ENSURING EQUALITY FOR THE MINORITY WOMEN

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he Muslim woman refuses to be defined as a separate entity. She shares all her definitions with women from every community provided they also share her class. Her religion has given her the best but her Muslim

they also share her class. Her religion has given her the best but her Muslim Samaaj has not given her her due. Let us begin with contextualising gender in Islam by using the most

quoted lines of the Quran from Surat Al Ahzab:

- For Muslim men and women
- For believing men and women
- For obedient men and women
- For true men and women
- For patient men and women
- For humble men and women
- For charitable men and women
- For chaste men and women

- For men and women who engage much in zikr of Allah
- For them Allah has great forgiveness and reward.

This is the universal Quranic injunction for Muslim women which places them on par with men in the community. The question then ariseswhere is the equality, the dignity and status which the Quran and Prophet



visualised for women? Why are Muslim women across the globe even today struggling to break from the culture of oppression that denies them identity? Why do they continue to be marked, oppressed and violated? Their status of the subaltern sex of an already weakened community is widely watched and labeled. In short, why are Muslim women still such a distance away from the path of development?

Islam was born in a context. It was meant to address the ills of a degenerate pre Islamic society in which women were treated worse than animals. At that point the teachings of the Prophet created a revolution in that society. They lifted women from the well of despair in which society had sunk them and for the first time gave



them rights; right to property among others. The Quran, thus, showed us a way to women's empowerment. Instead of treating it as a roadmap, the patriarchal mindset of Muslims treated it as the destination. The doors of Ijtihad (Innovation, Interpretation) were closed by vested interests.

We Muslims didn't change; we didn't progress, we just took a few strides and then stood still. We stopped reading the Prophet's Hadith (spoken word) and his Sunnah (practice). We stopped understanding his message and began to rely on interpretations. And instead of adopting healthy practices, we borrowed from other religions and cultures only their patriarchal values. For example, dowry became our practice, which is totally prohibited in Islam. Or caste.

There is no concept whatsoever of caste in Islam. Islam negates caste hierarchy. Yet, according to NSSO figures, 41 per cent Muslims consider themselves as OBCs in 2004-05. Caste system, when it permeated into Muslim ethos, became yet another excuse for "honour crimes" against women. Its most stark example is my very first case in 1997 when as Member, National Commission of Women I tried unsuccessfully to stop the honour killing of 19 year old Maimun of Sudaka in Mewat district of Haryana.

As Member of NCW (1997-2000) I decided to survey the status of Muslim women across the country, listen to them, and project their voices before the country. Public hearings with Muslim women were held in North, South, East, West and North-East; cities like Ahmedabad, Indore, Jabalpur, Mumbai, Kolhapur, Hyderabad, Bangalore, Chennai, Calicut, Thiruvananthpuram, Calcutta and Tezpur. At every Hearing hundreds of women came to depose. Everywhere, the big cross cutting issue was poverty closely followed by the stranglehold of Muslim Personal Law. Story after story was told about multiple marriages,

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Triple Talaq and abandonment without Mehr or maintenance. Zardozi workers, Beedi rollers, domestic helps, farm labourers all spoke of their triple disadvantage. This exercise led to a landmark report Voice of the Voiceless: Status of Muslim Women in India 2000, which contextualised these matters.

Its recommendations were presented to government, religious bodies and civil society for policy formulation. The study carefully took on board views of the religious leaders, since it was evident that they had a wider and deeper reach inside the community, thereby the women. At the time, Muslim Personal Law Board, an influential national level body of clerics from all schools of theology, was headed by a distinguished scholar Maulana Ali Miyan, a man open to discussion about gender in Islam and sensitive to the misuse of Islam in a profligate manner in which Muslim personal law was used to entrench male hegemony and stranglehold over women. The AIMPLB began including women members, albeit very few and quite compliant. The next president of AIMPLB was Maulana Mujahidul Islam Qasmi who continued the liberal tradition of his predecessor.

There was need to take this work forward and take stock of the efficacy of our recommendations. In 2001 I co-founded with Dr Sughra Mehdi, the Muslim Women Forum; its founding Chair was Begum Saeeda Khurshid daughter of President Dr Zakir Husain. Another series of meetings and hearings were held across the country in some of the same cities (and some

different ones for comparison) and led to a Report with an aspirational title, My Voice Shall be Heard. The findings of this Report did not reveal any progress or improvement. It was evident that NCW's intervention had not led to any betterment for Muslim women, perhaps it was too soon for results. That was 2003.

One year after My Voice Will Be Heard, the new government decided to constitute a High Level Committee under Justice Rajinder Sachar to study the status of SRC (Socio Economic Communities) primarily Muslims. Its landmark report was released in 2007. The findings revealed the dismal state of the Muslim community which since the last 67 years had fallen behind the traditionally backward Dalits and Tribals in many respects. Data drawn from Census 2001 was presented in table after table of comparative analysis which proved the point.

Since 2000, there has been a growth in the number of Muslim women organisations publicly calling for reform of Muslim Personal Law (MPL), justifying their demands for gender equality by referring to the foundational text of Islam- the Quran. These women and their activities have been seen as continuation of a trend observed all over the Muslim world in which a new breed of Muslim women scholars was seriously and critically studying the Quran from a female-perspective.

Establishment of Muslim Women's Forum was followed by other civil society formations which raised various issues of Muslim women. Bharatiya Muslim Mahila Andolan was formed in 2006 and served as an important advocacy group. All India Muslim Women Personal Law Board began to articulate women's issues within the ambit of Muslim Personal Law. Another important trend which gathered force at this time was judgments by courts favoring Muslim women. In the 2009 case of a divorce petition of Shabana Bano and Imran Khan of Gwalior, the Supreme Court ruled that the woman under The Supreme Court's landmark judgement on triple talaq seeks to obtain the rights provided to women in the Qur'an. It was Justice Kurien Joseph, who along with Justice R F Nariman and Justice Uday Umesh Lalit who caught the contradiction in the minority judgement opposing the prohibition of triple talaq

Section 125 CrPc would be entitled to claim maintenance after Iddat so long as she does not remarry. This being a beneficial legislation, the benefit would accrue to the Muslim woman.

But what made headlines was sensational voyeurism, such as news about Gudiyas and Imranas, Muslim women who were victimized by their personal laws. Such stories are prominently featured but many other positive ones remain buried in Muslim villages and ghettoes in urban areas. There is always the good with the bad, but media is mostly interested in sensational exposure of Muslim women particularly if it indicts the Sharia

This penchant led to a huge interest in my performing a Nikah on August 12, 2008; I was probably the first Indian woman who had solemnized an Islamic marriage. I don't think I had created a world record; although some sections claimed it was a global first. I performed the Nikah of Naish Hasan and Imran Ali in Lucknow. A woman Oazi and women witnesses hit the big time and became breaking news. What was never projected was the fact that Islam is the only religion which has no injunction against women performing this function. The fact that there are no women Qazis among Muslims is purely customary practice. The other fact that this revolutionary event in Lucknow did not invoke a condemnatory fatwa was hardly noticed in any media.

The role of Muslim women activists in India is crucial for improving the legal lot of Muslim women. Clearly, we need to take concrete steps towards remedying the consistent failure of the religious authorities to implement those provisions of Islamic law that were originally designed to emancipate women but which are widely ignored in practice today. The Supreme Court's landmark judgement on triple talaq seeks to obtain the rights provided to women in the Qur'an. It was Justice Kurien Joseph, who along with Justice R F Nariman and Justice Uday Umesh Lalit who caught the contradiction in the minority judgement opposing the prohibition of triple talag and made this statement, "After the introduction of the Muslim Personal Law (Shariat) Application Act, 1937, no practice against the tenets of Quran is permissible. Hence, there cannot be any constitutional protection to such a practice (triple talaq) and, thus, my disagreement with the learned Chief Justice for the constitutional protection given to triple talaq."

The question of Uniform Civil Code (UCC) has been in the public domain since the last 70 years. Among Muslims there is apprehension that a UCC or any new legislation within Muslim Personal Law (MPL) will be enacted in India in the near future. MPL Board's argument in the SC against abolishing triple talaq hinged on the fear that it would pave the way for UCC. The Supreme Court did not hear the UCC issue along with the triple talaq case, saying that the two are separate issues. But fear remains of the Centre's exploiting the judgement for its political gain. The matter now is in the the Rajya Sabha where the opposition has asked for more discussion given the extreme sensitivity of the issue.

The most recent development is the Law Commission's Report submitted on the eve of completion of its term.

Since polygamy, nikahhalala, adultery law are in the Supreme Court, the Law Commission has discussed reforms but not made recommendations. "Although polygamy is permitted within Islam, it is a rare practice among Indian Muslims, on the other hand it is frequently misused by persons of other religions who convert as Muslims solely for the purpose of solemnising another marriage rather than Muslims themselves," it notes. It suggests that a standard Nikahnama should make it clear that "polygamy is a criminal offence, a position that is not based on a moral stance on monogamy but on the fact that it has been used as an exclusive privilege of men."

It has made an important pronouncement on the UCC stating that the time for enacting is not now. Its stand is in favour of equality 'within communities' between men and women (personal law reform), rather than 'equality between' communities (UCC). The Commission goes on to emphasise that celebration of the diversity of Indian culture must not dis-privilege specific groups and "women must be guaranteed their freedom of faith without any compromise on their right to equality" as it would be unfair to make women choose between one or the other.

The Law Commission has also recommended a 'Muslim Code of Inheritance and Succession' applicable to both Sunnis and the Shias, so that succession and inheritance be based on 'proximity to the deceased rather than preference given to male agnates heirs'.

To showcase the efforts of twentieth century Muslim women who broke the stereotype image of the oppressed Muslim woman, Muslim Women's Forum recently held an exhibition and a colloquium titled 'Path breakers: The Twentieth Century Muslim Women of India' These women became nation builders along with the tallest leaders like Mahatma Gandhi, Jawaharlal Nehru and Maulana Azad. They were Constituent Assembly Members, MPs, MLAs in the first three elections. Sharifa Hamid Ali, born in Surat, sat in the Constituent Assembly and represented India at the UN Commission on Status of Women and prepared a model nikahnama. Mofida Ahmed was an MLA from Jorhat in Assam, Aziz Imam, Anis Kidwai and Qudsia Aizaz Rasool were members of Parliament, Qudsia Zaidi started the first professional theatre in post Independence India. Surayya Tyabji designed the Indian flag. Some of the participants were writers, poets and chroniclers of their time. The list of their achievements is long.

All the current hype about Islam being anti-women and a patriarchal religion is negated by the courage of these pathbreakers, their friends and Muslim Women's groups in showing what is real and meaningful about women in Islam.

In the words of Wasim Barelvi.

Jahan jalega wahin raushni lootaye ga
Kisi chiragh ka apna makan nahin hota
Wherever it is placed it will spread light
The lamp has no home of its own

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