



ONE-DAY ROUND TABLE CONFERENCE

On

Rights of Muslim Women - Reviewing Muslim Personal Law

(Law Review Consultation)



DECEMBER 17th 2022

**HPNLU, SHIMLA
16 MILE, GHANDAL,
SHIMLA-171014**

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About the University

The Himachal Pradesh National Law University (HPNLU, Shimla), was established by the State Government in the year 2016, by an Act of the Legislature (Act 16 of 2016). The University started functioning from 5th of October, 2016. Located in the geographical terrains of Himalayas, HPNLU, Shimla, is the best place for study and learning in law, developing in students, understanding about law and legal system, topographies of law making, legal practice and administration. The university runs two undergraduate courses: B.A. LL.B. Hons., Five Year Integrated Course (FYIC), and B.B.A. LL.B. Hons. (FYIC); and One Year LL.M. Programme. The University also offers Ph.D. Programme and Post-Doctoral Programme (LL.D.) in Law. Presently, the University has about 700 students admitted in various courses.

Context

Injustice and discrimination is forbidden in Islam. The Quran serves to emulate certain key principles of human development: justice, equity, harmony, moral responsibility, spiritual awareness and development. Any nation cannot be developed without involving its women in that development process. Every citizen of the world deserves to lead a life of dignity and happiness and this is possible by giving equal opportunity to women and treating them with dignity. Our Democracy is guarded by the constitutional values which entails elements of secularism, equality, and minority rights and protecting rights and dignity of every women be it Muslim, Hindu, Christian Parsi or Jews. Women in our society continue to be controlled by the patriarchal belief systems and structures. It is disheartening to discover that even after seventy-five years of our Independence Muslim women are still forced to live a secluded and compliant life. Development of Muslim women and their representation in various spheres either in academic or any other professional front has taken a back step due to numerous factors. As per the reports issued by the *Sachar Committee*, Muslim women are recognised as the poorest, vulnerable and marginalised section of our country.

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Islamic jurisprudence is influenced primarily from the Qur'an and Hadith. Many of the issues found in Islamic jurisprudence that gives rise to a trend justifying injustice towards women have to do with the faults of human understanding. Islamic law as stated in the Holy Quran is uniform, however, Islamic legal traditions overall is not. The only and holy scripture of Muslim personal law gives women and men equal rights and status then why not today's world? Muslim women rights relating to triple talaq divorce, inheritance, maintenance has got much attention now a days. Indian Constitution has guaranteed equality and freedom from discrimination based on gender or religion, but still there are various practices which are based on conservative culture. Constitutional safeguards are meant to ensure the full participation of all communities. The literature shows world's religious systems are compatible with democracy. In fact, in various countries with majority of Muslim populations there are democratised reforms in their personal laws in order to accommodate women rights. But at the same time, in countries, where Muslim population is in minority, their personal laws politicised. As a result, Muslim women within group remain neglected as they lack the political sphere and adequate representation for voicing their plight.

A large part of *Muslim Personal Law* is still uncodified. After the 1986 *Shah Bano Case*, and the enactment of the *Muslim Women (protection of Rights on Divorce) Act, 1986*, the debate about the rights of Muslim women has assumed a central position. The recent legislation on *Muslim Women (Protection of Rights on Marriage) Act, 2019* declares the instant divorce granted by pronouncement of talaq three times as void and illegal gives Indian Muslim women their right to lead a life of dignity. However, in the absence of the proper codified law in Muslim personal law women are at much disadvantage position, because of the unclarity in the various rights.

Looking at the above situation and facts cited there is an urgent need to address certain anomalies and they need to be eradicated by giving a true essence of *Holy Quran* for the benefit of the Muslim women's rights.

Accordingly, it demands a discussion on the problems faced by Muslim women in the present time, careful analysis of rights granted to Muslim women and review of laws for the Muslim women with special emphasis on Muslim Personal laws.



Structure of the Programme

The Thematic Experts (Academicians and Law Makers) will be the speakers and their views and discussions will be arranged in the round table conference. Our rapporteurs will be recording the whole deliberations on the basis of which conclusion and recommendations will be laid down. Finally, the discussion and deliberation of all the experts will be compiled in the form of a report regarding the findings of the Law Review Consultation which will be later submitted to National Commission for women including Soliciting and recording of Views from all Experts present through Questionnaires and Interview Schedules.

Preparation of reference materials

The reference material will be provided in advance before the start of the consultation to the respective thematic experts by our research team on the basis of research papers, authoritative texts, and various reports of the experts.

About the Law Review Consultation:

Centre of Women and Child Development of Himachal Pradesh National Law University, Shimla in collaboration with **National Commission for Women, New Delhi** is conducting Law Review Consultation on the topic “**Rights of Muslim Women-Reviewing Muslim Personal Law**”. The consultation aims to provide a discourse on Muslim Personal Law and the effects of this on Indian Muslim women. Along with that the government policies and judicial pronouncements will also be considered in light of specific socio-political reality of the Muslim women in Indian society. The consultation would review several alternative policies and attempts to transcend the ongoing debate on the implications of Muslim Personal Law in India and suggests policy directives aimed at empowering Muslim women. The outcome of the consultation is expected to be of value to the lawmakers, policy makers, executives, civil society, academicians and students of gender studies, human rights and related disciplines. The consultation would come with recommendations for all the enlisted gaps which will further guide the law-making and law-implementing agencies. For this, the focus would be on certain areas of reform in Muslim personal law like Polygamy, divorce, maintenance after the divorce, etc.

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Thematic Areas for Consultation

1. Constitutional Rights, Muslim Women and Muslim Personal Law

- a. Muslim Women Rights in India: Role of Courts
- b. Role of District and Family Court in Addressing the Rights of Muslim Women
- c. Harmonizing Democracy and Religion: Analyzing Personal Laws from Transformative constitutional lenses
- d. Community participation and Freedom of Muslim Women

2. Marriage and Muslim Personal Law

- a. Muslim Women Quest for equality: Remarriage and condition of Halala
- b. Muslim Marriage Agreements: Reforms in Muta marriage
3. Muslim Personal Law and Divorce
 - a. Dissolution of Muslim marriage under Muslim Law with special reference to Triple Talaq
 - b. Reforming Divorce: Just and Fair Maintenance

4. Inheritance and Muslim Women in personal law

5. Waqf and Women

6. Need of Uniform Civil Code and Fundamental Rights of Muslim Women

7. Position of Muslim Women and law relating to Adoption and Guardianship.

8. Comparative study of Muslim Personal Law in countries such as Turkey, Pakistan, Malaysia and Indonesia.

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Patron-in-Chief

Hon'ble Mr. Justice Amjad Ahtesham Sayed
Chief Justice, High Court of Himachal Pradesh

Patron

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