does not have to return the property to other legal heirs. But if she gets married before the partition, she is no longer counted as a legal heir, and whether she gets her portion of the inheritance depends on the generosity of her parents, brothers and unmarried sisters. Despite being equal inheritors at birth, a daughter’s right to ancestral property is revoked once her marital status changes. Marriage will no longer determine whether a daughter will inherit her parents’ property.

5.2 Legal provision and Manabanayasastra

Malla dynasty started to rule in Nepal in the medieval era. In the Malla period King Jayasthiti Malla was the most renowned King in Kathmandu valley as he made improvement in the legal field as well as judicial system (Upadhya, 2062, p. 7). It was not possible to regulate the activities of society with the scattered religious text. Violence and crime were increasing day by day. The rules of ethics and morality were subjected to degeneration in the lack of a precise law to control such affairs. In the meantime, a huge amount of property was stolen from the store of Pashupati Nath Temple. This incident particularly instigated his desire to have a strict and precise code of criminal and penal laws and well-established judicial system in the country (Khanal R. R., 2059, p. 40). To maintain law and order in society, he decided to make a code of law. For this he constituted a commission of five learned people (pundits). The commission consisted of Kirtinath Upadhyaya, Ramnath Jha, Raghunath Jha, Shree Nath Bhatta and Mahi Nath Bhatta. The member secretary was King Malla's minister Jaytu Verma. (Khanal B. , 2000) . After the recommendation of commission King Jayasthiti Malla codified four different types of main laws and issued, they are: namely, ‘the laws on house’, ‘the laws on area’, ‘the laws on caste’ and ‘legal rules for human justice’ i.e., Manav Dharma / Nyayabikashini /Manabnyaya Shastra (Upadhya, 2062, p. 7).

Nyayabikashini, also known as Manabanayasastra or the Code of Human Justice, was a significant legal code promulgated by King Jayasthiti Malla in 1380 B.S. It provided a unified written law system in Nepal during the Malla period and covered various legal aspects, including civil law, penal code, civil procedure, and procedural law. He, in order to end the increasing anarchy created by multiplicity of laws founded on various Smritis, took efforts to promulgate a comprehensive code of laws, popularly known as Manabanayasastra (code of legal rules for Human justice). The code was introduced in order to address the lack of a common and easily ascertainable law (Baral S. B., 2063, p. 13).

The code was introduced in order to address the lack of a common and easily attainable law. The rules of ethics and morality were subjected to degeneration in the lack of a precise law to control such affairs. Manabanayasastra was consequently written after the study of Manusmriti, Yagyawalkya Smriti, Mitachhyara Tika, Brihaspati Smriti, Narad Smriti and other holy texts. It was written concentrating on the practices that prevailed in the society then (Pokharel, 2008). The Manabanayasastra has introduced many legal

provisions regarding houses, lands, castes, dead bodies etc. (Khanal B. , 1985). It was the major source of rendering justice during the medieval period. Much influence of religion can be found in the laws then. So, the first comprehensive codification of law in Nepal, based on the Dharma of ancient religious textbooks.

Main Provision of Nayavikasini (Manabanayasastra) (Upadhya, 2062, p. 8)

- Determination of land management/division of land.
- Division of caste system with their jobs description.
- Sale and purchase of land.
- Punishment according to gravity of crime.
- Women right such as marriage and divorce.
- House making procedure in three categories.
- Provision of collection of evidence, investigation and identification of evidence.

Features of Nyayabikashini (Baral S. B., 2063, p. 15)

- A written codified law introduced by Malla King Jayasthiti Malla with the help of five learned person Kirtinath Upadhyaya, Ramnath Jha, Raghunath Jha, Shree Nath Bhatta and Mahi Nath Bhatta.
- This code was influenced by Hindu religion mainly Narad Smriti, so it is also called Narad Sanhita.
- Manabanayasastra was divided into nineteen chapters.
- Comprehensive code of substantive and procedural rules during the Malla dynasty.
- Nyayabikashini is 500 years older than the Napolean code.
- The major source of rendering justice during the medieval period.
- The Manabanayasastra has introduced many legal provisions regarding houses, lands, castes etc.
- Manabanayasastra is known for laying down a unified system of criminal Justice in Nepal for The First Time.
- Punishment according to gravity of crime.
- Punitive Justice System.

- There is a provision of Principle of Double Jeopardy (a person cannot be tried twice for the same crime based on the same conduct)

King Jayasthiti Malla was the most prominent Malla King of Kathmandu valley in perspective of legal and judicial systems. In the field of law and order his judicial reforms were remarkable. At that time codified law was very necessary because it was not possible to regulate the activities of society with the scattered religious texts. So, he promulgated (enacted) the codified legal document entitled (named) Nyabikashini (Manabanayasastra) in 1380 A. D (Upadhdaya, 2076). Six hundred and thirty-eight old Nyayabikashini was the first codified legal document as well as landmark document in the history of Nepalese Legal system. He made widespread social code for legal and social arrangements. It plays a vital role in developing the Nepalese Legal System and is a legal milestone, document for all generation.

5.2.1 Provisions of Women's Property Rights in Manabanayasastra

NyayaBikashini mentions special provision regarding property right of women. It has been prescribed that the property of women is never other's even if it is possessed without evidence nearby for hundred years. It has different chapter for debt giving and taking. It has mentioned that the transactions undertaken by woman shall not be proved valid especially the giving, pledging and selling of house and field. Transaction done by wife is valid if there is an assent of her husband. In the absence of a husband, it is valid if there is an assent from a son. In the absence of both husband and son the king must grant assent.

Discussed in following heading.

a. Partition of inheritance

After the death of the father sons should take their property dividing it. After the death of the mother daughters should have right on her woman's property and if there are no daughters their offspring's. (No 202) (Nayabikashin, 2065)

After the death of the husband his wife (the mother of sons) should get equal share as equal as her sons. The sons born by a legitimately married woman of lower caste should be provided their shares in diminished proportion (mention in no 202).

Moreover, it also mentions that there is the fullest freedom of a mother in her own property. She can give her personal property to which ever son. Daughters have right on her woman's property after the death of the mother and if there are no daughters their offspring's. This shows if a mother becomes the owner of property, then daughter can also be the owner of property. In the absence of sons, daughters receive paternal property since they are just as part of his lineage because both a son and a daughter continue the lineage of their father (Shrestha G. B., 2075, p. 219).

According to Chapter partition of inheritance no. 207 while doing property partition of inheritance the eldest son shall receive an extra share than others, the son who is best of all shall receive a little bit more share and the other sons and unmarried sisters (daughters) shall get equal shares (Nayabikashin, 2065).

A son is dependent; no matter how old the parents are. Because of the superiority of the seed, father is more superior than mother. In absence of father the mother and in the absence of mother, the eldest son is independent or chief of the family (Shrestha G. B.).

A pledged property, property taken away forcefully, the property of a child, property kept as a deposit, mortgage, woman's property, revenue and property of a learned person would not be of others merely on the ground of possession. The property of a woman and the state (King) shall never go to others even if it is possessed, without evidence, up to hundred years. (Nayabikashin, 2065)

Thus, there is a provision of property right for women but after the death of husband wife will have right the property. Daughter will get property after the death of mother. Unmarried daughter have right property right.

On succession:

Chapter on succession, number 222, mentions that in daughter can succeed her father property, if there is not any son. If there is no any son nor any daughter, property shall be succeeded by his brother or by family member. In their absence, if shall be deposited to state treasury. But the property of a Brahmin cannot be deposited in state treasury (Nayabikashin, 2065).

If a widow goes to adultery leaving her son, her women's property of her, her women's property shall be succeeded by her second husband. But the property of her previous husband shall be succeeded by her son of previous husband. A woman was not authorized for the transaction of immovable property, her property right was limited. (Nayabikashin, 2065).

Widow

Number 23 made provision that after the death of the husband wife is free to use what husband had given to wife out of the affection with the exception of immovable properties house, land act.

This code also contains the rule for addressing the property of the widow when she marriage with the second man. If a widow having a son abandons him and goes for second marriage with another man, the property of first husband shall got to the son from the first husband; it shall not go to the second husband. A transaction done by a wife with the consent of her husband is valid. In the absence of a husband, it shall be valid if there is consent of the son. In the absence of both the husband and son, the king must have granted consent, only then transaction done by a woman is proved valid.

Stir Dhan *daijo pewa*

Number 202 stated that sons should take dividing their father's property when the mother has ceased to menstruate, when the sisters are married, when the father is still alive but no longer aroused by desire of properties and the like, When the father has followed the way of liberation or after death. The father should divide his property among sons while he is still vigorous. While dividing he should give the best portion to the eldest or he should divide equally in any other way that suits him (Nayabikashin, 2065).

After the death of the husband wife is free to use, what husband had given to wife out of the affection with the exception of immovable properties house, land act.

Number 204 stated that property what is given in front of the fire, the property given to a daughter by her husband while near about to bring her home by her husband during the wedding procession, property given by her husband to make her private property,

property received by a woman from her brothers, property given by her mother and property given by her father these six types are woman's property.

In addition to property given by the father as a gift these three types of properties are not subject to partition: property acquired by own's velour, personal property of the wife and earned by learning.

When a mother gives her personal property to whichever son out of affection that is also should not be divided. Because mother is also as equal to father, i.e., there is the fullest freedom of a mother in her own property.

Number 205 mention that of property of the women who have gone to become housewives through the rule of Brahma, Prajaptya, Arsha and Daiva marriages is received by their children after her death. If there is no offspring, then it is received by her husband. The women's properties who have gone to become housewives through the rest four types of rules of Gandharwa, Aashra, Rakshasa and Paishacah marriages their properties are received by their father (Nayabikashin, 2065).

It mentioned that property of women and state (king) is never given to other even if it is possessed without evidence for hundreds of years. So, if property of male is possessed by others it could be transferred to them but if property of female is possessed by others it couldn’t be others (Katuwal, 2024).

Women had no claimant on paternal property from tradition. They were simply regarded as source of pleasure and goods. Similar status and positions of women is described in this code. This code mentions special provision regarding Stridhan.

After the death of the father son should take their property dividing it. After the death of the mother, daughter should have right on her woman's property and if there are no daughter their offspring's. This shows that if a mother becomes the owner of property, then daughter can also be the owner of property. Moreover, women have full right on Stridhan so wives’ personal property should not be distributed. When a mother gives her personal property to whichever son out of affection, that also should not be divided because mother is also as equal to father i.e., there is full freedom of a mother in her own property. From this provision we can say that exceptionally women were regarded as the owner of property (UNDP, 2065).

It also mentions that if there are no sons, the daughters receive paternal property since they are just as part of his lineage because both a son and a daughter continue the lineage of their father in this regard, we can say daughters were also given equal priority.

Women are protected in the condition of their virginity by their fathers, while they are young women by their husbands and when they are widows by their sons. She should live under their dependence. Women are quite unfit to be independent. In this world there are three who are independent, the king the teacher, and the householder. Woman, son, slave, etc. depended on individuals are dependent. In the absence of father, the mother and in the absence of mother, the first-born son is independent only on special condition, women's dependence is accepted. It also mentions that women were created for the sake of offspring. It strictly emphasizes on early marriage because if a father lacks to do his daughter's marriage before her menstrual, he will incur a great sin (Pradhan et al., 2019).

When we study in context of women in Manabanayasastra , we can see that they were discarded to be witness. To some extent they were respected and protected but as a whole they were taken as a source of entertainments and goods. They were treated as slaves in most places. They were rarely given high designation. It also says that one who leaves religion shall bear slavery like women. One who leaves religion is depraved and one who bores as women was considered as crime.

5.3 Provision of women's right in the Muluki Ain (The Country Code) of 1910 B.S:

In early 1910 B.S, when Surendra Bikram Shah was King and Jung Bahadur the first Rana Prime Minister, the government promulgated the first Legal Code in the history of Nepal. The code is known as the Muluki Ain. The terms are of Arabic origin and literally mean "Law of the Realm". (Kheral, 2018) The Muluki Ain was strict outcome of the Hindu Dharmasasthras such as Manu Smiriti, YagyaBalkya, Smirities, Bhrihaspati, Vedas etc (Upadhdaya, 2076). It has 163 sections and was made into four parts.

Muluki Ain possessed three important features (Raman, 2059, p. 301) :

1. First it facilitated the quick disposal of disputed cases according to its provision because its many provisions covered all the different aspects of Nepalese society. It was

no longer necessary as it had been in the pre-codification period to consult the Shastras for clarification on legal points.

2. In the second place, the Ain provided Nepal with a more or less uniform system of administration.

3. Finally, the Ain became the foundation for all future legislation. New enactments were made to meet changing needs, but they remained within the framework laid down in 1854.

5.3.1 Categories Law in Muluki Ain, 1910 B.S (Shrestha G. B., 2075).

The following chapters were related to civil law which can be divided into 4 categories.

a. Family Law: chapter of partition husband and wife, partition of father and son, widow's partition, Dowry and jointure (*Daijo*, *Pewa*), hairless property, adopted son, Widow's partition, Marriage, divorce, etc. are related in this category.

b. Law relating to property: chapter of trust, hidden wealth, land property, tenant and landowner, tenant who doesn't pay crop, amount denoted and gift etc. are related in category of property law.

c. Law relating to person: Chapter of proportion getting of losing property, employee appointed and discharged, rebate etc. were related in this category.

d. Law relating to contract and liability: chapter of creditor and debtor, pray creditor writing security, claim security trust and deposited etc. were related in this category.

The following provisions have made in the Muluki Ain (The Country Code) of 1910 B.S. about women's right:

a. Partition of property

No. 1 of the Chapter on Partition states that sons born to the husband who had married with virgin girl or widow of same cast and maintain their livings with him shall be entitled to equal partition share in their fathers' property (Muluki Ain ,1910, 2022, p. 114).

• No. 15 of the Chapter on Partition states that an unmarried daughter who attained the age of 35 years and is residing in parental house shall be entitled to share the properties as her brother. If she marries after the attainment of the said year, such a daughter can take the partition share with her. However, she would not be entitled to such share if she eloped (Muluki Ain ,1910, 2022, p. 117).

It is written that daughters who are below the age 35 and unmarried would get the wedding expenses (The wedding expenses is the 10% of the total parental property and it was a must to be separated for each son and daughters for their marriage.) during the partition of her parental property. And it is also mentioned that if an unmarried daughter stays in father's house for more than 35 years of age, could get an equal share of her parental property as her brothers. But if the women had illicit relation (*Poila Janu)* after getting the property, had no right to claim on that and the ownership goes to her brothers.

b. **On inheritance**

The daughter's right of inheritance is ensured by issuing ordinances with an effect to provide deceased person's property to his/her daughters if she had been given bequest. (The clause no 1 on the chapter of Inheritance (Muluki Ain ,1910, 2022).

There must be the absence of her brothers and the coparceners within three generations. But if the coparceners other than sons exist, even though the bequest was in favor of daughter 50% of the property must be given to the coparceners) And also, in regard of the married daughters mentioned in clause 2 of the Chapter of Inheritance, she is eligible to get the inherited property of her parents only if all the coparceners and brothers are absent (Muluki Ain ,1910, 2022, p. 137).

Clause 3 of the same section explains that in the case of unmarried daughters who are present, the wedding expenses of each daughter should be deducted, and the remaining property should be distributed equally among all the sisters. The daughters are not compelled to take the inherited property but if they take, they are obliged to pay the debt of their parents and also perform the funeral rituals (Muluki Ain ,1910, 2022, p. 138).

c. Partition Property of Widow

• No. 1 of Chapter on Partition Property of Widow states that properties which has been earned by a widow until she ceases chastity towards her husband shall be entitled to take with her if she elopes with second one (Muluki Ain ,1910, 2022, p. 129).

No. 4 of the Chapter on Share Property of Widow states that the wife who attained the age of 45 years shall be entitled to dispose all properties such as her share, annuity, dowry, land, house, cash, commodity, jewelry in order to perform rituals and other purposes as per her wish but she is not entitled to recover or dispose the said properties until she attains the age of 45 years Widow before the age of 45, had no right to dispose her husband's property. The widow below the age of 45 could sell such property for flooding and clothing with the consent of coparceners. The widow, above the age of 45 had full right to dispose of her husband's property. (Muluki Ain ,1910, 2022)

• No. 5 of the said Chapter also states that the widows who have not attained the age of 45 years shall be entitled to dispose of her share, dowry, property, land, quadruped after setting aside the amount at the rate of ten percent for her funeral rituals or falls serious illness and (going sati) in accordance with law. If the lives of such women are saved, the transaction made by them shall be treated as valid (Muluki Ain ,1910, 2022, p. 129).

• No 6 of the Chapter on Partition Property of Widow states that any widow who has no son and residing in joint family shall be entitled to share by being separated in accordance with law in the event that she has not been provided subsistence and rituals expenditure by her father-in-law, mother-in-law, brother-in-law, sister-in-law, stepsons and nephews as equal to them (Muluki Ain ,1910, 2022, p. 129).

Besides this, the younger widow also could sell 90% property for religious works if she were seriously ill. The widow, living in joint family and she had no male issue, could not claim to live alone. She was advised to adjust herself in the family environment. If the widow left the house of husband and went to live in parent's house or someone else's, she could not take any property of her husband. But she could claim to live alone if the members of the family did not provide food and clothes equal to other members (Kadel, 2005).

New provisions have made for the protection of property rights of widow women in 1757 B.S. As per this Ain widow above the age 40, the right to dispose 1/3 of the property without the consent of sons and the widow below the age of 40 had the right to dispose 1/4 of property if the son's provided food and cloth as in the time of the father.

If the widow was not granted due attention by the sons, the widow had the right to dispose of all movable and fifty percent of the immovable property. If the widow was below 40, she could dispose 50 percent of the movable and 1/3 of the immovable property. She could do so without the consent of Coparceners. She could dispose the whole movable and immovable property with the consent of sons or Coparceners.

The widow had full right to dispose of or sell of her acquired wealth or woman's exclusive property - *daijo* and *pewa*. The widow below the age of 40, could dispose of the whole property if she could not fulfill the need from the annual income of immovable property but the younger widow in such situation could dispose of the entire movable property and immovable equal to the cost of Rs. 500 without any consent. The widow, who got another husband, had no right to take the former husband's property and her acquired wealth at that time.

The widow had full right to use and dispose of her *daijo*, *pewa* and acquired property according to her own will. No, consent of Coparceners or sons was needed for that.

d. Chapter on Husband and Wife

No 1, 2, and 3 of the Chapter on Husband-and-Wife states that any wife who has not given expenditure for subsistence or expelled from home without any mistake or serious injury or married or kept other wife and if the wife so suffered from the said acts made a plea in regard that such woman should be provided share from the share of her husband in accordance with law (Muluki Ain ,1910, 2022, p. 124).

• No. 1 of Chapter on Husband-and-Wife states that husband must arrange subsistence of his wife. In the following circumstance the divorced wife is entitled to partition share from the share of her husband in accordance with law in the event of divorce has been made between husband and wife. If husband has left the wife without subsistence or causing serious injury,

e. Women share and property

Few provisions were mentioned about wealth of women Stridhan in Muluki Ain 1910, Chapter on Women share and property state that husband did not have any right to spend wife's wealth (*daijo*) without her consent but in time of exceptional difficulties stridhana could be used to fulfill the general needs of the family. Such wife's wealth would be refunded after the improvement of the family's economy (Muluki Ain ,1910, 2022, p. 133). The husband had no authority to sell wife's wealth even for the payment of family debt. He could do so with the consent of his wife, but he had to return such a wife's wealth if the wife lived alone due to his ill treatment.

The Ain further states that the Daija of his wife would not be confiscated by the government on the ground of her husband's crime and punishment (Muluki Ain ,1910, 2022, p. 134).

The Ain made provision regarding the transfer of *daijo- pewa*. As per this chapter *daijo-pewa* of women transferred to her sons if se after her death, if she is sonless her property transferred to her daughters and if she has not legally married daughter, the right of such property goes to the hand of her husband and if the husband is also already dead the right of stridhana is recognized to go to the brothers of deceased husband (Muluki Ain ,1910, 2022, p. 133).

The Civil Code of 1989 B.S. clarified that all the movable and immovable property of women provided by the members of parental and maternal line and increment from that asset was recognized as *daijo* and the property granted by husband, father-in-law, mother-in-law and their relatives and increment from that asset was considered as *pewa* (Muluki Ain ,1910, 2022)."

Thus, Women had absolute right over *daijo-pewa* and they could dispose such property without consent. The code further states that the stridhana after the death of owner was transferred to her sons, if she had no sons it would go to her husband; if husband was not alive, such property would get to daughters, if daughters were not alive it would go to the sons of daughters." Besides this, the owner of stridhana had no right to take *daijo-pewa* with her if she used to keep illegal husband (Kadel, 2005)."

5.4 Provision of Women property rights in Muluki Ain 2020 B.S in Nepal:

Muluki Ain 1910 was experienced with many discriminating acts. Muluki Ain in Nepal governs inheritance laws which is derived from the Hindu law. By the establishment of democracy in Nepal in 2007 B.S. the people were much concerned about the concept of equality among all irrespective of the sex, caste, religions etc. The Constitution of Nepal 2004 B.S was practiced and also the Interim Constitution of Nepal 2007 had been implemented in Nepal. So, at that situation, the Ranas were abolished to reign over Nepal. And also, the Muluki Ain of 1910 couldn't address the social and religious changes, couldn't behold the necessity of rule of law, and couldn't forecast the future favorability. So, King Mahendra in 2020 B.S. announced to formulate new country code so as to maintain a sound justice giving process throughout the country. It consists of 4 sections and 19 clauses (Neaupane, 2073, p. 75). It has been amended for 12 times till date so as to cope with the changing society in the aspect of crimes, gender-based equality, and property matters while the eleventh amendment of 2058 has considerably tried to avoid the discrimination between male and female in their property rights.

Legal provision related to women's property Rights in the Muluki Ain 2020:

a. Partition of parental property (Amsha Banda)

Talking about the property rights of daughters in this country code, since it was formulated, there was no such provision. The father, mother, husband, wife and their sons were only eligible for their parental property.

However, due to the increasing voice against the gender quality in property distribution, now the provision under Chapter 13 of Partition, daughters are provided with equal eligibility in parental property on the basis of the number of alive bodies. However, the sub-clause of the same clause has mentioned that the daughters, who are already married during the formulation of such an act, cannot claim for their parental property.

In the 10 no. of chapter on partition explains that the couple who leave their children helpless with the consent of both are identified, their entire property goes to the person who adopts the child. And in the case only one of the couples had consent on that, his/her

property along with the property of the child goes to the person who adopt the child (Muluki Ain 2020, 2066).

b. Right of inheritance

No 2 of Chapter on Inheritance, has the provision of equal right for unmarried daughters to claim on the inherited property of their parents. And there is also provision on the same number that in the case if the deceased person doesn't have husband, wife, sons, unmarried daughters, daughter-in-law, even his/her married daughters as well as her unmarried daughters can claim on the deceased person's property (Muluki Ain 2020, 2066). In the case of clause 3 of the same section, it states that even the married daughters of the parents who are not cared by their sons, unmarried daughters and other coparceners if take care of them, could the inherited property (Shrestha G. B., 2069, p. 78).

c. Husband and Wife

Chapter 12 on Husband and wife, Muluki Ain, 2020 number 4 the wife has been drive out of home without providing food and clothing by the husband together with the in-laws or by the husband alone or if she is frequently made to suffer by being beaten or if the husband has brought or kept another wife, then such a wife can have her share separated from her husband's share in property. In number No. 4. (a) If the divorced wife lacks property or income enough for food and clothing and wants the divorced husband to provide her with these expenses, then the divorced husband will have to provide the expense as fixed by the court depending on his means and social standing. Such expenses should be born out up to five years following the divorce or until the woman gets remarried, whichever comes first.

d. Property of widow

This clarifies that the sonless widow below the age of 30 who has been living with Coparceners and who is supplied due requirements, has no right to live separately. But if the members of the family fail to supply her food and property for livelihood and donating religions purposes the widow mother below the age of 30 has right to live separately taking her share. Thus, the widow above the age of 30, though she has no son, has full power to get her share from Coparceners (Muluki Ain 2020, 2066).

Number 13 of the code relating to widow is not favorable to woman because the widow below the age of 30 has not right to live separately She is compelled to live with the family This restriction on the widow's right to enjoy property of her husband has compelled her to live a life entirely dependent on the joint family. Her desire to lead her life in her own way is debarred (Muluki Ain 2020, 2066).

e. Women share and property

There was not separate legal provision for men regarding Women share and property but provided for women. Acquire property by two ways, one from *Daijo*/ *pewa* and another is property acquired from partition of property. Has the provision that unmarried women, a woman having a husband, or a widow may use and dispose of the movable or immovable property of her share or earned on her discretion. Women may use and dispose of her (*Daijo*) or exclusive property (*pewa*) on discretion. (Shrestha G. B., 2069) Chapter 14 of Muluki Ain, 2020 had made provision of Women share and property.

No. 1. Of this chapter stated that women can use the movable or immovable property they have earned as they like. Likewise, Women who have been separated can use all the movable property of their share and up to half of the immovable property of their share without anybody's consent. An unmarried woman can with the consent of her father, if he is alive, and one having a husband or a widow with the consent of their grown-up sons if they exist, can use even the immovable property as they like which was mentioned in no 2 of this chapter. But debt taken by such woman can be paid back from the immovable property that she cannot use as she likes. (Muluki Ain ,1910, 2022)

As per no 4 of this chapter a woman property receives from her parents' family and from her mother's parents'' family and the property that she has increased from it proves to be her dowry. The property given to her with a document of consent of all the heirs by her husband or the heir on the side of her husband, and the property given to her by other relatives or friends on the side of her husband and the property she has increased from it proves to be her dowry. (Muluki Ain 2020, 2066)

According to no 7 of this chapter woman has previously given someone as religious or ordinary gift or sold the property other than dowry or exclusive property that she is entitled to, and if she gets degenerated by having sexual intercourse with the same person

whom she has given it as gift or sold it, the transaction will not be lawful. Anyone who has the right can get it back (Muluki Ain 2020, 2066).

5.4.1. Reforms incorporated in the Country Code (Eleventh Amendment in Muluki Ain 2020) (Malla, Property Right of Nepelese women, 2011)

1. Bill Daughters are accepted as heir: The Bill accepts the concept that daughters as well as sons are entitled to have inheritance rights by birth to the ancestral property. Previously it was provided that only an unmarried daughter above the age of 35 has this right.

2. Full right to widow in inheritance: It has removed the provision that a widow attains the age of 30 to live separately before taking her share of property. A widow is entitled to use her share as she wishes even if she gets remarried.

3. Right of wife in husband's property: The Bill removes the condition that women must attain age 35 and complete 15 years of marriage before she can live separately and take her share from her husband.

4. Inheritance right to divorced woman: In the existing law, a woman is denied the right to property from both her parents and from her in-laws in the case of divorce. The Bill has provided that partition must be made between the husband and wife at the time of divorce. Likewise, if a divorced woman wants to have yearly or monthly expenditures instead of taking her share, the court may set such expenditure on the basis of husband's property and level of earnings. A woman can have such expenditure until she gets remarried.

5. Equal right in intestate property to unmarried daughter as of son: The Bill has provided the equal right to unmarried daughters as of son by reforming the existing discrimination in the matter of priority for getting the intestate property.

5.5 The Constitution of Nepal, 2072

Preamble of the constitution stated that ending all forms of discrimination and oppression..... resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language,

religion and gender and all forms of caste-based untouchability (Constitution of Nepal , 2072). In Article 18 of Constitution of Nepal 2072 has mention right to equality which states all offspring shall have the equal right to the ancestral property without discrimination on the ground of gender. Similarly, Article 38 of Constitution of Nepal 2072 has made provision of Rights of women and states the spouse shall have the equal right to property and family affairs.

Thus, this constitution guarantees equal right to property and family affairs. This need to be praised however it should note that guaranteeing only in the constitution is not sufficient to ensure full enjoyment of rights for the women in reality. There should be amendment in existing laws and news laws and policies should be promulgated and implemented in the spirit of the constitution.

5.6 Civil Code, 2074

The new civil code 2074 of Nepal which replaced the existing Muluki Ain 2020 is the milestone for the gender equality provision and the property right of women. The new code though is just on an implementing phase is said to be progressive when it comes to the rights of women and seek to adopt global jurisprudence while also accounting for indigenous practices specific to the Nepal context.

An Act made to amend and consolidate civil laws, which is National Civil Code in Nepal has also incorporated some of the important provisions relating to the right to property for women, including daughters, which can be studied as follows:

For the purpose to deem coparcener in a family, during the apportionment of property in common, the husband, wife, father, mother, son, and daughter are deemed to be coparceners. Each coparcener is provisioned to have equal entitlement to partition share. Further, a widow can also affect separation at any time by taking her partition share.

It is mentioned that if the widow concludes another marriage, the property obtained by her by way of partition share shall devolve on the son and daughter, if any, born to her from the previous husband and, if there is no such son or daughter, she herself may retain such property.

After a lot of changes in law, the Civil Code, 2074, provides equal inheritance laws, ensuring equal rights to sons and daughters to the ancestral property regardless of their marital status. Section 205 of the code regards the husband, wife, father, mother, son and daughter shall be regarded as beneficiary/coparceners of the property. Here are the basics that you need to understand about the property partition law in Nepal (Dahal, 2074)

a. Partition

In part 3 Section 99 of Civil Code, 2072 (Partition before concluding divorce) of these codes mention that If divorce occurs due to a husband and wife demands for partition a concerned court shall make partition between husband and wife before divorce. Similarly, if a joint property is in the name of a husband or a wife or both a partition shall be done according to law before divorce. If a husband has not acquired his share of property from his coparceners yet, the court shall ask for his partition and shall separate shares of husband and wife.

If divorce takes longer time a court may order monthly expenses from a husband to a wife on the basis of his property and income.

In Chapter 10 (Partition) Section 205 mention husband, wife, father, mother, son, daughter is considered coparceners for the purpose of partition of joint property. Similarly, in Section 206 (1) had made provision that every coparcener will have equal shares of partition. If a woman is a pregnant while occurring partition one share shall be separated for an unborn infant. If a woman delivers a dead baby, the separated share of property shall be divided equally amongst the coparceners.

b. Provision of widow

Section 214 stated that a widow can stay separately from the family by taking her shares of property anytime. If a widow gets married again her shares of partitioned property shall be given to a son, daughter of his first husband and if she does not have son and daughter from the first husband then she can have all her shares.

c. **Inheritance**

Section 238 stated that if any individual's inheritance is opened the nearest heirs can claim inheritance property. In Section 239 (1) the below are the priority list of the closest heirs for inheritance property (Civil Code , 2074);

(a) Husband or wife staying in the same house,

(b) Son, daughter, widow daughter in law staying in the same house,

(c)Father, mother, stepmother, and grandson, granddaughter, granddaughter in law no son and daughter staying in the same house,

(d) Husband, wife, son, daughter, father, mother, stepmother living separately,

(e) Grandson, granddaughter of son living separately,

B. Heirs to a woman's property

Section 103 of the Civil Code, 2074, made provision if a divorced woman dies, her property will be inherited by her sons and daughters if she has children, and if there are no sons and daughters, then the husband will inherit the property from her ex-husband and the other property will be inherited by the heirs. Likewise, the property earned by a woman from private earnings, property received from donation or property acquired before marriage, property received from a wife is her sole right, if it is given to someone in a deed, and if there is no deed, such property will be according to the palace of Aputali. (Civil Code , 2074)

Thus, the Code has adopted the equality principles enshrined by the Constitution. This considers daughter irrespective to her marital status as a coparcener and provides equal rights of women in an ancestral property. The Code allows nearest heirs to claim inheritance property and it has also ranked the heirs in which wife, daughter, granddaughter, widow daughter in law have equal rights as like husband, son and grandson. It further ensures a widow women's share of property anytime and allows her to use her share even after getting married again and if she does not have any child from first husband. Similarly, the Code has made a wife capable of having share from husband

and provides a wife's share from a husband before divorce and monthly expenses if divorce will take longer time. Women's access to and control over property is significant in women's economic empowerment; it will gradually strengthen women's economic status. In the context of the earlier law married daughter were not recognized as heir to inheritance property this new provision has included a married daughter in the priority list of heirs for inheritance property. However, it fails to include grandson and granddaughter from daughter side as like son's children.

5.7 Role of Judiciary to Protect Women's Property Right

The Supreme Court of Nepal has been playing vital roles in order to grant women's right to partition share and right to property equal to men through positive interpretation of the provisions of the laws and regulations so concerned and it has also given directives to the government to amend the laws and regulations which are unequal and discriminatory against women. Among the cases decided by the said courts, the following cases can be considered as landmark case which talks that no discrimination be made between men and women in connection with their rights and exercise of those rights.

Meera Dhungana and Meera Khanal Vs HMG Ministry of Law, Justice and Parliamentary Affairs (Timilsina, 2003) **is** one of the famous cases and this concern is which is one of the historical breaks through that commenced the point of legislative reform towards gender equality of women's right to property. However, the court's decision of this case was not so positive in this regard, yet the court's directive order opened the gateway of the genesis of legislative reform concerning gender justice. The petitioners have mainly in this case challenged the constitutional of section 1 and 16 of the chapter on partition share (Angshabanda) of National Code (Muluki Ain) 2020 which discriminates against the women's equal property right. The petitioner filed writ petitions under Article 23 88 (1) of the Constitution of Kingdom of Nepal, 1990 challenging even though Article 1(1) of this constitution provides that all laws inconsistent with the constitution shall ipso facto be void in tune of Article 131, but the inconsistent laws are in existence till the date in their previous form on account of the respondent's lukewarm response to Article 131 of the constitution in this. The petitioners have claimed that the impugned section 1 and 16 of the partition shares (Angshabanda) are inconsistent with Article 11(2) of the Constitution of Kingdom of Nepal, 1990, Article 2 of UDHR-1948,

Article 26 of ICCPR-1966, Article 3 of ICESCR-1966, and Articles 1, 15 and 16 of CEDAW1979.

The petitioners, therefore, requested the Supreme Court to declare void and ultra-vires the impugned legal provisions. But the Supreme Court has categorically stated that declaring section 16 of the chapter on partition ultra-vires and providing daughter equal share of the property was not the solution to the problem. In this judgment, it is very unfortunate that the court could not see the prima facie discrimination in section 16. The court in fact escaped its obligation under Article 1, 11, 23, 88 and 131 by issuing a directive order to the government to present a bill in the legislature reviewing the law relating to property rights within a year from the date of the decision.

The judgment also stressed the point that the society may not digest so many sudden changes in the prevailing social practices, modes and values, and directed the government for enactment of just provisions having due regard to the constitutional provisions of equality. Alternatively, the court feared that the son would be entitled only to the father's property and hence the situation would be discriminatory against the interest of the son. Nevertheless, after the decision of this case as the issue of directive order in the name of government for introducing appropriate bill of regarding women's right to property initiated the public debate in order to eliminate discriminatory legal provision. Also, many of the human rights and women activities commenced the operation of campaigning to press the government for introducing appropriate bill before the parliament. It was a nationwide vibration of the women's rights movement for the elimination of all discriminatory laws of the existing Nepalese legal system. So, the verdicts of court are against the spirit of women's rights, but the directive order made the genesis point to begin the true movement of women's rights. In the context of sacred mission of the elimination of discriminatory laws, many of the women right activists have been playing active role through the instrument of public interest litigation.

Lili Thapa vs. Prime Minister and Office of the Secretariat of Council of Ministry (Timilsina, 2003)

Section No. 2 of the Chapter of the Country Code on 'Women's Share and Property legalized a woman's right to dispose of a half portion of immovable and a full portion of movable property to an unmarried woman, a woman having a husband or a widow who

are separate from a joint family. A man, however, has the authority to dispose of the whole share of ancestral property. This discriminatory restriction imposed upon women was challenged as being against gender equality. After holding a hearing on the issue, the apex court found that gender inequality existed and the provision was contrary to Article 11 of the Constitution of 1990, thus the Supreme Court declared No. 2 of Chapter on 'Women's Share and Property' of the Country Code to be ultra-vires. After this decision, a woman became able to dispose of her share of ancestral property without her husband or son's permission or consent. Today, women have full rights in their share of partitioned property as well as rights in the ancestral property to do transactions in accordance with their own wishes. However, a married woman or a widow requires the permission from her husband or son to sell the total of immovable property.

Meera Dhungana (11) Vs HMG/Office of Prime Minister and Council of Ministers (Timilsina, 2003),

Mira Kumari Dhungana vs. Council of Ministers et also In this writ petition, the petitioner demanded to declare null Section No. 12a of the Chapter on 'Inheritance" of the Country Code, on the grounds that it is based on a discriminatory view of gender equality and against the right to equality enshrine under Article 11 of the Constitution of 1990 because it mentions that the property received by a unmarried girl via inheritance needs to be returned to her parent family after marriage. In this case, the Supreme Court held that the property acquired under inheritance is private property and it can be used without permission of other members of the same family pursuant to No. 18 of the Chapter on 'Partition' of the Country Code. The Court stated that such property did not need to be divided among the partition-holders, therefore, the provision under Section No. 12a of the Chapter on 'Inheritance" is inconsistent with Article 11 of the Constitution of 1990 and the Supreme Court declared ultra vires the provision in question from the date of its decision.

Sapana Malla Pradhan Vs council of ministers et.al, 2061 (Timilsina, 2003)

In this case the petitioner has challenged the 11th amendment of Muluki Ain in which the chapter of inheritance no.2 has stated that after the deceased of the person inheritance goes to the husband, wife, son and unmarried daughter'. The petitioner claimed that

women are placed second according to this provision and this provision is against the Constitution of Kingdom of Nepal, 2047 Article 11 which provides the right to equality.

In this case the court claiming the provision is against the constitution and international treaty in which Nepal is a party gave verdict that the new amendment should be done by taking reference of the expert of the related field.

In this case the court guarantees that if national and international laws contradict each other than international law prevails, and they should be applied continuously by making progressive and positive changes.

The provisions are not made void as claimed by petitioner but by taking expert opinion and according to international treaties the contradictory provisions need to be found out and make necessary amendments or new laws. From this case we can see the effort of judiciary to make the laws equal.

In Merra Dhungana (III) Vs Office of the Prime Minister and Council of Minister the petitioner has challenged the section 7 of the Chapter on Women's Exclusive property of National Code, 2020, which said to be inconsistent with Article 11 of the Constitution of Kingdom of Nepal, 1990, Article 2, 3, 6, 7 and 18 of UDHR-1948; Article 1, 2, 3, 4, 23 and 26 of ICCPR1966; Article 1, 2, 3 and 5 of ICESCR-1966 and Article 1, 15 and 16 of CEDAW- 1979. So, the petitioner has requested before the Supreme Court to declare void and ultra-vires the impugned legal provision under Article 88(1) of the Constitution of Kingdom of Nepal. In this case the court has demonstrated the positive response as regards the issue of elimination of discriminatory legal provisions concerning the equal property right of women. The court, in this case, signifies the defect of impugned section 7 as seen as a double standard on women's property. The court further clarifies that this section provides a kind of property right in lieu of restrict of other rights. In other words, to court, this section 7 also perpetuates the changing attitude of property right if her sexual and marital status is seen to be changed. Ultimately, the court prudently declared void and ultra-vires of this gender discriminatory legal provision of section 7 of women's exclusive property under Article 88(1) of the Constitution of Kingdom of Nepal, 1990. Thus, in this case, the court played an important role for elimination of discriminatory law regarding women property right.

In the above cases Supreme Court made landmark decision to change the provision of Women’s property right in Nepal. As a result, the 11th amendment of National Code the court has changed its stance and it looked more positive. For example, Lily Thapa's case, Meera Dhungana (11) and (111) case, the court has conceded the demand of petitioners for declaring ultra-vires the gender discriminatory legal provisions regarding women's property right. Hence, the court seems to be successful in catching the demand of time. Thus, Judiciary play vital role for the development of property right in Nepal.

5.8 Analysis

The legal framework regarding women's property rights in Nepal has evolved significantly over time, reflecting shifts in societal attitudes and legal reforms. Historically, Nepalese law was heavily influenced by Hindu norms, local customs, and royal decrees, with women's property rights being largely restricted and contingent upon marital status and family dynamics. The ancient legal texts, such as the Manabanayasastra promulgated by King Jayasthiti Malla, outlined specific property rights for women, though these were often limited. Over the centuries, legal reforms, particularly those post-1950 revolution and the subsequent Muluki Ain codifications, have gradually expanded these rights. The Muluki Ain of 1910 and its later amendments progressively recognized and protected women's rights to own and inherit property, including provisions for equal inheritance rights for sons and daughters and rights for widows to retain property. The Constitution of Nepal, revised in 2072, further entrenched gender equality in legal rights to property. The new Civil Code of 2074 built on these advancements, offering more robust provisions for women's property rights, ensuring equal treatment in inheritance, and acknowledging women's equal status in family and societal contexts. These legal changes, supported by judicial interpretations and decisions, mark a significant shift towards gender equality in property rights in Nepal, although practical implementation continues to face challenges.

CHAPTER SIX

ANALYSIS /COMPARISION AND CHANGES IN WOMEN'S PROPERTY RIGHTS IN LATER CODES

6.1. Property right of women in Nepal (comparative analysis between Manabanayasastra , Muluki ani 1910, Muluki Ain 2020, civil code 2074)

Existing Inequalities on the Prevailing Legal Provisions Pertaining Women's Right to Partition Share in this research paper I would like to describe the following legal provisions which deprives the women to the right to partition share.

The development of property rights for women in Nepal has evolved significantly from the enactment of Manabanayasastra in Malla period with limited property right. The Muluki Ain of 1910, also known as the Muluki Ain (Legal Code) of Nepal, was a significant legal code introduced during the Rana regime in Nepal. It had a considerable impact on various aspects of Nepalese society, including women's property rights. Here's a comparative study of women's property rights in Nepal before and after the Manabanayasastra :

6.1.1. Manabanayasastra :

1. **Limited Property Rights:**

Women had limited property rights (Shrestha G. B.). Their rights were often subject to customary practices, and they had little to no ownership or control over family property. Women is dependent with male. This code had made provision of women exclusive property right (stridhan).

2. **Patriarchal Society:**

Nepalese society during this time was patriarchal, and property was primarily held and managed by male members of the family. Women had minimal say in property matters. Women were always dependent with men.

3. **Inheritance**

Inheritance laws were governed by customs, and women were often excluded or received a smaller share of the family's property compared to male heirs. After the death of the husband his wife (the mother of sons) should get equal share as equal as her sons. It also mentions that there is full freedom for a mother on her own property. She can give her personal property to which ever son. Daughters have right on her woman's property after the death of the mother. An unmarried daughter has only right on parental property.

4. Status of Widows:

Widows, in particular, faced significant challenges in retaining property rights. They were often marginalized and vulnerable to property disputes, especially if they had no male children to represent them. Even after the death of the husband wife is free to use what husband had given to wife out of the affection with the exception of immovable properties house, land etc. but she can give her personal property to which ever son. After the death of the mother daughters have right on her woman's property. Here first priority goes to son on property.

6.1.2. Muluki Ain of 1910:

1. Limited Property Rights:

Before the Muluki Ain, women in Nepal had limited property rights. They had little to no ownership or control over family property, and their rights were often subject to customary practices and local traditions (Karki, 2012).

2. Patriarchal Society:

Nepalese society was highly patriarchal, and property was primarily held and managed by male members of the family. Women had little say in property matters.

3. Inheritance:

Inheritance laws were governed by customary practices, and women were often excluded or received a smaller share of the family's property compared to male heirs.

4. **Status of Widows:**

Widows faced significant challenges in retaining property rights. They were often marginalized and vulnerable to property disputes, especially if they had no male children to represent them.

6.1.3. Muluki Ain of 2020:

1. Legal Reforms: The Muluki Ain of 2020 introduced several legal reforms, including changes to women's property rights. It aimed to provide women with greater protection and more substantial rights in matters of property (Karki, 2012).

2. Equal Inheritance: The legal code introduced the principle of equal inheritance for sons and daughters. This was a significant departure from the customary practices that often-favored male heirs. Now, daughters had a legal right to inherit a share of their family's property.

3. Widow's Rights: The Muluki Ain also provided widows with improved property rights. Widows were entitled to a portion of their deceased husband's property, which provided them with more economic security (Shrestha G. B., 2075).

4. Guardianship: The code recognized that women could own property in their own right and manage it independently. However, it also included provisions for guardianship to protect the interests of women in property matters.

5. Legal Framework: The Muluki Ain of 2020 laid the groundwork for a more structured and legally defined framework for property rights, including women's property rights. It reduced the influence of traditional customs on property matters (Shrestha G. B., 2069).

6.1.4. Muluki civil code 2074

1. Legal Framework

The Muluki Civil Code of 2074 provided a more structured and legally defined framework for property rights, including women's property rights. It reduced the influence of traditional customs on property matters (Achary, 2076).

2. Equal Inheritance:

One of the most significant changes in the Muluki Civil Code of 2074 was the introduction of equal inheritance rights for sons and daughters. This legal reform meant that daughters were entitled to an equal share of their family's property, marking a significant departure from the customary practices of the past (Shrestha G. B., 2075).

4. Right of Widows

The new code also improved the property rights of widows. Widows were entitled to a portion of their deceased husband's property, providing them with more economic security and rights in property matters.

5. Guardianship and Autonomy

The code recognized that women could own property in their own right and manage it independently. While it still included provisions for guardianship to protect women's interests, it provided more autonomy to women in property matters compared to earlier legal codes (Achary, 2076).

6.2 Analysis

By comparing the Manabanayasastra first legal code with other civil codes of Nepal its seems that there is provision of unmarried daughter had share in their fathers property, Mother's property, after her death, was equally divided among sons and unmarried daughters, however married women had no shares in father's property., a women had no direct share in her husband's property and Stridhan is the property right of women which is absolute right in normal times.

Likes the Manabanayasastra Muluki Ain 1910, provided the right on partition of parental property but this code limited the age mention that daughter below the age of 35 and unmarried could get an equal share for her parental property as her brothers and also mention Stridhan is the property right of women. This Ain also adopted the provision mentioned by Manabanayasastra .

Similarly, Muluki Ain 2020 also the right on partition of parental property, provision of Stridhan which mention women had the property rights over property obtained from their parents as dowry and their exclusive property which they could use or dispose with their own discretion independently. Also, they had the right over the property of their husband which is the subject to the partition too. This Muluki Ain 2020, after eleventh amendment the women's property can be obtained by Self earned, dower, Exclusive property which stated *daijo*/*pewa*, inheritance property which was lacks to mention or address by the Manabanayasastra and Muluki Ain 1910.

But Civil code 2074 have lots of improvements than the Manabanayasastra and Muluki Ain 1910 Muluki Ain 2020 on the part of property of women The major improvements and the provisions on property rights of women are, husband , wife, son , daughter, father , mother are considered as the coparceners of the ancestral property, the child whose father is unidentified would be the coparceners of their mother's property, father die before the partition of the property , the wife , the son and the daughter would get this part of the property, The husband , wife, father, mother, daughter and son can claim the partition of the property if the coparceners do not fulfill the basic needs and of the coparceners as per their capacity and widow can get their share of property and get separated anytime. Even this code mentions intellectual property, or the property obtained as royalty, are the private property of woman and also property earned through the donation or gift or inheritance, lottery is her private property.

Thus, Manabanayasastra represented a significant shift in women's property rights in Nepal. It sought to provide women with more substantial legal protection and recognition of their rights in property matters, moving away from traditional customs that often marginalized them. However, despite these legal reforms, achieving full equality and enforcement of these rights in practice may have taken some time and varied in different regions of Nepal. Overall, the transition from the Manabanayasastra to the Muluki Civil codes 2074 represented a significant shift in favor of women's property right in Nepal.

The introduction of equal inheritance rights for son and daughters, improved right of the widows, and greater recognition of the women's autonomy in property matters marked important steps towards gender equality in property rights. However, it's essential to recognize that implementing and enforcing these legal changes in practice may have taken time and could have varied in different regions of Nepal.

This analysis shows the evolution of property rights for women in Nepal from the (Manabanayasastra) Malla period to the Muluki Civil code of Nepal 2074 showing a significant shift in legal provisions. During the Period of Manabanayasastra there was limited property rights, women were restricted from exclusive use of property rights because they were subject to patriarchal customs. The introduction of the provision of Stridhan provided some exclusive property rights but it was limited compared to current reforms on property rights of women. Throughout these periods, Nepalese society remained patriarchal, where property management and ownership primarily rested with male members of the family. Inheritance laws were heavily influenced by religion and customary laws practice, often giving priority to male heirs instead of women. Women received very small shares which were excluded from the family property. Widowed women were also discriminated or faced various challenges in obtaining property rights, particularly if they didn’t give birth to male children. Widowed women’s right was often neglected if they had girl child and dispute over property of women were common.

In 1910 B.S., Muluki Ain was introduced as a comprehensive legal code but still it limited women’s property rights. Daughters could inherit property but there was restriction like age and marital status. New code was introduced in 2020 B.S which significantly reformed the rudimentary Muluki Ain 1910 B.S, Muluki Ain 2020 B.S provided women with more substantial property rights, including equal inheritance, improved widow’s rights and recognized women’s autonomy in property. Both Muluki Ain 2020 and newly enacted Civil code 2074 introduced equal inheritance rights for sons and daughters, challenging traditional customs favoring male heirs. Legal reform in both codes improves property rights for widows, providing them with security and rights in property matters. There were major legal framework reforms in the code which established a structured legal framework for property rights, reducing the influence of traditional customs and providing clearer guidelines.

The transition from Manabanayasastra to Civil Code 2074 represented a significant social change towards gender equality in property rights, through the full enforcement of their rights through policy advocacy, landmark judicial interpretation and different statues which came into effect to protect women's property rights. The Civil code 2074 represents an improved recognition of women's rights, regarding private property and even intellectual property acquired through various means. There is a huge progression towards recognizing women's freedom and autonomy in property right's it is evident from the present reforms, previously there was limited rights whereas in contemporary period there is substantial provision regarding property rights of women. There is also recognition of Women and equal as men and in contemporary period there is recognition of women's contribution to family and society through property rights which signifies a border acknowledgement of their role beyond traditional gender roles. This analysis highlights how legal reforms intersect with border social, cultural and economic factors, influencing the realization of women's property rights. While significant steps have been made, the analysis suggests a continued need for progress towards achieving full gender equality in property rights, reflecting border societal aspiration for equity and justice.

This analysis reflects on a shift in the legal paradigm from patriarchal customs to more gender-inclusive legal provisions, reflecting changing societal norms. Current legal reforms aimed to address existing inequalities and empower women economically by providing them with more substantial property rights. While there was major legal changed from the Period of Manabanayasastra to Civil Code 2074, there is challenges in implementation and enforcement, affecting the actual realization of women's property rights.

This chapter underscores a significant legal transition from historical patriarchal norms toward a more equitable framework, particularly evident in the progression from the Manabanayasastra to the Civil Code 2074. Initially, property rights for women were severely restricted, with limited control over personal or familial property, reflective of the deeply entrenched patriarchal societal structure. Over the centuries, through reforms introduced in successive legal codes such as the Muluki Ain of 1910 and 2020, and more comprehensively in the Civil Code 2074, the legal system has increasingly recognized the equality of sons and daughters in inheritance rights and fortified the economic security and autonomy of widows. These legal advances signify a deliberate shift towards gender

inclusivity; however, the practical application of these rights remains inconsistent, hampered by residual patriarchal attitudes and the slow pace of cultural change. The analysis reveals that while legal reforms are robust on paper, their effectiveness is often diluted in practice due to the lag in societal transformation and the full integration of women into the economic and legal fabric of Nepalese society.

CHAPTER SEVEN

SUMMARY AND CONCLUSION

7.1 Summary

A property right of women is the right of women to their property or their entitlement to the property. Development of the women's right to the property helps us to analyze the developing idea of the women's right to their property through the changes in the law and legal system of the country. the development of laws and legal system of Nepal regarding the women's property right from Manabanayasastra to Muluki Civil code 2074, and the necessary changes it went Mulki the women's property right and restricting women from property rights is against the development and growth of the women in the society. Nyayabikashini were adopted by civil code of 1910 B.S., These legal provisions were also followed by New Civil Code 2075 B.S. So, it plays a vital role in developing the Nepalese Legal System. Though a legal milestone, the code does not reveal the separate justice delivery institution different from executive and organization of court made by Jayasthiti Malla was unknown.

So, the development of laws particularly on the property rights of women from Manabanayasastra , Muluki Ain 1910 followed by Muluki Ain 2020 to Muluki civil code 2074, it seems that law has been developed progressively in the matter of the property rights of the women. From the time of Manu who stated that, "A wife, a son and a slave these three have declared to have no property. The wealth which they earn is acquired for him whom they belong." To the present context where the women and the men has do difference in the property rights the property rights of woman has developed a lot. Not just the property rights the development of the status of women from whom they

considered shall never be independent to the time right now, where women are empowered to be independent, the laws have been changed, amended and made with the base of equality of both men and women.

Moreover, discussing about the changes according to the prevalent laws of that time to now, Manabnayabsastra was the base or the foundation for the development of property right of women, but it did have lots of inequalities among the women itself, dividing them according to their caste and their occupation. The difference in the varna system played a very vital role in bringing the inequalities among the women itself, whereas Muluki Ain 2020 had a separate chapter on the women's share and property, which divided the private property of women that can be seen as a great progress, furthermore, the categorization of women.

According to their caste and their occupation was removed in every term, whether in marriage or in property after the marriage. This takes us to presume that the women rights on their property was slowly being restored and the status of women started strengthening. The women were subject to the adoption as well, the discretion to their private property directly encouraged women to earn and be independent. Coming to the Muluki civil code 2074 the woman are now equal coparceners to the ancestral property as well, that means the daughters have also the equal share to the ancestral property. Though there is no separate chapter on women's share and property the property rights of women have been equal to the men in the society. Whether it is daughter or mother, wife, or divorcee, widow or an unmarried woman, the property rights of women has been fully guaranteed through various laws.

We can see a huge improvement on the development of property rights of women this does not only indicate the development of the property laws but also the development of the standard of women of Nepal. But the provision guaranteed by Manabanayasastra was continuously adopted and changes as per the need and demand of the society. The property rights of women have now empowered women not just with the property or mines but also with the equality and equal dignity-as-men.

Here we can see the influences of religion and culture in our laws from ancient time to till now. The typical shape of the law of a society is determined by the characteristics of that given society, without any failure or exceptions. The influence of underlying social values

is, therefore, immense on its nature and structure. No law can, therefore, be studied without careful observation of factors playing roles in the evolution of the given law. With belief on this fundamental premise, the historical school holds that the law of every society reflects sentiments, emotions and realities of that society, and as such it becomes an indicator of the social consciousness of the people of that given society. Hence, law is found, not made. Like languages, law evolves gradually and silently out of interactions with social facts or conventions and bears, in due course of time, a character of law originates, grows and dies with the given society. The customary practices of society are, therefore, the best sources of law. Likewise, our laws evolve in our society grow as changing nature of society. It has thus proved that customs play a decisive role in shaping the structure of law, and as a decisive factor, it leads to the development of law towards social acceptability.

7.2 Conclusion

The exploration of women's property rights across different legal frameworks in Nepal, from ancient times through to the modern era, reflects a trajectory marked by significant legislative evolution aimed at addressing gender disparities. Historically, women's property rights were severely constrained under the Manabanayasastra during the Malla period, with women having little control over property and being largely dependent on male relatives. This was symptomatic of the broader patriarchal structure of Nepali society, where property rights and inheritance were predominantly controlled by men.

Subsequent legal reforms, notably through the introduction of the Muluki Ain in 1910 and its revisions in 2020, and later the Civil Code 2074, have progressively worked towards rectifying these imbalances. These changes included the introduction of equal inheritance rights for sons and daughters and improved rights for widows, which marked a significant departure from previous practices that favored male heirs and marginalized widows. Such reforms not only enhanced the legal status of women in terms of property ownership but also aimed to provide them with greater economic security and autonomy.

Despite these advances in the legal domain, the effective realization of these rights continues to face challenges. The persistent patriarchal values within Nepali society often hinder the practical implementation of these laws. Cultural norms and traditional practices still influence how property rights are perceived and exercised, which can dilute the

impact of legal reforms. Moreover, the enforcement of new legal norms is inconsistent, revealing a gap between legislative frameworks and their practical application.

While Nepal has made commendable progress in evolving its legal frameworks to support gender equality in property rights, the journey is far from complete. Ongoing efforts are necessary to ensure that legal reforms translate into actual empowerment for women. This requires not only continuous legal advocacy and reform but also educational and cultural shifts to change societal perceptions about gender and property. The ultimate goal is to create an equitable society where legal provisions are fully actualized, allowing women to participate fully and equally in all aspects of economic life.

In earlier time there was no codified laws in Nepal. The rights and duties of individuals were determined by the religion, customs, traditions and scripture. Its seems that there is a lot of influences of Manusmiriti in the legal system of Nepal. Manusmiriti had made limited provision of property right for women. It *stated that stridhan as* women's property rights women's property rights have undergone change, and current laws governing these rights are more liberal than those of ancient Hindu society. However, women were denied property rights to the ancestral or marital landed property, and their right over succession of the landed family property was limited.

With the emergence of time and enactment of Manabanayasastra , the concept of *stridhan* started expanding its literal and legal meaning, granting women more rights to certain forms of property.

Manabanayasastra was a significant legal code for the development of property right of Nepal. Only unmarried daughter had share in their father’s property, however married women had no shares in father's property., a women had no direct share in her husband's property and Stridhan is the property right of women which is absolute right which was mentioned in Manabanayasastra . We can see the influences of Manusmriti, religious text Dharmasastra, custom and culture in Manabanayasastra . There are unequal laws on Inheritances, only unmarried daughters are entitled to equal shares of parental property. This provision is continuously adopted by the Muluki Ain 1910

We can find that the right to *stridhan*, women's property and punishment of crime determined by the caste. Even

Some of the legal provision included in Manabanayasastra were adopted by civil code of 1910 B.S., These legal provisions were also followed by New Civil Code 2020 B.S. So, it plays a vital role in developing the Nepalese Legal System. The development of property rights of women from Manabanayasastra to the Muluki Civil Code Act 2074 has been a great progress in the law and legal system of the country. Nevertheless, the contribution of Jayasthiti Malla in the development of an organized legal system in the history of Nepalese legal system and the influence of the Manabanayasastra in the development of laws succeeding it has been noteworthy.

A clause in the Muluki Ain, 2020 allows a daughter unmarried until 35 years of age right to inherit property. If the daughter gets married later, she has to return the property to her brothers after subtracting the wedding costs. Case filed in Supreme Court in 1993 against the discriminatory provision. Supreme court verdict that the contradictory and discriminatory should be null and void and court directs the Ministry of Women, Children and Social Welfare to draft a bill ensuring women's right to inherit property.

As a result, discriminatory provision is replaced by 12th amendment of Muluki Ain 2020 and made provision the 35-year age bar is lifted, but the clause that forces a woman to return property after marriage stays. Unmarried daughters are allowed an equal share of property, but married ones need not be considered partakers during partition. Judiciary play vital role to address this equal provision as men. The Supreme Court in 2011 gave verdict that provision of Chapter Partition of Property of Muluki Ain, 2020 is by civil code 2074.

As a result, Muluki Ain 2020 is replaced by the Civil Code2074 and equal inheritance laws were incorporated and made provisions that sons and daughters are equal sharers in property division, regardless of their marital status. The civil code 2074 ensures daughters to an equal share of the property as long as they remain unmarried. If a daughter receives her share before marriage, she does not have to return the property to other legal heirs. But if she gets married before the partition, she is no longer counted as a legal heir, and whether she gets her portion of the inheritance depends on the generosity of her parents, brothers and unmarried sisters. Despite being equal inheritors at birth, a daughter's right to ancestral property is revoked once her marital status changes. Marriage will no longer determine whether a daughter will inherit her parents' property.

Law evolves gradually and silently out of interactions with social facts or conventions and bears, in due course of time, a character of law originates, grows and dies with the given society. The customary practices of society are, therefore, the best sources of law. Likewise, our laws evolve in our society grow as changing nature of society. It has thus proved that customs play a decisive role in shaping the structure of law, and as a decisive factor, it leads to the development of law towards social acceptability.

The woman who was divided due to their caste, occupation, religion for the property rights is now no more divided into the categories. The women now represent all the females' sex, moreover woman is provided with their own private property rights, equal shares in the ancestral property and equal pay to the job as men. So, we can see lots of progressive development and changes in the law relating to the property rights of women till the date.

If we compare the property rights of women from historical context women in general were not treated equal in all socio-economic aspects including property rights, because laws were driven by religious and patriarchal ideology.

If we compare the context from Manabanayasastra to Civil Code 2074 there is huge paradigm shift of laws relating to rights of women in general. With change of time and society new laws has emerged which has protected the right of women to larger extent. New laws relating to women’s property rights were recognized and emerging in, but the provisions made by the previous code have not been abandoned by the latest laws. It seems that new laws relating to women’s property rights have been made by modifying the provisions made by former laws and codes according to the need of society.

From the research of my dissertation paper what can be understood from the above-mentioned chapter regarding the development of laws relating to women’ property right is that:

- Continuous development and adoption of Women’s right to Property (From Manabnayasastrya to Civil code 2074)
- Heavy influence of religious text, cultural and customs in Women’s property rights.

- Continuous Constitutional development and modification of Fundamental Rights. From (2004 to present constitution of Nepal)
- Different policy and advocacy done by Government of Nepal.
- Nepal ratifying various conventions regarding women's property rights.

In, conclusion, the historical development of women's property rights in Nepal reflects a dynamic interplay of legal reforms, cultural shifts, and societal attitudes. Form traditional practices of male-dominated (Patriarchal) inheritance to contemporary legislative measures aimed at promoting gender equality, Nepal has witnessed significant progress in recognizing and safeguarding women's property rights. Over the year's constitutional guarantee, landmark legislation and women's empowerment initiatives have contributed to enhance women's access to and control over property. However, challenges such as patriarchal attitudes, lack of awareness and implementation gaps persist, which need continuous advocacy and empowerment as well as efforts to ensure the full realization of women's property rights. Moving forward, sustained commitment from policymakers, civil society organization, and grassroots activist will be crucial in addressing these challenges and advancing gender equality in property ownership and inheritance in Nepal. we can say here the existing domestic legal provisions relating to women's right to partition share have still been great influenced by our traditional Hindu, socialls culture custom tradition was foundations and legal system.

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