

Gender, Law and State In Colonial/Postcolonial India

Janaki Nair

Classes: May 20 - June 30, 2011

This course will introduce students to the links between religion, state and law in the Indian subcontinent specifically focused on transformations of gender relations. Readings and lectures will be focused on the history of the gendered legal subject beginning with the colonial period (approximately 1800-1947) and how that history has left its traces on the contemporary legal status of women (1947 to present).

This is a readings based course. Students will be expected to participate in discussion on the readings assigned for each day. Assessments will be based on classroom discussion, (25%) classroom presentations, (25%) and a short paper (50%).

Class One: Friday May 20, 2011 2-5 p.m.

G. Buhler trans. *Laws of Manu*: extracts: pp. 25-43 (Chapter III).

P.V.Kane *History of Dharmasastra* Vol III, (Pune, 1993), pp. 825-855.

Bernard Cohn "Law and the Colonial State in India" in *Colonialism and its forms of Knowledge* (Delhi: OUP, 1997), pp. 57-75.

Class Two: Monday May 23, 2011 9-12 a.m.

Lata Mani *Contentious Traditions: The Debate on Sati in Colonial India* (OUP, 1998), pp. 11-41.

Praveena Kodoth "Courting Legitimacy or Delegitimising Custom? Sexuality, Sambandham and Marriage reform in Late Nineteenth Century Malabar" *Modern Asian Studies*, 35,2 (2001), pp. 349-384.

G. Arunima "A Vindication of the Rights of Women: Families and Legal Change in 19th century Malabar" in Michael R. Anderson and Sumit Guha eds. *Changing Concepts of Rights and Justice in South Asia*. New Delhi: Oxford University Press, 2000, pp. 114-39.

Class Three: Friday May 27, 2011 2-5 p.m.

Janaki Nair "Prohibited Marriage: State Protection and the Child Wife" in Patricia Uberoi ed. *Social Reform, Sexuality and the State*, (Delhi: Sage, 1996), pp. 157-186.

Lucy Carroll “Law, Custom and Statutory Social Reform” in J. Krishnamurthy ed. *Women in Colonial India*, (Delhi: OUP, 1989), pp. 1-26

Prem Choudhary “Contesting Claims and Counter Claims: Questions of the inheritance and sexuality of widows in Colonial India” in Uberoi ed., *Social Reform, Sexuality and the State*, pp. 39-64.

Class Four: Monday May 30, 2011 9-12 a.m.

Bina Agarwal “Whose Share? Who Claims? The gap between law and practice” in *A Field of One’s Own*, (Cambridge: Cambridge University Press, 1994), pp. 249-91.

Patricia Uberoi “When is Marriage not a marriage? Sex, sacrament and contract in Hindu Marriage Act, in Uberoi ed., *Social Reform, Sexuality and the State*, pp. 318-45.

Monamayee Basu, *Hindu Women and Marriage Law: From Sacrament to Contract*. New Delhi: Oxford University Press. 2001. Chapter on Marriage.

Mytheli Sreenivas “Conjugalinity and Capital: Gender, Families, and Property under Colonial Law in India” *The Journal of Asian Studies* Vol. 63, No. 4 (Nov., 2004), pp. 937-960.

Class Five: Friday June 3, 2011 2-5 p.m.

Elisa Giunchi, “The Reinvention of Shari - ‘a under the British Raj: In Search of Authenticity and Certainty” *Journal of Asian Studies*, 2011

Archana Parashar, “Gender Inequality and Religious Personal Laws in India”

Flavia Agnes *Law and Gender Equality: The Politics of Women’s Rights in India* (OUP, 1999), pp. 11-40.

Eleanor Newbegin “The Codification of Personal Law and Secular Citizenship: Revisiting the history of law reform in late colonial India” *Indian Economic and Social History Review* 46, 1 (2009) pp. 83- 104.

Class Six: Monday June 6, 2011 9-12 a.m.

Working Group on Womens’ Rights “Reversing the option: Civil Codes and Personal Laws” *EPW*, Vol. 31:20, (May 18, 1996), pp. 1180-83.

Flavia Agnes “Women’s Movement within a Secular Framework: Redefining the Agenda” *EPW*, Vol. 29. 19 (May 17, 1994), pp. 1123-28.

Ratna Kapur “ Constitutional Challenges and Contesting Discourses: Equality and Family” in Kapur and Cossman eds. *Subversive Sites: Feminist Engagements with the Law in India* (Delhi: Sage, 1996), pp. 173-231.

Indira Jaising “From “Colonial” to “Constitutional”: Gender Justice and Governance” in Jaising ed. *Men’s Laws, Women’s Lives: A constitutional Perspective on Religion, Common Law, and Culture in South Asia* (Delhi: Women Unlimited, 2005), pp. 323-338

Class Seven: Friday June 10, 2011 2-5 p.m.

Rajeswari Sundar Rajan, “The Prostitution Question (s): Female Agency, Sexuality and Work” in *The Scandal of the State: Women Law and Citizenship in Colonial India* (Delhi: Permanent Black, 2003), pp. 117-146.

Nivedita Menon *Recovering Subversion: Feminist Politics beyond the Law* (Delhi: Permanent Black, 2004), pp. 66-105.

Class Eight: Monday, June 20, 2011 2-5 p.m.

Class Presentations of assignment: Reading case law as a historical source

Analysis of Sarla Mudgal Judgement