**GENDER, LAW AND SOCIETY**

**Capsule Statement:**

This course begins by first looking at the concepts of justice, fundamental human rights, and of the need of a system ensuring protection of justice and human rights. Further, this course examines the complexity of the legal system in the context of women and the emerging dichotomies that affect gender equation in Pakistan. The course would also explore whether women had or have shared the law-making process, and if not, what impeded this participation. The three major areas focused in this course are the laws enacted by the Parliament, the Islamic law, and the customary law. We would assess carefully whether these systems, as they exist in Pakistan, promote or discourage gender and class-based discrimination. Another area of investigation in this course is to assess the efforts of the government in implementing International Conventions and Covenants against gender discrimination. Finally, the course would look at the efforts made by women, individually and collectively, for amending and changing the laws.

#### Objectives:

After the completion of this course, students will be able to

* Assess the status of women in the legal system.
* Comprehend the nature of the legal system of Pakistan.
* Explore how social justice and equity, and economic freedom can be guaranteed through the instrument of law.

#### Contents:

1. **Introduction**
   1. The Course: Thesis, Objective and Methodology
   2. Gender-related Social Concepts
   3. Gender-related Social Stereotypes
   4. Gender Abuse/Violence

#### Philosophy of Law; need for law in the society

1. **Process of law making in Pakistan**
   1. Definitions of Law
   2. Gendered nature of law
   3. Types of laws

#### Sources of Islamic law

1. **Individual, Family and Society**
   1. Humans: Nature and Values, Autonomy and Freedom
   2. Family: Concept and Importance
   3. Pakistan: Gender-related Social Problems
   4. Society: Western and Islamic Concepts
   5. Political Society or the State: Western and Islamic Theories and Objectives

#### Gender, Law and Society

* 1. The Relationship
  2. Constitution/Law: Meaning, Significance and Objective
  3. Supremacy of the Constitution
  4. The Constitution of Pakistan: Fundamentals/Basic Features
  5. Legal Systems: Secular/Western and Islamic
  6. Law: Functions and Importance
  7. Law, Justice and Society
  8. Pakistan: Administration of Justice and Courts
  9. Law: An Instrument of Social Change

#### Gender Equitable Society

* 1. Equality: Essence and Essentials, Types and Significance
  2. Gender Discrimination: Meaning, Types, Magnitude and Social Implications
  3. Gender Discrimination and Violence
  4. Gender Equality: Role of Culture, Religion, Public Policy, Good Governance and Laws

#### Social Aspects of the Family

* 1. Gender: Law and Rights in Pakistan
  2. Muslim Family Laws in Pakistan; Marriage, Dower, Divorce/Khula, Maintenance and Guardianship or custody

#### Women and the Law

* 1. Law and Women Protection: Critical Review
  2. Gender Discriminatory Laws
  3. Women's Rights Protection Act 2006

#### General Analysis

* 1. Gender Irritants and Socio-cultural Realities
  2. Possible Reforms and Strategies
  3. Suggestions and Recommendations

#### Suggested Readings:

Agarwal, B. R. ed.(1986). *Plight of a Muslim Woman: The Shah Bano Case*. New Delhi: Arnold-Heinemann.

Ahmad, Anis. 1991. *Women and Social Justice: Some Legal and Social Issues in Contemporary Muslim Society*. Islamabad: Institute of Policy Studies.

Ahmed, K. 1972. *The Muslim Law of Divorce.* Islamabad: Islamic Research Institute.

Ali, Shaheen Sardar. 2000. *Gender and Human Rights in Islam and International Law: Equal Before Allah, Unequal before Man*. The Hague: Kulwer Law Institute.

Ali, Shaheen Sardar. 1994. “Are Women also Human? Women’s Rights and Human Rights in Tribal Areas: A Case Study of the Provincially Administered Tribal Areas of Pakistan.” *Pakistan Journal of Women’s Studies*. Alam-e-Niswan 1, no., 21–26.

Asghar Ali Engineer (ed.) 2001. *Islam, Women and Gender Justice.* New Delhi: Gyan Publishing House.

Ashraf, Mohammad. 1969. *Family Laws in Pakistan: as amended up-to-date with Exhaustive Commentary*. Lahore: Premier Book House.

Balchin, Cassandra. 1994. *A Handbook of Family Law in Pakistan*. Lahore: Shirkat Gah.

Firdous, Rehana. 2003. “A Permissible Step for Restraining Man’s Unilateral Right of Divorce: Talaq-i Tafwid (Delegation Power of Divorce).” *Pakistan Journal of Women’s Studies*: Alam-e-Niswan 10, no. 1, 73–79.

Firdous, Rehana. 2000. “Woman’s Right of Separation (Khul ) Can She Claim it as

a Matter of Law?” *Pakistan Journal of Women’s Studies*: Alam-e-Niswan 7, no. 1, 1–20.

Jahangir, Asma and Hina Jilani(1990). *The Hudood Ordinances: A divine sanction?*

*A research study of the Hudood ordinances and their effect on the disadvantaged sections of Pakistani society*. Lahore: Rhotas Books.

Khan, Shahnaz(2006). Zina, Transnational Feminism, and the Moral Regulation of Pakistani Women. Vancouver: UBC Press.

Mansuri, Ghazal. (2008). “*Family Law and Custom in Pakistan*.” *Pakistan Journal of Women’s Studies*: Alam-e-Niswan, vol. 15, no. 1, 1-27.

Mehdi, Rubya. (2002). *Gender and P roperty Law in Pakistan: Resources and D iscourses*.

Lahore: Vanguard.

Mehdi, Rubya. ( 1994). *The Islamization of the Law in Pakistan*. Richmond, Surrey: Curzon Press

Mehdi, Rubya . (1997).Women’s *Law in Legal Education and Practice in Pakistan: North South Co-operation.* Copenhagen: New Social Science Monograph.

Patel, Rashida. (2003). *Woman versus man: Socio Legal Gender Inequality in Pakistan*. Karachi: Oxford University Press.

Patel, Rashida. (1986). *Islamization of Laws in Pakistan*. Karachi: Faiza Publishers.

Shaheed, Fareeda (1998). ‘*The Other Side of the Discourse. Women’s Experiences of Identity, Religion, and A ctivism in Pakistan*,’ in Patricia Jeffery and Amrita Basu (ed.) Appropriating Gender: Women’s Activism and Politicized Religion in South Asia. New York: Routledge, pp. 143–64.

Shaheed, Fareeda (ed.) (1997) Women’s Law in legal education and practice in Pakistan: north south cooperation. Copenhagen: New Social Science Monograph.

Shah, Niaz A. (2006). *Women, the Koran and International Human Rights Law: the Experience of Pakistan*. Leiden: Martinus Nijhoff Publishers.

Warraich, Sohail Akbar. (2004). *Reading the Constitution: In Search of Rights*.

Lahore, Shirkat Gah.

Zia, Afiya Shehrbano. (1994). *Sex crime in the Islamic context: rape, class and ge nder in Pakistan*. Lahore, Pakistan: ASR.