



A Critical Analysis on Gender Equality with Special Reference to the Status of Muslim Women in India

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Abstract:

There have been innumerable debates and discussion on Gender Inequality in Islamic Society over the last several years. In spite of the truth that women have excelled themselves in almost all the areas over the past years, yet, uneven sharing of burden of adversities exist between a man and a woman. Most of the inequalities are visible in their education, health, economic position, gender equality etc. An overall study suggests a paradoxical position of women in our developing country. In this discussion or action, the name of Islam is also dragged, and various misinterpretations of Islamic views are given not by religion but by man. There are uncounted occasions where Muslim Women's rights were violated in the name of Religion. But, it is wrongly understood that Islam is totally opposed to Rights, Freedom and Liberty of Women.

The Paramount sources of Muslim Personal Law are the Holy Quran and the Tradition or Ahadis (Sunnat) of Prophet Mohammad (PBUH). The Holy Quran is regarded as the Magna Carta of basic human rights, from which bundles of Muslim Women's rights emerges. But unfortunately, the age old social customs and the heartless conservatives values has led more to the miseries of women section in Islamic Society. Although, the Constitutional Law of India guarantees many legal rights to Muslim Women's and amendments were made for women's social, economic and political benefit, yet they were never effective to bring a radical change in the situation. And one of the obvious reasons for such a situation was that most part of Muslim Personal Law are uncodified and till today decisions are given against the true spirit of the constitution of India. The Practice of Triple Talaq, Nikha Halala and Polygamy largely ruined the social status of Muslim Women and render them to Gender Inequality and vulnerable treatment belonging to their own society.

Time has come where Legal Experts, Qazies and Maulavies should come forward to define the true spirit of Holy Quran which is always adherent to the Progress of Muslim Women in all the spheres. At the same time, it is also important to understand that gender is a man-made concept while Sex in natural or biological characteristics of human being. Both the positive and negative aspects of Muslim Personal Law should be interpreted in such way that it benefitted the Muslim Women to a larger extent.

Keywords – Islam, Muslim Women and Gender Inequality

Introduction:

The status of Muslim Women in the Indian society varies according to the time, culture and society. In the Indian Patriarchal society, women are not born, but made, because her best duties are defined as dutiful daughters, dutiful wives and dutiful mothers for centuries. The quotation from the Father of the Nation, Mahatma Gandhi "The poorest and Most Powerless Individual, is actually a Women" truly reflects the position of women in the Indian society. The figures on Gender Inequality suggest discrimination against women as alarming, gloomy picture

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and shocking. The central roles of women accepted by all the societies in India are the women's stereotypical roles mainly wifehood and motherhood. Extensive gender inequalities are noticeable in the sphere of education, health care, and financial resources and also visible in the availability of opportunity in the political, economic, social and cultural spheres.

Thus, from the womb to tomb women's are sufferers of deprivation. The educational backwards and deficit developments of women in general and Muslim Women in particular, is an issue of concern. Thus, the condition of Muslim Women was very miserable, because Muslims are among the marginalized communities in the country. The women section of Muslim Community has to suffer double depravities both from the traditional patriarchy as well as discrimination against Religious minorities. The plight faced by the Muslim Women is mainly due to the various restrictions imposed in their everyday life by their family members. Gender Inequality in Islamic society has given rise to many evils like Child Marriage, Dowry System, Veiling, Polygamy, Triple Talaq, lack of Education, lack of Opportunity in Employment, failure to take Decision in the family, no economic independency and overall miserable status of women in the patriarchal society. Thus, time has come where collective effort from all sides is required to raise the status of Muslim Women. One of the fundamental requirements is the true interpretation of Quranic Verses for the protection of Women's Rights in all the spheres. Islam regards both men and women equal. It is due to the misinterpretation of the verses of Holy Quran and the Provision of Ahadis that has led more to the suffering of Muslim Women. The present situation needs a great awareness amongst the Muslim Women about their rights guaranteed by the Holy Quran as well as by the Supreme Law of the Land. The women section of the Muslim Community must raise their voice against all the Gender Inequalities they have been facing since several years in the name of Religion and Shariat.

Meaning of Gender Equality:

The term Gender Equality is not of single meaning. It is multi facet concept which refers equality in all the spheres. It includes equality of opportunities in economic as well as socio-political and legal aspects. It is a controversial issue which has been considerably debated in modern world times. Gender Equality refers to sexual equality that men and women should receive equal treatment as well as equal recognition in all the aspects of life. It basically seeks to create equality in all social, political and economical situations.

Gender Equality is a human right, but our world faces a persistent gap on access to opportunities and decision making power for women and men. The word Gender describes the socially constructed roles and responsibilities that societies consider appropriate for men and women giving only certain rights to Muslim Women would not suggest Gender Equality. But fulfilling international development goals, empowering women to contribute in the societal development so that it benefits everyone. Thus, time has emerged where the stereotypes are to be broken, and both men and women should come out of their boundaries to follow their dreams rather than worrying about the outer world.

Meaning of Gender Inequality:

Gender Inequality is a serious concern all over the world and even more crucial when it comes to the status of Muslim Women in India. Gender Inequality may mean social disparity or unequal distribution of opportunity. It is a multidimensional concept which is the departure from



parity in all spheres: economic, educational, health, financial and social. One of the key features of Gender Inequalities is that the Foundation of Gender Inequality is based upon the patriarchal traditions and ideologies. Since Gender Inequality and disempowerment of women occur in various domains in which men and women interact and function. Indicators of women empowerment are designed to measure roles, attitudes, and rights of women.

Indicators of Gender Injustice:

Some of the indicators of Gender Injustice are – female sex ratio at birth, infant and child mortality by sex and low ages at marriage for women, lowered access to resource as such as education, employment, lack of decision making power and freedom of movement. Some of the other factors for inequality are family background, education, beliefs, attitudes and practices that serve to exclude women to participate in public domain. Some of the age old beliefs that have led to the disparity of Muslim Women in India are:

- Son Preference, Sex Ratios and Related Indicators.
- Gender Discrimination in Education.
- Marriage Age of Muslim Women.
- Misinterpretation of Verses of Holy Quran and Ahadis.
- Irrational Fatwas.

Gender Inequality in Islamic Society:

Islam as a Religion has always been praised for its historically liberating roles of women. But unfortunately, the debate on Gender Inequality in Islamic society has become highly controversial. Although, the Holy Quran provides the basic Right of Equality to the women sections of the society, yet the study reveals that the religious practitioners accountable for the lower status and inferior legal rights of Muslim Women in Islamic society. The patriarchal values and the legal discrimination remain the central debate on Islam and Muslim Women. Patriarchal beliefs have been part and parcel of Islamic society. The status of Muslim Women in India needs a historical approach. Studies have highlighted that the opportunities for Muslim Women to raise their voice for their basic rights – educational right and work opportunities are very less and even they feared to say anything in personal law matters like – marriage, divorce. The Muslim woman has to face several restrictions. They were regarded as financially vulnerable and politically marginalized in the country.

Muslim Community in India is recognized as “Backward Community”. One of the permanent features for such backwardness was the low socio-economic status the Muslim Women have very less or invisible role to play in public filed. Unawareness among the Muslims women about their rights reinforced the cultural stereotypes and struggles.

Studies conducted on Muslim Women reveals that apart from less opportunity for education and lack of decision on making power, the sanctity of polygamy and divorce by the Muslim personal law has great impact on the status of Muslim Women in India. This has also effected the political and communal situation of the country.

The matters relating to Muslim marriage, men’s higher share of inheritance, unilateral right of husband to divorce his wife, polygamy, absence of Mahr, Provision of Maintenance suggest the undefined miseries of Muslim Woman in Islamic Society.



Muslim Women's Autonomy to Move Out for Educational Purpose:

Education is the mirror of society, a significant tool in bringing about a dynamic change in the social fabric of any society. Education is one of the critical tools to empower women. Realising the importance of education, Islam has very rightly emphasized its values for both men and women. Muslim Women in India did not progress much in terms of modern education. Although the constitution of India guarantees equal educational rights to both men and women have equal Liberty to access education. But the real picture is reveal by the statistical result is very grim as compare to men in the context to literacy. There is discrimination in educating boys and girls in the Muslim community. Investment on the education of a son yields much more than an investment on the education of a daughter. A daughter is considered as another property. Education of women is also closely linked to the economic status of the family. Most of the family prefer professional and higher education for sons than to daughters. Besides, income, to other factors responsible for educational backwardness of Muslim Women are: early marriage of girls, social opposition to sending girls to schools for higher education, purdah, preoccupation of girls with domestic household activities, non availability of girls school.

Changing people's attitude and mentality towards women will take a long time – at least a generation, many believe, and perhaps longer. Nevertheless, raising awareness of the issue of violence against women and educating boys and men to view women as valuable partner in life, in the development of a society and in the attainment of peace are just an important as taking legal steps to protect women's' human right.

Health and Gender Equality:

Women's health is a right or morals. And it is the duty of all people to respect the "rights" of the person. This is affirmed in the preamble of the Universal Declaration of Human Rights. Article 1 of this declaration reaffirms the essence of human beings when it established that "all human beings are born free and equal with respect to dignity and rights.... and they are obliged to treat each other in the spirit of brotherhood". Talking about the specific theme of health. Article 3 of the declaration establishes that "Every Individual has the right to life... and to the safety of his/her own person" and that Article 25 enacts the "rights to a way of life that guarantees good health".

To analyse the status of Muslim Women, it is essential to measure the two important criteria i.e. health care and family planning. Study reveals that women in India prone to specific illness like tumours in the reproductive system, osteoporosis, menopause, anorexia, infectious disease (AIDS, TB, SKIN Lesions and Sexually Transmitted, Disease), Genital Tumours, Cardiovascular Risk and threat of Premature Birth.

Most of the Muslim Women in India use temporary methods to prevent unwanted pregnancy. And on the other hand the Ulemas believed that the surgical methods like sterilization to permanently end fertility are forbidden by Islam. As a result the family size goes beyond the economic capability of the father and the health of the mother has been ruined by repeated pregnancy.

The above analysis simply demonstrates that the plight of Muslim Women in India is very miserable. Lack of awareness of their health rights, confinement between the four walls of the house, domestic work, caring and nourishing of children, performing household activities etc. has added to the lowering status of Muslim Women in India.



Uniform Civil Code towards Gender Justice:

One of the important philosophies enshrined in the constitution of India is to establish an egalitarian society. The founding fathers of the constitution of India dreamt of establishing a state, India, in which all people have equal rights and liberties without discrimination. To ensure the same, a long list of Directive Principle of State Policy has been enlisted in the constitution of India. The principles are the directives given to the state so as to achieve the goal of an egalitarian society.

Although, the constitution of India guaranteed equal rights to both men and women, but unfortunately, the muslim women in India suffered a lot due to the dominance of patriarchy in the in Islamic society which is irrationally supported by Fatwas given by some Muslim organization. Muslim Women had to struggle for Equality, Justice and Liberty. So, proper interpretation of Quranic Provision in the light of contemporary situation and in consistent with the ideal of Gender Justice as enshrined in the Constitution of India is the need of the hour.

Meaning of Uniform Civil Code:

Article 44 of the Constitution of India provides the state shall endeavour to secure for the citizens of India a Uniform Civil Code throughout the territory of India. A Uniform Civil Code means a set of secular civil laws applicable to all the communities' irrespective religion and region. It is pertinent to analyse the Constitutional background of Article 44 of the Constitution to understand the "Uniform Civil Code."

There were two objections raised against the Uniform Civil Code by the Muslim members in the Constituent Assembly –

- It would infringe the fundamental right to freedom of religion, and
- It would be a tyranny to the minority

The founding fathers incorporated Uniform Civil Code to promote equality among its citizens.

Which ultimately will lead to establish India into a strong nation? At present the ruling government strongly talked in favour of the Uniform Civil Code in their political agenda but no development so far has been done in this direction.

Uniform Civil Code towards Gender Equality:

The famous case, in Mohammad Ahmed Khan v. Shah Bano Begum, also known as Shah Bano's Case, the Supreme Court opined that "it is also a matter of regret that Article 44 of Our Constitution has remained a dead letter". The division on given by the Supreme Court was highly criticised by Muslim Fundamentalists. Later on, the Muslim Women's (Protection of Rights on Divorce) Act 1986 was passed. Thus, Autonomy of a religious establishment was thus made to prevail over women's right".

Another important decision was given in Sarla Mudgal v. Union of India, in which Supreme Court requested to the Government of India to have fresh look at Article 44 of the Constitution of India.

Again in Seema v. Ashwani Kumar. The Supreme Court ruled that the state should come out with specified steps to endeavour to secure the citizen a Uniform Civil Code throughout the country.



The preamble to the constitution of India resolves to constitute a “Secular Democratic Republic. It means that India as a state does not recognise any state religion and there will no discrimination on the ground of religion. So, it is expected that the Apex Court may review its findings in some other case and issue mandatory government to bring a common Civil Code applicable to all communities irrespective of their religion.

Discussion and Conclusion:

- The rights of a Married Muslim Women have not been given equally with the husband. The husband has a right to marry several wives but the wife can marry only one. She has also not given equal rights in the property of the husband. As a right, Muslim Women has exclusive right to receive “Mahr” from her husband.
- Muslim Women’s health and safety is another important area. HIV/AIDS is becoming an increasingly impactful issue for Muslim Women.
- Muslim Women’s also suffers from lack of socio-economic right. Muslim Women still lack right to own land and to inherit property earn income or to go in their work place free from Job discrimination.
- Education is the key to development. Gender parity is also noticeable in educational field too.
- The status of Muslim Women can be improved if they are allowed to take actively in every sphere of life. Many traditional practices deprive Muslim Women of Equal opportunity.

Thus, to conclude, it can be said that women for centuries have been geared into second class roles in a general patriarchal society throughout the world. In view of the information above, it is clear that Muslim Women in India has been struggling since many years to get rid of irrational Social order. In India, the debate on Muslim Women and gender on equality has revolved around on Islamic fundamentalism as propounded by the religious experts especially the Ulema.

Muslim Personal Laws are legal forms of the customs, urges and traditions found from ancient days in the form of shariat, prevalent in Muslim society. Family affairs, property matters, marriage, divorce have been settled on the basis of Shariat rules, based on Holy Quran. Islam bestows all kinds of rights on Muslim Women including right to property. But data suggested that only 33 % cases it was available to her and 77 % it was non-available.

Shariat has made provisions of verbal divorce. Islamic system of divorce is the most controversial issue in India. It is so mainly due to the protagonists of the Shariat, who do not want any change in the system. In Muslim society, the traditional forces are still acceptable to a large percentage of Muslim Women.

The status of Muslim Women in India is not very satisfactory. They were highly dependent on men for every reason, be it economic or social, status. After examining several factors, educational backwardness is the most important reason for the low status of Muslim Women. They have no decision making powers, family are very important for Muslim Women. Their role as decision makers is insignificant. So, it is urgent necessity to alter the gender inequality globally, a shift is required which will take place through gender mainstreaming to women empowerment. To curb down the menace of gender inequality, initiative at national as well as international level is must, still a lot remains to be done to completely stamp out the growing violation of women’s dignity.



Suggestion:

- There is an imperative need for direct involvement of women in over all spheres, in view of gender equality.
- Gender sensitivity at the project formulation stage, both at the governmental and non-governmental level is required.
- The need of the hour is to design and implement programmes for Muslim Women through community based organization.
- Non-governmental organizations may be helpful in better targeting of the poor women.
- A social reorientation for gender just society would required a radical transformation through awareness on gender issues and sustained efforts of importing training and education on various developmental activities.
