

Status of Women in India: Problems and Concerns Internship Project (December 2010 - January 2011)



Supported by Heinrich Boll Foundation, Germany



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1. INTRODUCTION

Keeping in view the nature of activities undertaken by the CSSS, certain NGOs and educational institutions have urged the Centre to impart an intensive training to a select batch of youth/students in peace and conflict resolution aspects. This request has been based on the premise that a mere attendance at a training programme was not enough either to sensitise the youth to the realities or for them to acquire a deeper understanding of the issues, although such routine training programmes imparted knowledge about the need for establishing peace in the society or the status of women in the Indian society and the need to empower them. Agreeing with the request, the Centre has been organising month-long internship programmes to a selected batch of college students and other young social activists each year.

Selection of participants

About ten participants are chosen for the internship programme by inviting a list of interested candidates from the NGOs, colleges, and universities. Adopting a multi-disciplinary approach, the internees are selected from different faculties like Social work, law, sociology etc. The internees (both boys and girls belonging to Hindu, Muslim and Christian communities) are required to stay together for the duration of the internship programme so as to enable the development of camaraderie among them, irrespective of their language and religion. Staying together for a month, the internees find enough time to discuss among themselves the problems associated with peace and communal harmony in their respective areas and discuss the underlying causes and the futility of people belonging to different religions and languages indulging in conflicts at the cost of development. In the after-hours of the training sessions, they will also get an opportunity to discuss the lectures by the experts.

December 2010-January 2011 Internship Programme

With support from the HBF, the Centre organised an internship programme from 13 December 2010 to 12 January 2011 at Mumbai. Of the ten internees, 5 were studying for their Master's Degree in Social Work, 3 were from the Faculty of Law and 2 from the Department of Sociology. The internees were sponsored by the Gandhigram Rural Institute (Deemed University), Dindigul (Tamilnadu) and the SNDT and Mumbai Universities in Mumbai.

The internees were put up in the Sarvodaya Hostel of St. Pius Institute at Goregaon, Mumbai for the duration of the programme.

The Programme

The internship programme included exposure to interactive lectures by experts, library work, group discussions, and documentary films on peace and conflict

resolution, and field visit to undertake an empirical study to glean first-hand information. The participants were supplied with a study kit on the topic of the internship programme.

The internees heard lectures on the following topics:

- Research Methodology
- Theories of Peace and conflict resolution
- *Women's rights under the Constitution*
- Concept and problems of women's empowerment
- Role of women in conflict resolution
- Socio-economic status of Muslim women in Maharashtra as compared to those in Karnataka and Tamilnadu
- Educational background of Muslim women in Maharashtra

Each lecture was followed by a question-answer session to enable the students open up and get their doubts and misgivings clarified by the experts. Further, at the end of each day and after the screening of documentary films, the internees held group discussions to consolidate their opinions.

The internees were sent out for an empirical survey of Muslim families living in the slums of Behrampada, Pipe Line and Kherwadi with a pre-designed questionnaire. Such survey enabled the internees to understand the problems of the poor families in a mega city like Mumbai, both in terms of the amenities and in the face of their religious affiliation. The internees were asked to look into the educational status of the children of the families and inquire into the reasons for the children staying out of school.

Following the survey, the internees have prepared a write up, which they have discussed among themselves and come up with a lengthy report giving their assessment of the situation.

The December 2010-January 2011 Internship Programme

At the beginning of the programme, the participants were briefed about the subject in an orientation session. They were asked to study the subject and come up with a background paper. For this purpose, they utilized the source material available in the Centre's library and also visited the Mumbai University Library at Vidyanageri. At the orientation programme the internees were taught research methodology, the type of books and journals they should refer in connection with the topic and the type of data that they were expected to collect. Permission was sought and obtained from the Jawaharlal Nehru library of the Mumbai University's Vidyanageri Campus permitting the internees make use of the library facilities.

Following the orientation session, the internees formed a research group consisting which was made responsible for collection of material. The research group consisted of the following:

1. Ms. Prajnee Samedhini Sahoo
2. Ms. Kodanda Ankeeta Appanna
3. Ms. Madhura Anand Chitnis
4. Ms. Pragati Mehrotra
5. Ms. R. Sathiya
6. Ms. S. Gandhimathi
7. Ms. A. Seetha
8. Mr. Siddharth Praveen Acharya
9. Mr. S. Aravindhan
10. Mr. Ashok Jacob Mathews

The research team collected a huge amount of data and information on the status of women in India, the topic of the internship programme. A condensed version of the background paper prepared by the research team is given in the next chapter.

Feed back

The Centre's past experience in organising such internship programmes has been that the participants have thoroughly enjoyed the programme, which helped to open up their minds to the realities. So was the case with the internship programme under report.

The young participants of the programme were not only thoroughly satisfied with the programme but also demanded that the Centre organise such internship programmes at least twice a year. In their opinion, the empirical survey conducted by them under the internship programme helped them to personally witness and understand the ground realities as opposed to what they read from the newspapers. They were able to appreciate the problems of the minorities, who have been struggling to improve their socio-economic status in spite of several odds. The internees expressed their desire to become committed to the promotion of peace and work for a conflict-free society in their own localities.

The Centre continues to receive requests from various colleges showing their interest in deputing their students to participate in the internship programmes. Similarly, students who have once attended the internship programmes have been requesting for giving them an opportunity to participate in the programme once again, as they found the programme immensely useful.

One such request received from the executive- Career Guidance and Placement, SVKM's Pravin Gandhi College of Law in Mumbai and a copy of request received from a student from Varanasi (Uttar Pradesh) is reproduced below.

Email dated 21 March 2011 from SVKM's Pravin Gandhi College of Law, Mumbai

This is with reference to internship of our students with your organization. We request you to consider the internship proposal and give an opportunity to our students for Summer Internship. Please find attached the college brochure and the internship proposal.

From: Ms. Deepa Pau, Executive – Career Guidance & Placement, Shri Vile Parle Kelavani Mandal , SVKM's Pravin Gandhi College of Law, Mithibai College Bldg., Vile Parle (West), Mumbai 400 056

Contact: 022 – 42332068 URL: <http://www.svkm.ac.in>, www.5yrlaw.svkm.ac.in

Copy of email dated 24 March 2011

This is Anjani Kumar Sinha from Banaras Hindu University pursuing M.A.in social work (2nd sem. Mam, i am keenly interested to do internship from your organisation. I have attended two workshop programmes of this society at Mumbai and Madurai and I am highly impressed about the concept of spreading peace and communal harmony in the world. So, I request you to please provide me an opportunity to know more about this great concept. I am enclosing my CV with this request letter

Anjani Kumar Sinha, M.A. in social work, B.H.U. Varanasi (U.P.)

Mumbai
7 April 2011

Dr. (Mrs.) Vasundhara Mohan
Executive Director, CSSS

Internees' Report

1. Status of Women in India: A Background

The origin of the Indian idea of appropriate female behaviour can be traced to Manu in 200 BC: *"by a young girl, by a young woman, or even by an aged one, nothing must be done independent, even in her own house"*.

India is a multifaceted society where no generalization could apply to the nation's various regional, religious, social and economic groups. Nevertheless certain broad circumstances in which Indian women live affect the way they participate in the economy. A common denominator in their lives is that they are generally confined to home, with restricted mobility, and in seclusion. Other, unwritten, hierarchical practices place further constraints on women. Throughout history, women have generally been restricted to the role of a home-maker; that of a mother and wife. Despite major changes that have occurred in the status of women in some parts of the world in recent decades, norms that restrict women to the home are still powerful in India, defining activities that are deemed appropriate for women. They are, by and large, excluded from political life, which by its very nature takes place in a public forum.

In spite of India's reputation for respecting women, including treating her as a Goddess, history tells us that women were also ill-treated. There was no equality between men and women. This is true of ancient, medieval and early modern times barring some revolutionary movements such as that of Basaweshwara, the 12th century philosopher in Karnataka, who advocated equality, casteless society, status for women, and betterment of the downtrodden. Reform movements in the 19th and 20th centuries led by great social reformers provided boost to women's legal status in India.

Independence of India heralded the introduction of laws relating to women. The Constitution provided equality to men and women and also gave special protection to women to realise their interests effectively. Special laws were enacted to prevent indecent representation of women in the media and sexual harassment in

workplaces. The law also gives women equal rights in the matter of adoption, maternity benefits, equal pay, good working conditions etc.

At the international level, the UN Charter, the Universal Declaration of Human Rights and Convention on Elimination of All Forms of Discrimination against Women (CEDAW) sought to guarantee better legal status to women.

However, certain contentious issues like the Jammu and Kashmir Permanent Resident (Disqualification) Bill 2004 (which deprived a woman of the status of permanent residency of the State if she married an outsider) and the Supreme Court judgment in Christian Community Welfare Council of India (in an appeal over the Judgment of the High Court, Mumbai). The latter has permitted, under certain circumstances, the arrest of a woman even in the absence of lady police and at any time in the day or night. These instances have once again brought to the forefront the traditional male domination.

FROM WOMEN TO GENDER

The theoretical foundations of development discourse have experienced many changes over the decades. The role of men and women in the development process has received much attention in the last few decades. Although the principle of equality of men and women was recognized as early as in 1945 in the UN Charter and the UN Declaration of Human Rights of 1948, researchers have pointed out that development planners worked on the assumption that what would benefit one section of society (especially men) would trickle down to the other (women). The new theory argues that a person's role was specified under a patriarchal framework where the scope of gender -masculine or feminine- was limited within the biological understanding of sex (male/female).

GENDER, DEVELOPMENT, WOMEN'S MOVEMENT

The above situation is especially visible in the world of development, and finds its clearest expression in proliferating references to "gender" in local, national and international forums, and activists. One repeatedly hears of gender bias, gender sensitization, gender planning and gender training, to mention just some of the more common examples of its contemporary use. To begin with, discussions were limited to

only “women”, rather than about systemic relations of inequality, involving the relations between both men and women.

The task in India then, as everyone seeks to take account of 60 years of independence from two centuries of British colonial rule, is to try and face up to this recent slice of history; a history we would like to claim as our very own. What would an assessment of half a century of development thinking and planning look like from the perspective of women? In the 1991 World Bank Report on Gender and Poverty in India, Lynn Bennett announces: “Now, researchers, women’s activities, and government departments are reaching a new consensus: women must be seen as economic actors –actors with a particularly important role to play in efforts to reduce poverty”. But, the *Shramshakti* report on self-employed women and women in the informal sector published in 1988 deplored women’s extremely vulnerable working conditions across diverse occupations under high levels of discrimination, as well as the range of health hazards women are exposed to on an everyday basis.

If the World Bank report concluded that poor women are clearly more efficient economic actors, with greater managerial and entrepreneurial skills than men, the *Shramshakti* report recommended that women require greater access to resources, especially credit and social services. Wider disparities exist among various women’s groups culturally and socially. As a result one can perceive as difference in the cognitive, connotative, and consumption patterns of women residing in various spheres of social and economic layers. The victims of exploitation and oppression have been largely women of the third world countries in general and lower sections among them in particular.

CULTURALLY:

- Gender specific specialization (work)
- Cultural definition of appropriate sex roles
- Expectation of role within relationship
- Belief in the inherent superiority of males
- Customs of marriage (Bride price/Dowry)
- Notion of the family as the private sphere and under male control
- Value that give proprietary right over women and girls.

ECONOMICALLY:

- Limited access to cash and credit
- Limited access to employment in formal and informal sector.
- Limited access to education.

As a result of the cultural and economic factors, women face discrimination right from the childhood. It is held that both in childhood and adulthood males are fed first and better. According to one estimate, even as adults women consume approximately 1000 calories less per day than men. The sex ratio in India stood at 933 females per 1000males at the 2001 census and out of the total population, 120million women lived in abject poverty.Lack of healthcare facilities and poverty has been resulting in India accounting for 27%of all maternal deaths world-wide.Death of young girls in India exceeds that of young boys by over 300,000 each year and every 6th infant death is especially due to gender discrimination.

INDIA'S FEMALE POPULATION

At the 2001 census, India had a female population of 496million. India accounts 15% of World's women characterized by vast regional differences and a variety of cultures. But, social discrimination and economic deprivation on the basis of gender is common to all, irrespective of religion, cast, community, and State.

Empowerment of women, gender discrimination,and violence against women, which have become serious subjects of sociological research in contemporary times, was hitherto neglected.While contemporary social changes have exposed women to unprotected socio-economic, cultural and political environment, there are no corresponding protective social systems and institutions of social justice to safeguard their interests.There are many who are sceptical about women's ability to exercise equal rights with men and about their capacity to play equal role with men. But such apprehensionsare ill-founded in the context of the broader opportunities available for women following mechanization of industry and agriculture, enabling women to compete with men successfully.

Innovations in science and technology have removed the disparity between men and women attributed to physical strength alone. Women are able to handle modern appliances which require intelligence and training and not merely physical strength. Thus, India has now several women working as pilots, driving locomotives, buses, tractors and machinery in workshops.Sex as maternal factor in the area of legal

rights has practically disappeared. It is not therefore fair to relegate women as a group to an inferior position in society. The Constitution does not regard sex as a permitted classification and prohibits sex as a basis of differential treatment in all areas of legal rights.

Modernity has resulted in a growing flexibility and changes in the gender roles of men and women. The earlier conception that man was the provider of basic necessities for family and women the child bearer and care taker of home, is no longer valid in the changing social structure and economic compulsions.

In spite of the progress made, rural women and those belonging to the Dalit, Tribal, and nomadic communities remain unaffected. So is the case with Muslim women among the minorities. The latter are far from realizing their basic rights. For instance, the low level of political participation of Muslim women in India is not only a consequence of the lack of resources but also the result of the status of Muslim women in the community. Since women in India have little place in the public arena they also express less faith in the political process.

In spite of the UN Charter of Human Rights and the provisions of the Indian Constitution, women continue to be victims of exploitation. The view that the future generation of a family is carried on and preserved by boys-only has degraded the position of women in society. Similarly, it is noticed that majority of the women are lacking in the spirit of rebellion. If careful attention is not paid and major steps are not taken, the situation will become extremely critical.

Therefore, any attempt to assess the status and problem of women in a society should start from the social framework. Social structure, cultural norms, and value systems are crucial determinants of women's role and their position in society. In respect of the status there is a gap between the theoretical possibilities and their actual realization.

HISTORICAL BACKGROUND

It is very important to know the historical background, if we are to make a study of status of women in India. It is not easy to find answers for questions like when did women start losing their status or who was responsible for this situation. The

position that women occupied in the medieval and later the colonial period is of utmost importance. Women were never put on high pedestal in the Shastras.

ANCIENT INDIA

It cannot be clearly stated whether equal rights between men and women prevailed or not during the Vedic period. But available sources show that liberal attitudes and practices pertaining to women did exist. Women were actively involved in religious and social matters. They had some freedom to choose their partner in marriage and a widow was permitted to remarry.

As India started taking steps towards civilization, social discrimination increased. Jainism and Buddhism emerged as potent religious reform movements. According to Buddha, women's spiritual capacities were equal to men's. "Buddhism began as a religion that treated women as equal to men in their capacity for personal spiritual development."¹ "The universal prejudices against women, who are said to be weak-minded, fickle, treacherous and impure are shared by the Jains and expressed in several passages of the canon and in the form of maxims."

The high status that women enjoyed during early Vedic period gradually started deteriorating in the late Vedic period. Lineage began to be traced in the male line and sons were the sole heirs to family property. As the economic and social status of sons began to rise, the position of women saw a steep decline.

The position of women reached an all-time low during the age of the Dharmashastras. It is during this age that codes of conduct prescribing behaviour norms for women were evolved. This period saw the exclusion of women from both economic and religious sphere. During the period of Dharmashastra, child marriage was encouraged and widow marriage was looked down upon. The birth of girl child was considered as an ill omen and many parents went to the extent of killing the female infants. The practice of Sati became quite wide spread because of the ill treatment meted out to widows.

MEDIEVAL INDIA

The system of Purdah which was prevalent among royal families, nobles and merchant prince classes prior to the advent of Muslims spread to other classes also. During the medieval period, practices such as polygamy, sati, child marriage, ill treatment of widows already prevalent during the *Dharmashastra* age gained further momentum. The priestly class misinterpreted the sacred texts and created an impression that all these evil practices had religious sanction.

MODERN INDIA

With the advent of the British, the status of women saw many changes. The East India Company (EIC) was mainly a trading company involved in trade in India. To expand their trade network, they started acquiring territories. As they were a trading company, the question of law and order in the acquired territories posed a great challenge before EIC. Therefore, the company acquired the rights to make laws related to the criminal area. For dealing with civil matters, most importantly, dealing with matters which involved the personal laws, the EIC consulted Moulavis and Pundits. At that time, the customs were devised and sustained by male members. Women were not even consulted. Women's wrongs formed the theoretical basis for men's rights or more properly male duties towards moderating women's lust. Women were not given equal matrimonial rights to property, rights to widows to remarriage, adoption and divorce rights. This situation was severely criticized by the colonial authorities. In return, Indian cultural nationalism argued in favour of Indian tradition. Therefore, the 19th century is often termed as the century of social reform. The criticism angered the people of India and caused a serious threat to the longevity of colonial rule in India. Hence, the Queen's Proclamation of 1859 declared that British authorities will not interfere in religious matters of the people.

To bring reforms smoothly in India, legislations transforming the family structure were introduced in Princely States without much opposition. Baroda was the first to introduce divorce provision. The Princely state of Mysore enacted the Infant Marriage Prevention Act of 1894. Keeping pace with these princely states, Malabar part of Madras Presidency and Travancore introduced reforms. But the major drawback was that the Princely States could not stop violation of these laws across their borders.

SATI

The first serious challenge for the reformers was the problem of 'widow immolation' or 'Sati', where Hindu widows climbed the funeral pyres of their husbands; an ancient tradition, prevalent in Bengal, Rajasthan and the South Indian kingdom of Vijayanagar. Sati was never a religious obligation, but it was believed that by burning herself on the funeral pyre, a widow sanctified her ancestors and removed the sins of her husband. She was believed to ascend to the heaven on committing Sati. Strong social pressures on the widow and the status of widows among the Hindus were also factors which helped the growth of this custom. Sati was first abolished in Calcutta in 1798; a territory that fell under the British jurisdiction. Raja Ram Mohan Roy fought bravely for abolition of sati and with assistance from Lord William Bentinck, and a ban on sati was imposed in 1829 in the British territories in India.

WIDOW REMARRIAGE

The status of widows in India was deplorable in that they were not allowed participate in any religious and social functions. Their lives were worse than death; one of the reasons as to why many widows opted for Sati. The upper caste widows were most affected by the then prevailing customs. Prohibition against remarriage of widows was strictly observed only amongst upper caste Hindus. Attempts to make laws to facilitate remarriage of widows by the British were vehemently opposed by the conservative Hindus, who held that remarriage of widows "involved guilt and disgrace on earth and exclusion from heaven."

Ishwar Chandra Vidyasagar, who wrote *Marriage of Hindu Widows* relying heavily on the *Shastras*, fought for widow remarriage. Reformers like Mahadev Govind Ranade and Dayananda Saraswati also actively participated in the reform movement, resulting in the enactment of the Hindu Widows Remarriage Act XV of 1856. The major drawback of the Act was that it was only applicable to the Hindus. Also, people showed little enthusiasm to implement the provisions of the Act. In Maharashtra, social reformers like Pandit Vishnu Shastri, Sir R.G. Bhandarkar, Agarkar and D.K. Karve have made significant contributions in this regard.

RIGHT TO PROPERTY

There was a lot of ambiguity on the question of the rights of a widow to property which made it difficult for a widow to remarry. Before the 'Hindu Women's Right to

Property Act XVIII of 1937' and the 'Hindu Succession Act XXX of 1956' came into effect, the *Dayabhaga* and *Mitakshara* Laws laid down that a widow could become a successor to her husband's estate in the absence of a son, son's son, son's son's son of the deceased and the estate which she took by succession to her husband was an estate which she held only during her lifetime. At her death, the estate reverted to the nearest living heir of her dead husband.

CHILD MARRIAGE

Another serious problem that women faced was that of child marriage. Small kids and in some cases even infants in the cradle were married off. Early marriage affected the growth and development of the children. Fixing the minimum age of marriage of men and women by law was voiced as early as the mid-19th century by Ishwar Chandra Vidyasagar and Keshab Chandra Sen. Vidyasagar argued that early marriage was detrimental to the health of women, their efforts, coupled with that of Mahatma Gandhi, resulted in the passing of the Child Marriage Restraint Act, 1929.

FEMALE INFANTICIDE

A girl is considered a burden by parents. Since a girl child would be going to her husband's place upon marriage, the parents did not want to waste their resources on her upbringing. Again the demand for large dowry and the huge wedding expenses caused a lot of hardship to the parents. So, the parents preferred a male child as they would be able to bring in large dowry. These considerations led to the practice of killing the girl child once she was born.

The practice of female infanticide was common among certain castes and tribes in India, especially in the north and north-western states. The custom of infanticide was particularly prominent among communities which found it difficult to find suitable husbands for their daughters and an unmarried daughter was considered a disgrace to the family. The difficulty was exacerbated by the extravagant expenditure which conventions demanded on the occasion of a daughter's marriage.

The earliest efforts to stop female infanticide were made in Kathiawar and Kutch. In 1795, infanticide was declared to be murder by Bengal Regulation XXI. The evil of female infanticide was ended by propaganda and the forceful action on the part of the British Government. Through the efforts of Keshab Chandra Sen, the Native

Marriage Act of 1872 was passed, which abolished early marriages, made polygamy an offence, sanctioned widow remarriages and inter-caste marriages. In 1901, the Government of Baroda passed the Infant Marriage Prevention Act. This Act fixed the minimum age for marriage for girls at 12 and for boys at 16. In 1930 the Sarda Act was passed, to prevent the solemnization of marriages between boys under the age of 18 years and girls under the age 14 years. However, even today, the Act remains merely on paper on account of several factors.

WOMEN AND POLITICAL PARTICIPATION

Indians wanted a nation state after independence in which women had a right to vote. Unlike the British and American women, Indian women did not face great difficulty in securing franchise. Gandhiji stressed on the need for active participation of masses during the freedom movement, including women. He encouraged total participation of women resulting in the emergence of a large number of women freedom fighters. The *Swadeshi* movement, the non-Cooperation (1920-22) movement, the Civil Disobedience movement (1930-34) and the Quit India (1942) movement drew large number of women. Such participation helped women to voice the need for women's participation in the legislation process. Annie Besant, Madame Cama and Sarojini Naidu formed the Women's Indian Association.

But, women still constitute a mere 10% of the legislators in the Parliament and State Assemblies. "According to the 1955 International Parliamentary Union Survey, women hold just 11.7% of all seats in Parliament around the world." Success at the Panchayat level based on reservations for women convinced women's organizations that it is the correct time to extend these reservations to the higher levels. It is a different matter that even at the Panchayat level women members face lot of opposition in as much as the male members of the Panchayat do not consider them as equals. Women face opposition from the family members, often resulting in their resigning their membership. Karnataka and West Bengal are good examples where women have exceeded the reserved 33% with 42% and 39% respectively. These examples show that given a chance women can excel in any field. Women just need the necessary support and encouragement.

Islam in India

Muslims constitute about 13.4% of India's population (2001). But their influence on the Indian society is much stronger. Even before Islam was established, Arab traders and travellers arrived on the southern coast of India, establishing trade relations with the local rulers. The Arabs settlers married local women resulting in their progeny growing up speaking the local language as their mother tongue, despite practicing Islam and having their own places of worship. A fair amount of acculturation took place, with Muslims following the local cultures and traditions.

Most of the Indian Muslims are converts from the lower castes of the Indian society, resulting in the perpetuation of the caste system among the Muslims, although there is no caste system in Islam. There are also converts from upper castes, who were influenced by Islam. Others are descendants of those who accompanied the Muslim rulers. The different categories of Muslims who accompanied the Muslim rulers remained in India, marrying local women. Because of the differences in the origins and other reasons like adoption of different cultures and traditions of the areas in which they lived, Muslims of India do not constitute a homogeneous lot.

Muslims of India are mainly divided into two main sects; the Sunni and the Shia. Each sect has different schools of thought. Different Indian communities who adopted Islam in different ways have different community names. They include the Bohras and Khojas of western India, the Mappilas of Kerala, the Lebbais and others.

The absence of Muslim women from the public life is one of the reasons for the lack of information on Muslim women's social history during this period. Purdah was a distinct feature of Muslim women and Muslim women's education was generally restricted to religious knowledge. Although Muslim girls and boys were educated in *maktabs* (primary school) girls were completely absent from *madrasas* (schools of higher learning). Several Women of the Mughal royal families received private education. Babur's daughter Gulbadan Begum, author of the *Humayun Namah* was the first Mughal woman to document the social realities of Muslim women. Zeb-un-Nissa, Emperor Aurangzeb's eldest daughter, was an eminent theologian and poet.

Polygamy was practiced within the Mughal royalty. The loss of the last Mughal emperor created a power vacuum. The British East India Company took over the rule of Delhi and in 1835 and introduced English. Muslims reluctant to learn English took

to Persian. But, the demise of Persian language affected women's education. Muslims were left with a feeling of inertia.

The British Period

At the time of the advent of the British rule in India, the status and position of Indian woman was very low. Customs such as of polygamy, the purdah, the denial of woman's right over property, child marriages, and sati etc., during this period resulted in the development of a very weak personality of Indian woman.

The British influence had a very deep impression in the minds of Indian leaders. The reformist movements of the 19th century brought social reformers Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Swami Dayanand Saraswati, Swami Vivekananda, Mahatma Gandhi, Jawaharlal Nehru, and many others, who were in the forefront of the struggle for women emancipation. Gandhi's efforts led to the elevation of the women's status, involving them in the struggle for social progress and political independence. Prominent among them were Sarojini Naidu, Kasturba Gandhi, Kamala Nehru, and Aruna Asaf Ali, who participated in the political arena.

After initial hesitation, even Muslims took to modern western education in large number thanks to the efforts of Sir Sayyid Ahmad Khan and others. The Muslim student population in modern high schools was generally proportionate to their numerical strength.

The early 20th century witnessed a nascent women's movement which campaigned for furthering female education, raising the age of marriage for woman and the abolition of the Purdah. In 1929 the All India Women's Conference passed a resolution against Purdah. The All India Women's Conference passed a resolution favouring girl's education at its Lucknow session in 1932. Resolutions were also passed against communal electorates for women, untouchability, abolition of the unilateral right to divorce and communal unity. Thus the period in question witnessed profound changes in the history of women in India.



2. GENDER ISSUES IN INDIA

Sociologically the word gender refers to the socio-cultural definition of man and woman, the way societies distinguish men and women and assign them social roles. The distinction between sex and gender was introduced to deal with the general tendency to attribute women's subordination to their anatomy. For ages it was believed that the different characteristics, roles and status accorded to women and men in the society are determined by sex, that they are natural and therefore not changeable.

As soon as a child is born families and society begin the process of gendering. The birth of a son is celebrated, the birth of a daughter is filled with pain; sons are showered with love, respect, better food and proper health care. Boys are encouraged to be tough and outgoing; and girls to be homebound and shy. All these differences are gender differences and they are created by the society. Gender inequality is therefore a form of inequality which is distinct from other forms of economic and social inequalities and stems from pre-existing gendered social norms and social perceptions. Gender inequity has adverse impact on development goals as reduces economic growth. It hampers the overall wellbeing because blocking women from participation in social, political and economic activities can adversely affect the whole society. Many developing countries including India have displayed gender inequality in education, employment and health. It is common to find girls and women suffering from high mortality rates and vast differences in education level. India has witnessed gender inequality from its early history due to its socio-economic and religious practices resulting in a wide disparity between the position of men and women in the society.

GENDER BIAS IN HEALTH CONCERNS IN INDIA

Government of India's National Rural Health Mission aims at correcting rural inequities in the matter of health. It seeks to integrate health with sanitation, hygiene, safe drinking water and nutrition. Like most of the schemes and programmes initiated by Government, even the NRHM also has failed to achieve the

goals at the implementation level, with the primary health centres and sub-centres crumbling.

Women from infant stage to their old age women get an unfair deal in the matter of health. Their health concerns receive a low priority resulting in women bearing pain and discomfort in silence for long periods of time without seeking relief. The sex-ratio in India speaks volumes about the neglect. It is not just the poor who for want of resources and with the inherent preference for a boy are guilty of bias. Even in well-to-do families parents tend to spend more on the health-care of boys than on girls.

REPRODUCTIVE HEALTH STATUS OF WOMEN IN INDIA

Reports show that India's maternal mortality ratio (MMR) is highest in South Asia. An estimated 1, 36,000 women die in India every year due to pregnancy related setbacks. However the measures taken by the government have not proved effective despite the fact that high fatalities occur among women every year due to poor reproductive health practices. One of the reasons why women succumb to reproduction related complications is the absence of timely transportation to the nearest hospital. Experts estimate that 70% of the maternal-related deaths are preventable. Good sanitation and nutrition and avoiding overwork and stress will improve the health of Indian women. The need is to shift focus from the medical to the social, beginning with healthy antenatal care.



But cultural, social and economic barriers delay or prevent women from seeking reproductive health care at any state-antenatal, delivery or post nature.

India still ranks first among the 12 countries that account for 2/3 of under-five and maternal deaths in the world. One of the major problems is the shortage of trained healthcare personnel. In India there is an estimated shortfall of 74,000 ASHA (Accredited Social Health Activists) workers and 21,066 ANMs. The health of a woman is closely linked to her educational and socio-economic status. Despite maternal mortality rates showing a decline in India, thousands of women continue to

die every year due to lack of access to basic healthcare facilities; and where they are available they are of poor quality aggravating the situation.

UNICEF REPORT ON WOMEN AND CHILDREN, 2009

In its State of World's Children Report-2009, the UNICEF makes some shocking revelations regarding maternal mortality status in India. According to the report, avoidable complications during child birth results in the death of 78,000 women in India every year. One million children born in India are dying every year even before they become 28 days old. The maternal mortality rate of India stands at 301 per 100,000 births. It is highest in Uttar Pradesh at 517 and lowest in Kerala at 110. Despite an increase in institutional deliveries, 60% of pregnant women still deliver their babies at home. In India more than 2/3 of all maternal deaths occur in a handful of states like Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Orissa, Madhya Pradesh, Chhattisgarh, Rajasthan and Assam. The main medical causes of maternal deaths are:

- Haemorrhage: 30%
- Anaemia: 19%
- Sepsis: 16%
- Obstructed labour: 10%
- Abortion: 8%
- Toxaemia: 8%

INFANT MORTALITY

According to a recent report by *Save the Children*, an international NGO, one-fifths of the world's new born deaths occur in India. According to the report, over four lakh new-borns die within the first 24 hours every year in India. India also has the highest under-five mortality with over 2 million children dying before their fifth birthday. About 90% of these deaths are preventable. One-third of all malnourished children live in India and 46% of children under-3 years are underweight. A child's chances of survival vary in different states-the infant mortality rate in Orissa is 96 per 1000 live births in Kerala it is only 14 per 1000. India ranks 171 out of 175 countries in public health spending.

In Delhi, the national capital, the child sex ratio is an alarming 868. While the reason for this varies from higher female mortality at a younger age as a result of neglect, to infanticide and foeticide. This dismal picture is a telling comment on the educated society that refuses to rid itself of its male bias. The Pre-natal Diagnostic Techniques Regulations and Prevention of Misuse Act came into force in 1994 to curb selective sex determination. The Act was amended in 2003 in order to make it more comprehensive. Central Supervisory Board and state-level supervisory committees have been set up to monitor the implementation of the Act. But, sex determination continues to be practices.

POVERTY AND HUNGER

One of the 8 Millennium Development Goals is to eradicate extreme poverty and hunger by 2015. According to a report of the Committee constituted by the government of India to estimate poverty, nearly 38% of India's population is poor, based on indicators for health, education, sanitation, nutrition and income to estimate the extent of poverty. Since 1972 poverty has been defined on basis of the money required to buy food worth 2100 calories in urban areas and 2400 calories in rural areas. It indicates a condition in which a person fails to maintain a living standard adequate for his physical and mental efficiency. It is sad that even after more than 60 years of Independence India still has the world's largest number of poor people in a single country. Of its nearly 1 billion inhabitants, an estimated 260.3 million are below the poverty line, of which 193.2 million are in the rural areas and 67.1 million are in urban areas.

Poverty affects the woman most in as much as the female members in the family are denied education, healthcare, nutritious food, and good sanitation because of poverty. Poverty directly affects the future of women. Girl children are discriminated in the matter of feeding compared to boys. Studies have shown that girls in rural areas take a mean of 1355K.Cals/day in the 13-15 years age group and 1291 K.Cals/day in the 16-18 years age group, which is much below the recommended levels. The disproportionate impact of poverty on girls is not an accident but the result of systematic discrimination.

Hungry people live in a social environment of traditional prejudices, unjust law, corruption, broken promises, and failed economic policies, leading to the severe

subjugation of women, marginalization and disempowerment. It is a tragic irony that while the society holds women responsible for all the key actions required to end hunger: family nutrition, health, education, food production and increasing family income on the one hand, through laws, customs and traditions women are systematically denied the resources, information and freedom of action they need to carry out their responsibilities, on the other. The bottom line is that hungry people, particularly women, are systematically denied the opportunity to end their own hunger. Only people-centric development coupled with powerful strategies for social transformation can succeed in eradicating poverty. The recognition, that the empowerment of women is inextricably linked to resolving global issues of poverty, hunger, population growth and the preservation of the environment, has emerged in a series of global conferences at Cairo, Copenhagen and Beijing. There is universal understanding that women and children are affected by the persistence of hunger and abject poverty.

Hunger related deaths are either because of high food prices or poor distribution or even pilferage of food meant for those living below the poverty line. Maternal deaths occur mostly due to lack of medical attention, particularly in rural areas and if the woman is also suffering malnutrition, her life is at high risk. Thus, food intervention alone is not the answer; equally a good public health care system is necessary to ensure that infants and pregnant women receive timely and appropriate medical attention.

The participation of civil society organizations in poverty reduction efforts, especially those directed at women, has increased social awareness and encouraged governments to provide better services. Organisations such as the Self-Employed Women's Association provide credit to women at market rates of interest but do not require collateral; they also allow flexibility in the use of loans and the timing of repayments. The civil society organizations have not only contributed to women's material wellbeing; they have also helped to empower them socially and politically. Such credit initiatives, by bringing women out of the confines of the household, are changing their status within the family and within village hierarchies. The demands of civil society organizations for better social services have spurred the government to launch campaigns to increase literacy and improve public infrastructure. And their calls for greater accountability and real devolution of power are increasing the

Status of Women in India: Problems and concerns

likelihood that expenditure for poverty reduction will reach the needy, especially woman.

EDUCATIONAL PROBLEMS

In spite of certain outstanding examples of individual achievements, and a definite improvement in their general condition over the years, it remains true that Indian women still constitute a large body of under - privileged citizens. Women of course do not form a homogenous group in class or caste terms. Nevertheless, they face distinctive problems that call for special attention. The Backward Classes Commission set up by the Government of India in 1953 classified women of India as a backward group requiring special attention.

The Ministry of Education clubs girls with Scheduled Castes and Tribes as the three most backward groups in education. The educational, economic, political and social backwardness of women makes them the largest group hindering the process of social change. It is inevitable that when this 'backward' group has the major responsibility of bringing up future generations the advancement of society cannot be rapid or take any significant form of development. In the report of the committee appointed by the National Council for Women's Education it was emphatically stated that what was needed to convert the equality of women from de jure to de facto status was widespread education for girls and women and a re-education of men and women to accept new and scientific attitudes towards each other and to themselves.

A changing society and a developing economy cannot make any headway if education, which is one of the important agents affecting the norms of morality and culture, remains in the hands of traditionalists who subscribe to a fragmented view of the country's and the world's heritage. The differences between the positions of men and women in the society will not lessen; leave alone disappear, as long as there are differences between the education levels of men and women. Inadequate education or no education is the most important factor contributing to the backwardness of our masses, especially women. The low literacy among women brings down the national literacy. This gap which exists between the literacy rates of the two sexes also exists between the enrolment of girls and boys at all levels of education. Right from the

primary school to the university, we find that the number of girl students is considerably lower than boys. According to Article 45 of the Constitution, universal compulsory and free education until the age of 14 was to be achieved by the year 1960. Looking at the present condition of primary education in villages, it is doubtful whether we can achieve 100% enrolment of girls. It is unfortunately true of our society that children are sent to school not according to their intelligence or aptitude but according to their sex. The reasons for not sending girls to school are both economic and social. In rural areas, girls are required to help in household work. The resources of the rural poor are so limited that they do not have anything to spare for children's education. If resources are available, it is the boy who is sent to school first. Parents also do not see the value of educating especially a daughter who would get married and remain a housewife. Since they cannot see any direct relationship between education and economic betterment, they have very little motivation to send their children to school.

It is still not being realized that there is definite connection between education, good motherhood and efficient house management. The management of millions of households and the upbringing of millions of children is thus in the hands of illiterate women. It is here that a change is required if our democratic and socialistic intensions are not to remain a mere pretence. People can be motivated to have their children educated only if educational system is directly linked with economic and social development.

DOMESTIC VIOLENCE

Globally, one out of every three women faces violence at the hands of their husbands, fathers, or brothers and uncles in their homes. Domestic violence can be described as when one adult in a relationship misuses power to control another through violence and other forms of abuse. The abuser tortures and controls the victim by calculated threats, intimidation and physical violence. Although men, women and children can be abused, in most cases the victims are women. In every country where reliable, large-scale studies have been conducted, results indicate that between 16 and 52% of women have been assaulted by their husbands/partners. These studies also indicate widespread violence against women as an important cause of morbidity and mortality. Such violence may also include rape and sexual abuse. Psychological

violence includes verbal abuse, harassment, confinement and deprivation of physical, financial and personal resources. For some women emotional abuse may be more painful than physical attacks because they effectively undermine women's security and self-confidence.

In India, violence within the home is universal across culture, religion, class and ethnicity. The abuse is generally condoned by social custom and considered a part and parcel of marital life. Statistics reveal a grim picture of domestic violence in India. The National Crimes Bureau, Ministry of Home Affairs, Government of India reports a shocking 71.5% increase in instances of torture and dowry deaths during the period from 1991 to 1995. In 1995, torture of women constituted 29.25% of all reported crimes against women.

The question arises as to why women put up with abuse in the home? The answer lies in their unequal status in the society. They are often caught in a vicious circle of economic dependence, fear for their children's lives as well as their own, ignorance of their legal rights, lack of confidence in themselves and social pressures. These factors effectively force women to a life of recurrent mistreatment from which they often do not have the means to escape. The sanctity of privacy within the family also makes authorities reluctant to intervene, often leading women to deny that they are being abused. This is equally common in the higher as well as in the lower segments of the society. A woman who lodges a complaint of abuse is often forced to withdraw the complaint or drop the charges not only by her family and society but also by the authorities. Social prejudices reinforce domestic violence against women. They are treated as their spouses' property; husbands assume that this subordinate role gives them right to abuse their wives in order to keep them in their place.

Against this background is the traditional dowry, where the father of the bride is compelled to give the groom/groom's parents substantial cash and/or other assets. In a majority of Indian families a boy has inheritance rights while the girl is given a hefty sum at the time of marriage in lieu of her rights in the parental property. The evil of the dowry system has spread its tentacles in almost all parts of the country, all communities and all sections of the society. When the boy's parents' expectations of dowry become exorbitant, one can imagine the anxiety it may cause to bride over the consequences if her parents are unable to meet the demands. Women's physical and

mental health is often permanently damaged and impaired and often resulting in 'dowry deaths'.

Official statistics show a steady rise in crimes related to dowry. More than 9, 5000 women are killed every year in India over dowry. While Bihar and Uttar Pradesh still record the maximum number of dowry crimes, Bangalore, India's fastest growing city also shows an alarming rise of dowry harassment and domestic violence. Cases of torture of women over dowry are the highest, accounting for 32.4% of all crimes against women in the country.

The Dowry Prohibition Act, in force since 1st July 1961, was passed with the purpose of prohibiting the demanding, giving and taking of dowry. Later the Act was amended in 1983 and 1984. Section 498-A was added to the Indian Penal Code and Section 198-A to the Criminal Procedure Code in the year 1983. The Dowry Prohibition Act clearly stipulates that a person who gives or takes or helps in the giving or taking of dowry can be sentenced to jail for 5 years and fined Rs.15, 000/- or the amount of the value of the dowry, whichever is more. The Act also prohibits the giving and taking directly or indirectly any cash or other property or valuables in a marriage. The law stipulates limits to the value of gifts that may be given at the time of marriage and the recording of the names of those who have given gifts and their relationship to the married couple to be signed by both sides of parents. In 1986, the Act was amended empowering State governments to appoint Dowry Prohibition Officers, who not only had a preventive role but also had powers to collect evidence against people who took dowry.

Domestic violence has devastating repercussions on the family. Mothers are unable to care of their children properly. Often they transmit to them their own feelings of low self-esteem, helplessness and inadequacy. Violence against women, the most pervasive human rights violation in the world today, has got to be stopped. It needs support not only from the government, but also from the civil society, NGOs and women themselves. There is also a need to improve women's economic capacities that include access to and control of income and assets and also a share in the family's property. The government should strengthen and expand training and sensitization programs.

CRIMES AGAINST WOMEN

Crimes against women occur every minute; every day and throughout the year, though several such crimes go unreported. According to National Crimes Records Bureau, Government of India, there were over 32,000 murders, 19,000 rapes, 7,500 dowry deaths and 36,500 molestation cases are the violent crimes against women during 2006. While Madhya Pradesh is worst off among the states, the national capital New Delhi continues to remain the most unsafe city in India. It is a sad reflection on the country's law and order situation when its capital is a cauldron of crime. Delhi seems to be going down the slide year after year. For instance while the national crime rate declined by a negligible 0.02 % in 2006 Delhi's rate grew to 357.2 more than double the national average of 167.7.

Rape is the fastest growing crime in the country today and as many as 18 women are assaulted in some form or the other every hour across India. Over the last few months cases of rapes and assault have made it to the headlines with alarming frequency. For an affected woman, it is an ordeal to lodge a complaint with the police, who, besides being reluctant to file a proper FIR, adopt a most unsympathetic attitude putting the complainant to further shame by asking her to give a graphic description as to how she was sexually abused.

PROBLEMS OF WORKING WOMEN

Working women i.e., those who are in paid employment, face problems at the workplace just by virtue of their being women. Social attitude to the role of women lags much behind the law. The attitude which considers women fit for certain jobs and not others, causes prejudice in those who recruit employees. Thus women find employment easily as nurses, doctors, teachers, secretaries or on the assembly-line. Even when well qualified women are available, preference is given to a male candidate of equal qualifications. A gender bias creates an obstacle at the recruitment stage itself. When it comes to remuneration, though the law proclaims equality, it is not always practiced. The inbuilt conviction that women are incapable of handling arduous jobs and are less efficient than men influences the payment of unequal salaries and wages for the same job. A woman could still bear with these problems if she has control over the money she earns. But in most families her salary is handed over to the father, husband or in-laws.

So the basic motive for seeking employment in order to gain economic independence is nullified in many women's case. Problems of gender bias beset women in the industrial sector when technological advancement results in retrenchment of employees.

Working women are often subject to sexual harassment even while going to work in the over-crowded public transport system. At the work-place, a working woman experiences sexual harassment from colleagues and her higher officers. The latter may often prove difficult to shake off, when the job is very important for the woman. When a woman is praised for her work or promoted on merit, her advancement is often attributed to sexual favours.

The psychological pressure of all this can easily lead to a woman quitting her job. Most of the problems that beset working women are rooted in the social perspective; that men are the bread winners and women are seen as the house-keepers and child bearers. This typecast role model continues to put obstacles for the working women. A fundamental change is required in the attitudes of the employers, policy makers, family members, and public at large.

WOMEN IN THE INFORMAL SECTOR

The *Shramshakti* report on self-employed women and women in the informal sector that published in 1988 was a crucial report on women in the informal sectors of urban and rural India. The report shows that women are extremely vulnerable to working conditions across diverse occupations, suffering high levels of discrimination, as well as a variety of health hazards. The report demands enlarging the definition of work to encompass all women engaged in production and reproduction and recognizing women as major rather than supplementary wage earners and calls for formulating strategies to enhance women's control over and ownership of resources.

The report suggests the appointment of a separate Labour Commissioner to ensure the security of employment of women in the informal sector. The Report throws light on the incredible range of tasks that poor women perform, their often greater contribution to household income despite lower wage earnings, their ability to make scarce resources stretch further under deteriorating conditions etc. The report

concludes that poor women are clearly more efficient economic actors, with greater managerial and entrepreneurial skills than men.

KHAP PANCHAYAT

Khap is a cluster of villages united by caste and geography. It was started in the 14th century by upper caste *Jats* to consolidate their power and position. The main rule is that all boys and girls within a *Khap* are considered siblings. *Khap* Panchayat governs the *Khap* formed by same *gotra* (clan) families from several neighbouring villages. *Khap* Panchayats are prevalent in Haryana, western Uttar Pradesh and parts of Rajasthan. Love marriages are considered taboo in areas governed by *Khap* Panchayat. Those living in a *Khap* are not allowed to marry within the same *gotra* or even in any *gotra* from the same village. Many young couples have been killed in the past for defying *Khap* rules. *Khap* Panchayat imposes its writ through social boycotts and fines and in most cases end up either killing or forcing the victims to commit suicide. All this is done in the name of honour and brotherhood. It is due to the inherent weakness of democratically elected Panchayati Raj institutions, that the *Khap* Panchayats have been powerful. The government has not been able to do much to control their power. The 10-15 men who constitute a *Khap* settle disputes and control the lives of young people. Many villagers defend these caste-Panchayats as they deliver a verdict in one sitting whereas court cases drag on for years. According to them, in many cases innocent people get harassed in the court and by police. Here as everyone is known so they cross check everything to ensure neutrality. In some Haryana villages, young girls are routinely threatened, abused and killed all under *Khap* verdicts. The onus of maintaining siblinghood rests on the girl. She is the keeper of village honour. Sometimes rules are bent for the boys but never in the case of a girl. In keeping with the *Khap* rules, older villagers try to keep the young people apart. Some schools are also forced to have separate timings for boys and girls. Fearing their daughters would go astray, many parents marry them off at an early age. People have unquestionable faith in the justice meted out by the *Khap* Panchayats.

HONOR KILLINGS

To be young and in love has proved fatal for many young girls and boys in parts of north India as an intolerant and bigoted society refuses to accept any violation of its rigid code of decorum, especially when it comes to women. Many such killings, which go by the name honour killings, happen with regularity in Punjab, Haryana

and western Uttar Pradesh. Such honour killings are sanctioned by caste Panchayats and carried out by mobs with the connivance of family members. Such honour killings exist even among Muslims who do not accept a Muslim girl marrying a non-Muslim boy.

The usual remedy to such murders is the suggestion that society must be prevailed upon to be more gender-sensitive and shed prejudices of caste and class. Efforts should be made to sensitize people on the need to do away with social biases. So far, there is no specific law to deal with honour killings.

TRAFFICKING OF WOMEN AND CHILDREN

Trafficking in women and children is the most abominable violation of human rights. It is an obscene affront to their dignity and rights, including the very right to life, liberty, human dignity and security of person, the right to freedom from torture or cruelty, inhumane or degrading treatment, the right to a home and family, the right to education and proper employment, the right to health care and everything that makes for a life with dignity. Trafficking in its widest sense include the exploitation girls by pushing them into prostitution, forced labour or services, slavery or practices similar to slavery and the trade in human organs. In the case of children who have been trafficked or have become victims of child marriages, it violates their right to education, employment and self-determination.

In the existing social scenario in India, vulnerability is a product of inequality, low status and discrimination, and of the patriarchal authority unleashed on children, especially the girl child. This is further compounded by the apathetic attitude of the society fuelled by a mind-set which views women as mere chattels with no freedom of choices and options to lead a life with dignity. Women and children are trafficked and exploited, and force to lead a life of indignity, social stigma, debt bondage and a host of ailments including HIV/AIDS.

According to a recent survey women are bought and sold with impunity and trafficked at will to other countries from different parts of India, only to be forced to work as sex workers undergoing severe exploitation and abuse. These women are the

most vulnerable group in contracting HIV and other sexually-transmitted diseases. Acute poverty and lack of employment opportunities has been abetting an increased voluntary entry of women into sex work. Trafficking is a complex challenge as it is an organized criminal activity.

GENDER BIAS IN IDENTITY FORMATION

The Indian society's unique social structure is an oppressor of women in almost every sphere of life due to its denial of equal status to them. The patriarchal system of the society forces women to be confined to the four walls of their homes largely engaged in the household chores. There are various social hassles which still pose a hindrance to the identity of women. Although the Panchayati-Raj system is an important tool for transforming women into equal partners in the process of development, the elected women still face a lot of resistance from the males. Women are not allowed to participate in decision making process and more than eighty per cent of the elected women admit that decisions are made by the male members, who ignore suggestions from the women members. In addition, the other major factors that affect the performance of women members are their illiteracy, non-recognition of their usefulness by the male members and lack of assertiveness among them due to social and psychological restrictions. Although there are some cases of women coming forward to make their presence felt as potential workers in Panchayati-raj system, women have to go long way in achieving a dignified and acceptable identity for themselves.

CHALLENGES FACED BY MUSLIM WOMEN

PERSONAL LAW

Personal Law (i.e. laws governing family relations, marriage, divorce, inheritance custody rights etc.) is a contested arena in the case of Muslim women, who are largely subjected to the Sharia Act 1937 and the Dissolution of Muslim Marriages Act 1939. The Special Marriage Act 1952 which allowed Indians to marry without renouncing their religion provoked strong opposition from Hindus and Muslims.

EDUCATIONAL LEVELS

India is one of the least literate societies in the world. Within this broader picture of social disadvantage the literacy levels of Muslim men and woman are further skewed towards the bottom. Muslim women in both rural and urban India lag behind their counterparts in school enrolment from the very beginning. Muslim women in urban India are much worse off than their rural counterparts. This educational disadvantage of women in Muslim communities calls for attention. Even the Aligarh Muslim University and Jamia Millia Islamia – minority institutions with the specific aim of furthering education among Muslims in India, are unable to have a majority of Muslim students in their professional schools.

Even after six decades of independence, Muslim women face considerable challenges as citizens in India's and as members of India's largest minority. According to government reports Muslim woman are among the poorest, educationally disenfranchised, economically vulnerable and politically marginalized group in the country. In 1983 the Gopal Singh committee instituted by the government declared Muslims as a backward community in India. A central feature of this 'backwardness' is their exceedingly poor socio-economic status, particularly that of the Muslim women. The Muslim share in public employment is less than 3%. The lack of social opportunities for Muslim women is a crucial issue needing urgent action. An improvement in literacy rates would directly influence Muslim women's socio-economic and political status as citizens of India. The alliance of Muslim women with the women's movement in India, as well as movements for secularism, democracy and human rights are crucial for forging a common front against forces opposed to women's self-determination.

MUSLIM WOMEN AND OTHER COMMUNITY WOMEN

While comparing the practices in the Islamic society with those of other communities, it is observed that Muslim women suffer problems associated with Marriage (including Polygamy), the practice of extrajudicial divorces (including the accursed Triple Talaq), maintenance after divorce, and inheritance.

MUSLIM WOMENS RIGHTS IN MUSLIM PERSONAL LAW

MARRIAGE

Marriage is an important social institution which helps in creating the basic unit of human society called family. Under Islamic law Marriage (Nikah) is considered as a solemn contract between the spouses. There are three aspects of marriage in Islamic law.

- **LEGAL:** A Muslim marriage is contractual in form because it makes free consent of the parties an essential element for its validity. This is to ensure that the bridge is not getting marred under any kind of compulsion.
- **SOCIAL:** Islamic law gives the woman an important role at home and in the society. The Prophet both by example and precept encouraged the institution of marriage and recognized it as the basis of society.
- **RELIGIOUS:** The Prophet had said "Marriage is my Sunnah and who ever do not follow my Sunnah is not my true-follower"

Marriage is a mechanism of regulating human relations with religious sanctions and therefore termed a sacred covenant. The Prophet was determined to raise the status of women and accordingly attributed legal and religious importance to marriage.

MAHR AND DOWRY

Mahr, sanctioned by Quran, is a sum of money or other property, which the wife is promised at the time of marriage by her husband and to which she is entitled as a matter of right. The Mahr is meant to protect the wife against the arbitrary exercise of the power of the husband to divorce. Fixing of a high dower operates as a healthy check on the husband's capricious exercise of such right, besides being a mark of respect for the wife.

DIVORCE

Islam regards marriage as a religious obligation but not as indissoluble union. If the situation demands, the marriage can be dissolved. Islam has permitted divorce but it lays emphasis on the fact that divorce should be resorted to only in unavoidable circumstances where there is no other alternative. The Prophet has said "of all things

permitted divorce is the most hateful in the sight of God". If the husband and wife are unable to live together or even after genuine efforts for reconciliation fail, the marriage could be properly dissolved.

The Holy Quran says: "Divorce may be pronounced twice and then a woman must be retained in humour or allowed to go with kindness. The verse means that a man who has twice given notice of divorce over a period of two months should remember God before giving notice a third time. Then he should either keep the spouse in a spirit of good will or release her, giving her full rights without any injustice. The prescribed methods of divorce have ensured that it is a well-considered planned arrangement and not just a rash step taken in a fit of emotions.

Marriage Dissolution by the wife

Under Islamic law, a man and a woman entering into a contract of marriage may choose certain mutually agreed conditions upon which their marriage is to take place. The agreed conditions would define their future marital rights and obligations in addition to the normal ones under a valid marriage contract. The spouses may, for example agree that the wife under such an agreement shall have the power to divorce herself on behalf of the husband. Such an agreement, which may be conditional or unconditional, amounts to a delegation of his power by the husband to the wife. When it is conditional the wife would be at liberty to declare divorce on behalf of the husband when he commits a breach of the conditions agreed up on, resulting in the dissolution of her marriage ties with the husband. If it is unconditional the wife has an absolute power, as per the terms of agreement to dissolve the marriage!

MAINTENANCE

Maintenance is the money someone gives to a person that they are legally responsible for, in order to pay for their food, clothes and other necessary things. The implied meaning here is that the maintenance is the money given by the husband to maintain his wife and children. In a valid marriage, it is the liability of the husband to maintain the wife. There is no liability of maintenance in the case of an irregular marriage where the irregularity is due to absence of witnesses at the time of the ceremony. Where the wife refuses to live with the husband due to non-payment of prompt dower, her refusal will be considered valid and her right of maintenance is not

affected whether marriage has been consummated or not. Where the wife refuses to live with the husband or return to her house due to some valid reason (his cruelty) the right of maintenance is not affected. We will not go deep into the other aspects connected with maintenance.

INHERITANCE LAW AND RIGHT TO PROPERTY

Till the dawn of Islam, the Arabs excluded females from inheritance completely. Prophet Muhammad emancipated the status of women and restored them their rightful position in the society. "From what is left by parents and those nearest related there is a share for men and a share for women, whether the property is small or large, a determinate share". A Muslim male is obligated to spend part of his inheritance on his wife, children and house, while the female may keep all of it for herself. Financial support for home and family is considered to be the sole responsibility of the husband.

Socio-economic and Political problems of Muslim Women in India

Quran has emphasized that, "neither shall a mother be made to suffer harm on account of her child, nor father on account of his child." Thus, the Quran very clearly recognizes a woman's individuality. If the husband himself has given her something by way of dower (Mahr), it is hers and he cannot take anything from it except with her consent. Men and women are held in equal status in Quran. However, the Muslim theologians, on account of the social prejudices of their times, deviated considerably from the Qur'anic position. They not only held women inferior to men but also showed contempt for them.

The Prophet had great sympathy for women. He behaved very kindly towards them and personally he was inclined to give them the right to retaliate against their husbands. The Prophet has exhorted men to treat women kindly, as they are helpless and not in a position to manage their affairs themselves. The Quran had declared the equitable treatment of women in ringing words, making their social status quite unambiguous; but the social conditions were far from congenial for the enforcement of this revolutionary doctrine. Male prejudice proved to be far stronger than the normative force of the ideal contained in the doctrine.

Status of women in Islam:

Islam has adopted a quite simple, natural and just approach about women and framed its realistic rules accordingly. The Prophet issued forceful warnings to men for ensuring the observation of women's rights. He made special mention of this also in the last sermon and will of his life. It will be appropriate here to review woman's position and status in the light of the Quran and the Hadith.

Islam proclaims that basically both being human entities, there are no differences as such between a man and a woman. Whenever Quran mentions the dignity of mankind it does not talk of man and woman separately. In short, human greatness, excellence and distinctions apply equally to both sexes. According to the Quran, "Woman has been made lovely for people." Meaning the moulder of human nature has basically, made women an element of beauty and grace in the nature and personality and hence she has become an object of admiration in the eyes of men. The affectionate nature of woman has proved a powerful element for the development of human virtues through family life. The responsibility of the nourishment of the human race, its development as well as its training is also on her shoulders. In view of this fact, the Lord Almighty Allah granted a high rank to her femininity and made it compulsory for man to live in her company.

The Prophet has also said, "Woman is the most beloved of mine in the world." He said just pay attention to the greatness and preciousness of woman. He honoured woman by making her an effective power which helps and guides man in the hardships of life. The idea of the greatness of the status granted to woman by Islam in society can be gauged from the text of the Holy Quran. The creator of the universe says addressing to men, "Live with them nicely." The translators, explaining the nicety, say that it includes kind attitude, hearty affection, expression of true love, refraining from adultery, generous provisions of home expenses etc. Quran says: "Do not detain them merely to harass them." In short in case the husband develops an uncompromising dislike for his wife for any reason, then it is not proper to keep the wife in bondage of marriage just for harassing her and depriving her of proper rights of a married life.

When a woman gets married, she is in a way removed and distanced from her parental relatives due to her next household responsibilities. Yet, Islam has given her

a right whereby if she desires to meet her near and dear ones, her husband cannot prevent her from doing so. Islam has granted freedom of expression and speech to both man and woman equitably without any distinction based on sex. In the time of the Holy Prophet, women could also raise questions regarding their problems just like men unhesitatingly. History has recorded instances when, during the time of rightly-guided caliphate, ladies put forth their views and opinions freely getting up in big congregations too.

Islam has given freedom to adult and intelligent women in the matter of selecting their life partner. Marriage entered into by an adult Muslim woman even without the permission of her guardian is regarded lawful. In the matter concerning property, Islam has given equal rights to men and women. Islam has not done any kind of injustice to women so far as the right of ownership is concerned. Even in the political field Islam has never suppressed women's rights.

The urge for equality has seized women of every society, including India. One important yardstick of a nation's progress is the status of its women. Social scientists have pointed out that there is a strong positive correlation between low status of women and low cultural levels and insignificant societal achievements. Implied in this observation is the fact that women's status is intimately linked with the contribution that they can make in the socio-economic development of their society. For, one should not equate development with such economic criteria as technological sophistication, and gross national product alone. Development today cannot be divorced from human and social growth and these in turn cannot be delinked from amelioration of the conditions of the hitherto victimized and suppressed groups, including women. The achievement of their egalitarian status is today an integral part of just and equitable development.

Indian Muslims have been living for long in close contact with Hindu culture resulting in their socio-cultural life getting inevitably influenced by Hindu traditions and values. This process was also inescapable since a large number of Indian Muslims are Hindu converts. It is, therefore, not surprising that some of the Islamic provisions concerning marriage and divorce got distorted. Marriage began to be considered as final and binding for a woman, and she virtually lost the freedom to divorce, and her seclusion behind the veil got sanctified by religion. In the matter of

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inheritance too, the regional and customary laws began to prevail and the Muslim woman like the Hindu woman became a non-heritor. In this way, she became a victim of socio-cultural irony. While in the theory she was supposed to enjoy the rights enjoined by the Quran, in reality she was never allowed to enjoy them both by local customs and the men who dominated her life.

An important question that arises is why did this deterioration creep-in so pervasively in the Muslim society and even gain ascendancy over Qur'anic laws, and bring about a similarity between Hindu and Muslim women, especially in a period when there was political supremacy of the Muslims. This was no ordinary socio-cultural transplantation; rather, it was a motivated cross-fertilization, since it was in the interests of the Muslim male. In doing so, the Muslim male was able to establish an egalitarian man-woman relationship and, in India at least, never made any serious effort to loosen his grip. The Muslim woman, on the other hand, having been pushed into seclusion and segregation, could never secure a platform from which she could mobilize her sisters and fight for regaining the lost privileges or seek improvement in the context of continuously changing conditions. The socio-economic anaemia of Muslim women was well visible to us during the divorce bill controversy.

Also, while the Muslim women needed modern education, the ascendancy of the British had driven the Muslims into the grip of political and economic despair, and social and psychological insecurities. Hence, the opportunity to think of educating women never arose. Not surprisingly, even the chief architect of educational reforms among Muslims, Sir Sayyed Ahmed Khan was more concerned with rescuing Muslim men from their intellectual defeatism and frustrations. For him, it had become more important to emancipate men from the stagnant pool of traditionalism and conservatism. Thus, in a period in which the Hindu woman was gradually coming to life and breaking her shackles, reforms in education gave little benefit to Muslim women. Thereafter, they never really caught up.

Some investigators have pointed out that Muslim women respondents have expressed themselves to be in favour of *purdah* and that *purdah* in no way inhibits their acquiring education and that they suffer from no disabilities owing to *purdah*. The point to be remembered is that there have been underprivileged groups

throughout history which contained sizeable portion of contended, uncomplaining people. It is the duty and responsibility of the enlightened to realize and emphasize that inequality not only depresses the human potential of the subordinate but also corrupts the super ordinates.

Having already referred to the role of class and patriarchy, it is now necessary to dwell upon the problem of rights and equality of Muslim women. Apologists of Islam have always loudly proclaimed the social revolution that Islam brought about in the lives of women. Critics, on the other hand, have been at pains to point out that Islam did not confer total equality. Another setback to Muslim women arises from the fact that Indian Muslims now live in a country which can legislate for Hindu women without arousing suspicion and insecurities, but which cannot do the same for Muslim women. In modern times, it is usually the government which is the most logical agency for promoting desirable changes through legislation. In many instances, the government even initiates enlightened legislation without waiting for public demand. This facility is not easily available to Indian Muslim women, particularly in matters pertaining to their personal law.

Indian Muslims do not and cannot live in a world of their own, isolated and unaffected by what is happening around them. Indeed, more than the Muslims of any other country, it is Indian Muslims who are under pressure to compete with various other groups and not to surrender in the battle of development and modernization. In this context, it has been particularly essential for them to appreciate the important contribution their women can make in marching forward. This march will be seriously impeded if half of the population is intellectually, spiritually and physically debilitated.

In fact, in a number of cases, middle or lower-middle class Muslim families have slipped into lower class status because their women were unable to effectively tide over the crisis that engulfed them. Furthermore, irrespective of what might have happened in the past, no group, community or society, and least of all Indian Muslims, can expect any enrichment of the overall quality of life, if half the population is kept in seclusion, isolated from the stream of modern knowledge and developments.

Deep within our society there still exist forces that are not quite willing to grant women the equality that they should get. Traditional prejudices and world-wide views persist. Vested interests continue and will not easily let go their dominance and privileges and it seems that the biggest stumbling block to the emancipation of women are men. It is a small consolation for Muslims that this is so in all societies.

Most major religions of the world have taken keen interest in the status of women, and taken various steps concerning them. Coincidentally, practically all of them have created a confusing picture of what they have wanted their actual position to be. Islam is no exception to this generalization. However, incorrect interpretations of the Prophet's statements have given both critics and sympathizers enough material to keep 'proving' their respective cases and 'disproving' those of their opponents. But, in any case, there has been little concern for empirical facts. For the apologists of Islam what has mattered most is that the Prophet of Islam gave to the Muslim woman rights which were unknown in contemporary Arab society. Thus, under Islam, woman came to inherit property in her own right. As Kapadia observes, "the greatest contribution of Islam to the cause of woman was to invest her with property rights." Another fundamental change in favour of women was that their consent to a marriage was made obligatory. Thus, no Muslim marriage can be solemnized on the basis of a consent given by the girl's parents or guardians alone. Islam also gave the Muslim woman the freedom to seek divorce on her own initiative, albeit it is much easier for the male to obtain a divorce. However, as a protection against whimsical divorces the Muslim women have been provided security by the Mahr. Even the much maligned phenomenon of 'four wives' is hedged with the qualification that all wives should be treated alike; an impossible condition that virtually prohibits polygamy. Finally, one other little known privilege is the right to hold public positions: indeed, a Muslim woman can also act as a judge except where retaliation is involved.

These rights and privileges, which even in the context of modern developments appear to be quite impressive, were indeed remarkable in the context of the socio-economic conditions prevailing in the pre-Islamic Arab society. In actual practice, however, Muslim woman in India, and, indeed in most other countries where Muslims are to be found in significant numbers, have not made the progress that they should have made as a natural corollary to the privileges and rights conferred

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upon them by Islam. Indeed, judged by modern values, the emancipation of Muslim women is a major problem even in Muslim states where legislation and social reforms do not bristle with the socio-political problem that afflict similar attempts in a state where the Muslims constitute a minority and are, therefore, suspicious of any change through legislation.

Some attribute the chasm between Muslim women's privileges and their actual condition to the phenomenon of purdah, holding that her seclusion, isolation, and segregation have nullified the rights that have been granted to her. It is also held that in the face of the disabilities that the purdah has bestowed upon the Muslim women, her rights and privileges have virtually remained unsung and unapplaud. Seclusion, isolation and segregation are known to characterize several non-industrial societies, yet none has practiced these in as extreme a form as Muslim societies, especially of the Arab world. Indian Muslims too have been staunch supporters of purdah – especially the Muslims of northern India, who have been the reference models for most Indian Muslims.

Further, seclusion and isolation has forced Muslim woman into a limited circle of interaction, which has denied her the opportunity of learning to function as a mature and confident individual who is aware of her rights and privileges, and can struggle to prevent their violation. Consequently, the safeguards provided for her by Islam against plural marriages or unfair and undeserved divorce often gets reduced to naught. The lives of men remain unaffected in a situation where women suffer from such disabilities.

LEGAL STATUS OF WOMEN IN INDIA

India has a long and a continuing tradition extending over centuries of oppression of women. Women enjoyed an honourable position in the distant past. Subsequently patriarchy deprived women of their rightful status in India. During the Vedic period woman was given an honoured position. She was the mistress of her husband's home. During the time of Kautilya remarriage and divorce was permitted, even child marriages was on the rise especially between children belonging to age group from 8 to 12. But, a wife could inherit her husband's property only in the absence of a son. Even then she had only a widow's estate. She could not sell or otherwise dispose of her property which would, on her death, revert to the husband's other heirs. She was

however entitled to *stridhana* that is property gifted to her by her parents, presents received etc. over which she had an absolute right. On her death this would devolve on her female heirs.

A woman was not entitled to adopt when her husband was living. An adoption was always permitted to man. In most schools of Hindu law, a woman could adopt with her husband's permission and in the absence of such authority with the consent of his kinsmen. A girl could not be adopted, as adoption was only a means for a man without son, who could alone save him from the hell.

Reference has already been made to the practice of Sati in certain parts of India and the passing of legislation prohibiting Sati. The Hindu Widow Remarriage Act, 1856, the Child Marriage Restraint Act, 1929 the Hindu Women's Right to Property Act 1937 and the Hindu Women's Right to Separate Residence and Maintenance Act 1946 were some of the measures that sought to improve social and economic status of women to a very limited extent.

The framers of the Indian Constitution rightly felt that it was not sufficient to confer some minor benefits on women, but it was necessary to declare in unequivocal terms, their right to equality with men and various other rights which would help them in attaining an equal status or an equal footing with men. These include Articles 14, 15, 23 and 39, among others, in the Constitution. Besides the provisions in the Constitution, the following legislations were passed since 1950:

- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956
- The Hindu Adoption and Maintenance Act
- The Dowry Prohibition Act, 1961
- Equal Remuneration Act, 1976
- The maternity benefit act 1961

During ancient times when women were content to play the role of a wife and mother, they were treated with respect. Cases of molestation of women and outraging their modesty were few during those times. But unfortunately in recent times cases of rape has become more common and violence against women has been on increase. To meet these atrocities against women, various stringent punishments have been

provided in the law. These enactments have, to some extent, have enabled women in India secure social and economic justice; especially in case of Hindu women.

An important step was taken in securing social justice to women as the Hindu Marriage Act which gave women the right to divorce by mutual consent. Despite such legislation it has to be admitted that cases of divorce are rare in our country. If it is due the fact that there is harmony in marriage and there is no need for divorce, it would be a cause for satisfaction. But the truth of the matter is that divorce cases are rare because the divorcee is regarded as many as social outcast. So it is the attitude of Hindu society which society which Pregnancy Act even confers a right on a woman to cause her pregnancy to be terminated with male members. In Kerala, joint family system was abolished.

Under the law women are entitled to equal pay as men for equal work. They are further entitled to the maternity benefits under the Maternity Benefits Act. Today as we see women have secured an honourable position in all sectors of work. The employment opportunities for women are increasing day by day and they are preferred more than men.

Other legislative measures favouring women include the Guardians and Wards Act, 1890. Section 19 of the Act includes mother along with father as a fit person to be appointed as the guardian so as to remove gender inequality. The Hindu Marriage (Amendment) Act has led to providing irretrievable break down of marriage as a ground for divorce. This amendment would be a welcome change if it would put an end to:-

- The toxic culture of making baseless and false allegations of abuse and cruelty to obtain divorce.
- The mindless practice of painting fathers as abusive and unfit parents and separating them from children.
- The business of daylight robbery in the name of alimony and maintenance to the wife.
- The custom of prolonged legal battles which end up destroying the lives of men, women and children.

Though under the Constitution and under the law women have equal political right as men so as to enable them to take part effectively in the administration of the

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country, even today there is no adequate representation of women in political field. Representation of women in Assemblies and Parliaments is dwindling with every election and does not exceed 10%. During elections, very few get a chance of being elected against a male candidate. In villages specially men have a dominant voice and are able to dictate to women whom they should vote. Most of them are illiterate and are dependent on their husbands or fathers. Unless and until women are educated and made aware of their rights and attain independence, one cannot expect a woman to take an active part in the administration of the country in large numbers. Also if some sort of reservation is not made for women in the State Assemblies and Parliament, it is practically impossible for women to be elected in the male dominated world. A Bill to provide for 33% reservation for women in the State Assemblies and Parliament is yet to become a law.

The government of India has appointed the National Commission for Women to protect the interests of the women at large. The Commission is vested with powers of a Civil Court. It is entrusted inter alia with the task of looking into complaints, take *suomoto* notice of non-implementation of laws relating to women and non-compliance with policy decisions, guidelines and instructions aimed at mitigating the hardships and ensuring the welfare and providing relief to women.

Today women have attained a remarkable position in probably all fields and they are in no way inferior to men. India has a remarkable history with women from being the Prime Minister to the Governor and then to the President. There are many able doctors, lawyers, and top bureaucrats. Even in business they are occupying high positions. Women are in police force, air force and even scaling the Mount Everest is not beyond their capacity. Thus as we have seen, various laws have been made by the legislature in the interests of women. The need of the hour is for the women to realise their rights and be vigilant. Women are the present and the future of INDIA.

3. Legal issues and Reforms for Muslim Women in India

Minority Communities and reform within

Following the controversial judgement in the Shah Bano case, a new law was enacted in 1986, which prescribed certain new remedies to divorced Muslim woman. But since this statute, the Muslim Women (Protection of rights on divorce) Act, 1986 (MWA for short) was enacted amidst protest from women's right groups and progressive social organisations, it was viewed with suspicion and foreboding by these sections. Hence the first response of the protesting groups was to challenge its constitutionality, rather than examine its viability. While the writ petitions were pending in the Supreme Court, the Act gradually unfolded itself in lower courts. Appeals from the decisions of various High Courts gradually started accumulating, along with the original writ petitions. What was intriguing was that while the writ petitions were filed by groups agitating for women's rights the appeals were from husbands aggrieved by the verdict of various High Courts. This fascinating phenomenon provided the first indication that perhaps the ill-famed Act could be invoked to secure the rights of divorced Muslim women. Hence, it became expedient to examine whether the New Act provided Muslim women with a more viable and feasible alternatives to the prevailing remedy under Sec.125 Cr.P.c. by invoking Islamic principles confronted with this reality, perhaps it might have been prudent for advocates of women's rights to reframe their equations to the controversial Act. Through the judgement delivered by the Constitutional bench of the Supreme Court on 28th September 2001, the argument of constitutional invalidity has been negated. A five bench Judge headed by justice G.B.Patnaik unanimously declared that the Act is constitutional. But ironically, through this very act, the court has provided a greater protection to Muslims women. It is in this context that it has become imperative to gain better understanding of the impugned Act and to develop a more conciliatory approach of renegotiating its provisions to better serve the cause of Muslim women.

Historical Background

The Muslim Women (Protection of Rights on Divorce) Act of 1986 could be termed as one of the most controversial legislations of our times, enacted amidst protest from women's organisations and Muslim intelligentsia. The Act symbolised the loss of secular values in public policy and betrayed the communal tendencies of the then

ruling Congress government. The Act deprived Muslim women of the rights granted under a secular provisions, Sec. 125 of the Criminal procedure Code (CrP.C.) on the basis of religion alone and thus violated the Constitutional mandate of equality. The Act was also clear departure from the directive principle of enacting a Uniform Civil Code.

The period between the pronouncement of judgment in the Shah Bano case by a Constitutional Bench in April, 1985 upholding divorced Muslim Women's right to maintenance under section 125 Cr. P.C., to the time the Act was passed by the Congress Government headed by Rajiv Gandhi in May, 1986, was a turbulent one for women in general and Muslim women in particular. But, all their efforts could not stop the enactment. A crucial right to subsistence and survival seemed to have been cruelly snatched away from an extremely vulnerable section, the divorced Muslim woman.

As the debate progressed, media projected two insular and mutually exclusive positions i.e. those who opposed the bill and supported the demand for U.C.C. as modern, secular, rational, while those in the support of the new Act and opposing the UCC as orthodox, male chauvinist, communal and obscurantist. The judgment was used by the Hindu right-wing to whip up an anti- Muslim hysteria.

Ironically, the fury which was whipped up, seemed to totally ignore the core component of the controversy i.e., a paltry sum of Rs. 179.20p.m., far too inadequate to save the middle aged, middle class, ex-wife of a Kanpur based lawyer, from destitution. The raging controversy and pressure finally led Shah Bano to make a public declaration renouncing her claim. If this entitlement was against her religion, she declared she would rather be a devout Muslim than claim Maintenance. The hurriedly drafted and hastily enacted statute was full of contradictions and loopholes and seemed to have opened up a Pandora's Box. But despite its limitations, the Act was of immense historical significance, as the first attempt of independent India, to codify the Muslim Personal law. But the positions across the divide were rigid by then, that they left no space to contemplate upon this milestone in the history of personal law in India.

Once the Act came into effect, the protesting groups were left with no option, but to appeal to the judicial insensitivity, to set right the wrong caused to Muslim women by

the legislature. The first among the public interest petitions challenging the constitutional validity of the new Act was by legal luminary Daniel Latifi who had represented Shah Bano case, the renowned scholar did not live long enough to see the outcome of his petition.

Conflict and Concerns

The signals from the courts were clear and the Muslim leadership was quick in its response. By August 1992, Syed Shahbuddin had introduced a private member bill to cleanse the Statute of its so called ambiguities, which had led to a sense of unease in the minds of Muslim community. The Women's rights lobby lagged behind him by remaining unmindful of the tidings from the courts. It did not reformulate its equations to the Act in the wake of these rulings. The unease within the Muslim community in the respect of the Act did not surface nor spill over the political arena. The community was seized of more pressing matters, particularly after the demolition of Babri Masjid on 6th December 1992 and the riots that followed. The issue of Women's maintenance was pushed to the back seat by everyone concerned. The Act provided virtually two different sets of remedies depending upon the High Court under whose jurisdiction the woman resided. While in some states she was entitled to a fair and reasonable provision in addition to maintenance during Iddat period, in others, her right was restricted to maintenance for the Iddat period.

The Supreme Court finally took up the appeals for hearing in the last week of August, 2000. Arguments on behalf of women revolved around the constitutional validity of the Act and its un-Islamic characteristics and premises. Opposing them was the All India Muslim Personal Law Board (AIMPLB), defending its Constitutionality. The AIMPLB's concern was the apparent wrong interpretations by the various High Courts.

Fair & Reasonable Provisions

In a significant number of cases, a concerned and sensitive judiciary carved out a space for the protection of women's rights from what appeared to be an erroneously conceived, badly formulated and blatantly discriminatory Statute, without invoking a political backlash. Endorsing the spirit of Islam and the Shariah and reflecting the sensitivity of the Prophet, who is hailed as the greatest champion of women's

rights the world as seen, they read into this statute, notions of justice and equity. Doing precisely what the Act in its title proclaimed, i.e., protection of rights of divorced Muslim women, the judiciary turned what had initially appeared to be a misnomer and mockery into a factual reality and ushered in a silent revolution in the realm of Muslim woman's rights. It would indeed have been tragic if these concentered efforts were invalidated through a single stroke of pen from the Apex court.

The most significant issue which emerged out of the enactment, revolved around the stipulation of a fair and reasonable provision. Drawing on the Islamic concept of fair and reasonable provision, several High Courts opened a new portal for the protection of divorced Muslim women. The remedy, which the Courts so carefully crafted out of the controversial legislation, in fact, seems to provide a better safeguard, than the earlier anti vagrancy provision under Sec. 125 Cr. P.C.

The first judgment on this issue was pronounced by Justice M.B. Shah, then Chief Justice of the Gujarat High Court on 18th February, 1988. Even earlier on 6 January 1988, a woman judicial magistrate in Lucknow awarded Rs. 85,000 as maintenance during the Iddat period, mehr entitlement and fair and reasonable provision to a divorced Muslim lady.

Following the judgment of the Gujarat High Court, several judgments were handed down by various High Courts upholding the entitlement of a divorced Muslim woman to a fair and reasonable compensation towards maintenance. The Courts ruled that even when a wife has some source of income the right under Section 3 of the MWA is not extinguished.

The positive interpretations of the law by the secular courts have ushered in a new era of protection within the rights established under the principles of Muslim law. But the struggle has not been so easy. Women had to fight every inch of the way due to ambiguities caused by callous drafting of the Act, which provided ample scope to husbands to exploit the situation. But women withstood the ordeal with courage and determination, with patience and perseverance. After a decade and a half, the end result of this persistent struggle is clearly visible.

4. FIELD VISIT

After an extensive literature study on the status of women in India, the Internees came to the conclusion that the Muslim women were the worst affected among the women in India. Poverty, the internees felt, was not the sole cause for the plight of Muslim women, as there were poor families in other religions too. What seemed to distinguish Muslim women from those of other communities included the rigidity in the community, patriarchy, religious leaders and the community's fear that they will lose their Islamic identity if they allowed their children to take up secular education and attempt, especially, to prevent their girls from exposure to modernity. Illiteracy among women and lack of exposure to the realities adversely affected the socio-economic status of the community, pushing it further deeper into poverty.

With a view to ascertaining the field realities in the light of the literature that we studied, we undertook a visit to two predominantly Muslim-dominated areas, slum areas in that, in Behrampada and Pipe-line localities in Bandra. The field visit was intended to study the socio-economic status of the Muslim families, including their view on educating girls, their views on Purdah etc.

VISIT TO BEHRAMPADA

In Behrampada we interviewed 35 women in the age group of 19 to 65 years. The following points emerged during the survey.

Educational status

- Number of women who have completed class 12 and beyond: 5
- Number of women who have studied between classes 6 to 10: 15
- Number of women who have studied between classes 1 to 5: 4
- Number of illiterate women: 11

The illiterate women cited marriage and lack of interest in education as the reasons.

Children

The 35 women we interviewed had a total number of 95 children, with an average of 3 children per family. The 95 children included 48 boys and 47 girls. While the educational status of women enables them to plan their families, often their decision

is not final and they are controlled by the decisions of their husbands. Family planning is a voluntary decision of the families concerned and there is no pressure from the government agencies, especially in Muslim-dominated areas. In such areas, agencies responsible for family welfare or family planning hesitate to canvass family planning. Consequently, almost 37% of the women that the interneers interviewed had no idea about family planning. The following are the main findings:

- Number of women aware about family planning: 22
- Number of women not aware about family planning: 13
- Number of women practicing family planning: 14
- Number of women not practicing family planning: 21
- Number of women deciding family planning: 8

The survey revealed that the educational status of women has a distinct effect on the number of children that they have borne. Thus:

- Those with no schooling: Average number of children per family: 3.5
- Those with primary schooling: Average number of children per family: 4 (1 women has 8 children)
- Those who studied up to 10th: Average number of children per family: 2.6
- Those who studied 12th and above: Average number of children per family: 1.5

It is obvious that women with better educational qualifications have realised the importance of raising small families so that they could give a better life to their children. However, interestingly, a majority of the families (27 out of 35) approached private medical practitioners or private hospitals for their medical needs. Only two families turned to Municipal hospitals.

Awareness

Lack of education or poor educational status resulted in the married women depending on their husbands for decisions concerning the family. Illiteracy also affected their awareness of the factors affecting their lives. Thus:

- By and large, husbands continued to decide on the pattern of spending. Only 11 out of the 35 wives took such decisions.
- Only 4 out of 35 women knew about Right to Information Act.
- Out of 35 women only 12 knew about Right to Education.
- Out of 35 women only 24 knew about Right to Food and have ration cards.
- Out of 35 women only 15 knew about Domestic Violence laws. Most of them said that they got the information from their neighbours and some attributed their knowledge to their higher studies.

Accessing government facilities: The internees' enquiries revealed that only 14 out of the 35 women were accessing facilities made available by the government or the Municipality. The reasons for not availing the facilities included:

- ❖ No quota for Muslims
- ❖ Delayed knowledge about the schemes
- ❖ Total lack of knowledge or awareness
- ❖ No time and requirement
- ❖ Belief that private facilities are better than those offered by the government
- ❖ Government provides sub-standard facilities
- ❖ Other reasons

Inferences drawn from the survey: In effect, the following were the conclusions drawn by the survey by the Internees at Behrampada:

- The survey showed that education of women does play a major role. Those women who were more educated have less number of children.
- Although women were aware about family planning they did not practice it.
- When asked whether women influence winning of the candidate of municipal elections, they replied in the negative.

- When asked whether there were women leaders in the community, they replied in the negative. But some suggested the names of Mahila Mandal, Shakti Mandal and Jai Maharashtra Mahila Mandal. One woman replied that she herself had contested the elections.
- They do not have many demands. Their only concern is the absence of cleanliness and hygiene in their locality. They complained that the drains were clogged and overflowing, breeding mosquitoes. They said that though they have complained to the Municipal Corporation, the latter refuses to clean the garbage on the plea that the lanes and by-roads were too narrow!

Our field study reveals that the non-existence of purdah has helped Muslim women to take advantage of certain existential conditions, and enjoy a freedom which is somewhat unique among Indian Muslims. It should be pointed out here that we are not seeking to establish a cause-effect relationship in our study. Rather, we only wish to emphasize how an association between the absence of seclusion and isolation and the existence of certain socio-economic conditions has helped Muslim women to remain free from the traditional social disabilities.

The capacity to fulfil the multifarious roles that a woman is expected to carry out could have been possible through an appropriate process of socialization, which allows adequate freedom to young and adolescent girls to grow up in relatively unrestricted and uninhibited psycho-social and socio-cultural environments. However, we observed that the usual Muslim practice of excessive protection and sheltering of young and teen-age girls was not in force to any noticeable extent. Unlike the situation in traditional Muslim communities, heterosexual interaction was not a taboo among adolescents of school-going age in Behrampada. Girls were found to attend co-educational institutions and study along with boys till the stage of high school education. Where Urdu medium schools are non-existent, the Muslim girls attended Marathi medium schools. In tune with the general atmosphere, female students, even in the upper classes, studied under teachers of both sexes. Moreover, at least in one instance we found that Muslim girls were participating in dances and other stage performances in the school with boys. In one of the high schools, a large-sized photo of a woman donor was prominently displayed on the wall of the school's office. Thus, the puritanical flavour of orthodox Muslim cultural life is not visible in *Status of Women in India: Problems and concerns*

the socialization of young and adolescent girls. To those familiar with the socialization of females in a purdah set-up, the facts stated will seem to suggest an almost revolutionary situation.

The non-observance of purdah has helped the women of Behrampada to forge unity and function as a pressure group. It is a fact that individuals and groups who are underprivileged and exploited are unable to ameliorate their condition through joint action, since such action is circumscribed by their seclusion and isolation, robbing them of an opportunity to forge unity as well as opportunity to protest. In the course of our fieldwork we were informed of an incident which illustrates how the absence of purdah can make a dramatic difference to 'woman power'.

VISIT TO PIPELINE AREA

In the Pipeline Area, Bandra East, we interviewed 79 women living there. The women belonged to the 18 to 65 year age bracket. The following points emerged during the survey.

Education of the women

- Number of women who have completed class 12 and beyond: 4
- Number of women who have studied between classes 6 to 10: 25
- Number of women who have studied between classes 1 to 5: 10
- Number of illiterate women: 41

As in the case of Behrampada, the reasons for not completing studies include lack of interest and financial problems.

Children

As at Behrampada, the average number of children per family in the Pipeline area was 3. Of the total number of 226 children, 123 were boys and 103 girls. It was ascertained that only 29 (36%) were practicing family planning. Almost 50% of the women were aware of the family planning facilities available, but 31% of these women had the right to decide on adopting family planning.

Money Matters

Men playing the major role in all matters, only 28 (35%) of the women had any say in the matter of spending the family income. Illiteracy and lack of general knowledge resulted in only 13 of the 79 women being aware of the Right to Information Act and only 37 knowing about Right to Education.

Similarly, only 33 out of the 79 women knew about Right to Food and have ration cards. Lack of awareness has also resulted in only 38 of the 79 women accessing facilities offered by the government/Municipality.

Reasons for not accessing government facilities

- ❖ No quota for Muslims
- ❖ No knowledge or awareness
- ❖ No time and requirement
- ❖ Government provides sub-standard facilities
- ❖ Bad treatment given to them by the government hospital staffs

Finally, out of 79 women only 36 knew about Domestic Violence laws. Most of them said that they got the information from neighbours and from a committee of women working there.

Inferences drawn from the survey

1. Although women were aware about family planning they did not practice it as they consider children as "God's gift" which cannot be denied.
2. When asked whether women influence winning of the candidate of municipal election, they replied in the negative.
3. When asked whether there are women leaders in the community, they replied in the negative.
4. Their wants are limited. Their only concern was cleanliness and hygiene. Government does not listen to their demands and acts as a silent spectator.

Some women's organisations

JAI MAHARASHTRA MAHILA MANDAL

The Jai Maharashtra Mahila Mandal, with a membership of 40 women, and headed by Ms. Shamina Yusuf Dawoodwala, mainly deals with women's problems,

provides counselling and is engaged in social activities like cleanliness drive etc. The Mandal has a tie up with Holy Family Hospital and many NGOs. Having understood that the most common problem with Muslim women being that their husbands do not allow the wives to go out, the Mandal tries to convince the husbands to let their wives go out and mingle with other people. The Mandal organises seminars and lectures by doctors to enlighten the Muslim community. It also conducts classes for explaining any new law that might come up. The Mandal steps in when instances of dowry-harassment and domestic violence are reported and the victims approach the Mandal for help. With the help of the police the Mandal has been trying to sort out the problems. Its efforts have yielded good results in that many husbands have heeded the advice of the Mandal.

BHARTIYA MUSLIM MAHILA ANDOLAN

Established in 2007, the Bharatiya Muslim Mahila Andolan has played a key role in raising the standards of Muslim women to fight for their rights throughout the country. Mrs. Khatoon Sheikh, convener of the Maharashtra Chapter, claims that the movement is bringing in changes in the Muslim society. She feels that the community is still under the clutches of orthodox Maulvies and other religious leaders, who pose a hindrance to the social and economic development of the community. The BMMA is an initiative to create awareness among the oppressed and victimized women. The BMMA has 23,000 Muslim women members from all the corners of the country. Mrs. Noor Jahan, founder member of BMMA believes that all the rights guaranteed under the Constitution and all legal provisions, should reach the underprivileged sections of the society and justice should not remain a distant dream for them.

Working for the betterment of the lives of Muslim women, the BMMA has been demanding codification of Muslim Laws. The organization has taken up various educational schemes for the children and school dropouts. In spite of facing resistance from within the community and lack of support from the government, the BMMA has managed to get some scholarships for Muslim students. Suraiyya Sheikh, one of the active members of the BMMA feels that Muslim women have a lot of potential and the movement helps them to express their demands to the fullest.

BMMA also has been helping in providing vocational courses in embroidery, sewing, handicrafts, crockery making, designing of clothes etc.

The BMMA aims at enabling women achieve economic stability. There are a number of women who work as midwives and nurses in private hospitals and homes, besides babysitting. In some families, women are the only bread winners. This marginalized section of the Muslim community has a lot of potential in spite of low education and unfavourable conditions. Due to the painstaking efforts of the BMMA, Muslim women have started working in offices, call centres etc. The BMMA also provides medical facilities for women and conducts periodical medical camps in the slum areas. These camps have been proving life saving for women who could not have afforded healthcare in private hospitals. The people from the community also raise funds, and associate themselves with the programmes of BMMA.

Reforms in Osmanabad

The gendered division within the family is due to the unique combination of economic and status concerns. Invariably, the institution of family plays a principal role in small towns like Osmanabad. Access to many opportunities is often contingent on the connection that one's family has with another. Family interpretations of religious and social values as well as their own preferences are the greatest factors in determining whether or not daughters are sent to schools, whether parallel cousin marriages should be preferred, or whether women must wear a veil or not. Some families allow a daughter to enrol in a college for higher education while others will not. Until recently, these decisions were based on family traditions than on external factors. The women from all the spheres of life came out and joined the protest. The resentment among Muslim women regarding their fate and exploitation burst out and they did not hesitate to come on roads. The Movement paved the way for women to pursue their economic, social and educational desires.

The movement played a key role in introducing reforms. Due to their relentless efforts, they have achieved saving schemes for poor Muslim women. State Bank of India has launched this scheme. The movement is spreading throughout the country and has become very popular among Muslim women. The women who are concerned about their rights are participating with vigour and zeal. To make any movement successful one has to have the support of masses and the support, which the women are getting is motivating other deprived women who are still unaware of

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their rights. Associating with this movement would actually help them to realize their dreams and would actually bring desired change in the future generations. Swami Vivekananda once said: "arise away and stop not until the goal is reached". These women should remember these words and endeavour to achieve their birth right.

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