

**Course Outline**

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**COURSE:** LAWS 4903C Advanced Legal Topics: Patriarchy, Human Rights and Informal Justice

**TERM:** Winter 2020

**PREREQUISITES:** Fourth-Year Honours Standing

**CLASS:** Day & Time: Friday 2:30-5:30  
Room: Please see Carleton Central for current room location

**INSTRUCTOR:** Rehana Hashmi (with Donna Johnson)

**CONTACT:** Office: Room D588 Loeb Building  
Office Hrs: Monday 10-12:00  
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**CALENDAR COURSE DESCRIPTION**

This practical, field-based course will be co-taught by Rehana Hashmi, *Activist in Residence* at the Department of Law and Legal Studies at Carleton University and Woman Human Rights Defender in exile from Pakistan; and Donna Johnson, feminist activist with three decades experience working with women seeking justice in the Canadian courts.

**COURSE DESCRIPTION**

This course will put women at the centre of an important conversation about the relationship between customary justice and state laws, formal courts and global legal frameworks. In the Global South, up to 80% of disputes are resolved through informal justice systems. Marriage and divorce, theft, property rights, religious disputes, crimes against women etc., are regularly mediated through tribal, religious and community-based mechanisms. These mechanisms have their roots in traditional patriarchal attitudes and practices that disadvantage and often

harm women. Women's access to informal justice may be limited or denied. Women may be convicted, punished and criminalized without having committed any crime. Female persons may be used as compensation to settle family and tribal feuds. Though many countries in the Global South have their own formal justice systems, and many have signed and ratified the U.N. Human Rights Conventions, traditional practices are deeply entrenched and often prevail despite being in conflict with international human rights standards and the rule of law. We will examine practices and mechanisms of informal justice at specific locations and with specific cases to discern whether the process and outcome has weakened or strengthened universally accepted human rights for women – bearing in mind that justice for women in the Global North has also proved elusive, with legal practices and mechanisms regularly failing them.

## EVALUATION

**Class Attendance and Participation 20%**

**Weekly Journal 20% (print copy due beginning of every class)**

**Group Presentation 30%**

**Final Paper – Summary of Personal and Political Learnings 30% (print copy due final class)**

## CLASS SCHEDULE

- **Week 1 (January 10th): Introductions/course objectives/administration/key concepts/ feminist ways of working**

Film: *Difret* (2015), part 1 - On bride kidnapping, or “marriage by capture”

- **Week 2 (January 17th): Customary justice, state laws, patriarchy – a feminist analysis**

Film: *Difret*, part 2

Required Readings:

Human Rights Watch. (2018). *Young Woman's Murder in Kyrgyzstan Shows Cost of 'Tradition'*. <https://www.hrw.org/news/2018/05/31/young-womans-murder-kyrgyzstan-shows-cost-tradition>

Harvard Law and International Development Society. (2014). *Access to justice for women and engaging informal justice mechanisms*. <https://orgs.law.harvard.edu/lids/2014/07/08/access-to-justice-for-women-and-engaging-informal-justice-mechanisms/>

Gilligan, Carol and Snider, Naomi. *Why Does Patriarchy Persist?* Polity Press, Cambridge, 2018. P.1-16.

- **Week 3 (January 24th) Sacrificing women for patriarchal honour: the case of Mukhtaran Mai, Pakistan**

Film: *The Vienna Tribunal*. (1994). Gerry Rogers, Canada. Shut out from the 1993 U.N. World Conference on Human Rights in Vienna, Austria, women held their own conference in the basement of the conference centre.

Required Readings:

Karkera, Tina. 'The Gang-Rape of Mukhtar Mai and Pakistan's Opportunity to Regain Its Lost Honor'. *Journal of Gender, Social Policy & the Law*, Volume 14, Issue 1, 2006.

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1279&context=jgspl>

*The Express Tribune*, Pakistan. 'Mukhtaran Mai's review appeal: Activists cry for justice.' (April 29, 2011).

<https://tribune.com.pk/story/158722/mukhtaran-mais-review-appeal-activists-cry-for-justice/>

Shams, Shamil. 'Mukhtaran Mai: 'More Pakistani women are demanding their rights now'. (2019, March 25). *Deutsche Welle*, Germany.

<https://www.dw.com/en/mukhtaran-mai-more-pakistani-women-are-demanding-their-rights-now/a-48049179>

Powell, Anastasia. (2015). Seeking rape justice: Formal and informal responses to sexual violence through technosocial counter-publics. *Theoretical Criminology*, Vol. 19(4), 571–588.

<https://journals.sagepub.com/doi/pdf/10.1177/1362480615576271>

Awan, Zia Ahmed. *Violence Against Women and Impediments in Access to Justice*. (2004). World Bank. Retrieved from website Women Living Under Muslim Laws.

<http://www.wluml.org/node/7333>

- **Week 4 (January 31st): UN Conventions (CEDAW, CRC, CESC): Implementation, Limitations: Sometimes it works (Malala Yousafzai); mostly it doesn't. Universal Periodic Reviews and Shadow Reports.**

Required Readings:

UN Convention on the Elimination of All Forms of Discrimination Against Women (1979). UNICEF Policy and Practice, June 2011.

[https://www.unicef.org/gender/files/CEDAW\\_In\\_Brief\\_For\\_Adolescent-Web\\_Version.pdf](https://www.unicef.org/gender/files/CEDAW_In_Brief_For_Adolescent-Web_Version.pdf)

UN Convention on the Rights of the Child (1989). UNICEF Canada.

[https://www.unicef.ca/sites/default/files/imce\\_uploads/UTILITY%20NAV/TEACHERS/D OCS/GC/CRCPosterEN\\_FA.pdf](https://www.unicef.ca/sites/default/files/imce_uploads/UTILITY%20NAV/TEACHERS/D OCS/GC/CRCPosterEN_FA.pdf)

UN International Covenant on Economic, Social and Cultural Rights (1967).

[https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch\\_IV\\_03.pdf](https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf)

Informal Justice Systems: Charting a Course for Human Rights-Based Engagement. (2009). UNDP, UNICEF and UN Women.

[https://www.unicef.org/protection/files/INFORMAL\\_JUSTICE\\_SYSTEMS\\_SUMMARY.pdf](https://www.unicef.org/protection/files/INFORMAL_JUSTICE_SYSTEMS_SUMMARY.pdf)

Universal Periodic Review – Third National Report of Pakistan. Geneva Centre for Justice, December 13, 2017.

<https://www.gicj.org/conferences-meetings/upr-sessions/1306-pakistan-s-upr-2017>

(Accessed January 5, 2020)

- **Week 5 (February 7): Violence against women in the Canadian context: how our courts are failing women**

Required Readings:

Kingston, Anne. 'Let's finally call 'violence against women' what it really is.' Macleans, Dec 1, 2019.

<https://www.macleans.ca/opinion/lets-finally-call-violence-against-women-what-it-really-is/>

Dale, Amanada, Mattoo, Deepa, Voss, Amy. Submissions to the Special Rapporteur on Violence Against Women. Barbara Schlifer Commemorative Clinic. April 16, 2018.

<https://schliferclinic.com/wp-content/uploads/2018/08/The-Special-Rapporteur-on-Violence-Against-Women.pdf>

Bellrichard, Chantelle. 'Urgent actions' needed to address violence against Indigenous women and girls – UN report'. CBC News, April 27, 2018.

<https://www.cbc.ca/news/indigenous/un-special-rapporteur-violence-against-women-1.4637613>

Johnson, Donna F. When will the violence against women stop? Ottawa Citizen, December 6, 2017.

<https://ottawacitizen.com/opinion/columnists/johnson-when-will-the-violence-against-women-stop>

- **Week 6 (February 14th): Gender justice in conflict and post-conflict situations**

Guest speaker: Nadia Abu-Zahra, Associate Professor, Joint Chair in Women's Studies

**(February 21st: Winter Break Week-No Class)**

- **Week 7 (February 28th): Women Human Rights Defenders: courage, risks, consequences**

Guest speaker: Ketty Nivybandi, Human Rights Defender in exile from Burundi

Required Readings:

UN General Assembly, Resolution Adopted: Protecting Women Human Rights Defenders. December 18, 2013.

[https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/68/181](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/181)

Voices at Risk: Canadian Guidelines on Supporting Human Rights Defenders. Global Affairs Canada (2019).

[https://www.international.gc.ca/world-monde/assets/pdfs/issues\\_development-enjeux\\_developpement/human\\_rights-droits\\_homme/rights\\_defenders-guide-defenseurs\\_droits\\_en.pdf?\\_ga=2.59671403.796879194.1578256364-712696494.1544039276](https://www.international.gc.ca/world-monde/assets/pdfs/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders-guide-defenseurs_droits_en.pdf?_ga=2.59671403.796879194.1578256364-712696494.1544039276)

- **Week 8 (March 6th): Salman Taseer, Asia Bibi and blasphemy laws**

Required Readings:

The Telegraph (2010). 'Asia Bibi is spared the death sentence in Pakistan.' October 31, 2018. Available at:

<https://www.youtube.com/watch?v=3EeyqhafxEE> (Accessed January 15, 2020).

Dawn (2011). 'Blasphemy law claims another life'. January 5, 2011.

<https://www.dawn.com/news/596277/blasphemy-law-claims-another-life> (Accessed Jan 5, 2020).

Asia News (2017). 'Salman Taseer's son risks prosecution for blasphemy.' January 4, 2017.

<http://www.asianews.it/news-en/Salman-Taseer's-son-risks-prosecution-for-blasphemy-39574.html> (Accessed January 5, 2020).

Pakistan Blasphemy Laws. Not referenced for reasons of security.

[https://web.archive.org/web/20141213213041/http://www.pakistanblasphemylaw.com/?page\\_id=15](https://web.archive.org/web/20141213213041/http://www.pakistanblasphemylaw.com/?page_id=15) (Accessed January 5, 2020).

- **Week 9 (March 13th): Student presentations**

- **Week 10 (March 20th): Student presentations**

- **Week 11 (March 27th): After 9-11: Talibanization, informal justice and the rise of patriarchy in Afghanistan and Pakistan**

Guest speaker: Nipa Banerjee, School of International Development and Global Studies,

University of Ottawa

Required Readings:

Khan, Hamid M. (2015). Islamic Law, Customary Law, and Afghan Informal Justice. United States Institute of Peace. Special Report 363, March 2015.

[https://www.usip.org/sites/default/files/SR363\\_Islamic\\_Law\\_Customary\\_Law\\_and\\_Afghan\\_Informal\\_Justice.pdf](https://www.usip.org/sites/default/files/SR363_Islamic_Law_Customary_Law_and_Afghan_Informal_Justice.pdf)

Tribal Liaison Office. (2009). Between the Jirga and the Judge: Alternative Dispute Resolution in Southeastern Afghanistan. United States Institute of Peace, Special Report 363, March 2015.

[https://www.usip.org/sites/default/files/file/jirga\\_judge.pdf](https://www.usip.org/sites/default/files/file/jirga_judge.pdf)

Amnesty International Press Release (2002). Pakistan: Tribal justice system must be abolished or amended. 19 August 2002.

<https://www.amnesty.org/download/Documents/116000/asa330252002en.pdf>

- **Week 12 (April 3rd): Course review and personal reflections. Final paper due.**

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## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** Please contact me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website:

<https://carleton.ca/equity/accommodation/academic/students/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Equity Services website:

<https://carleton.ca/equity/accommodation/academic/students/>

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure

accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable).

<https://carleton.ca/pmc/students/accommodations/>

### **Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's Academic Integrity Policy can be found at:

<https://carleton.ca/registrar/academic-integrity/>

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/sexual-violence-support/>

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://carleton.ca/equity/accommodation/academic/>

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>