

## CHAPTER-V

# MUSLIM WOMEN AND GENDER INEQUALITY IN ISLAMIC SOCIETY

### 5.1 Introduction:

There have been innumerable debates and discussion on Gender Inequality in Islamic society. 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 women. Most of the inequalities are visible in their education, health, economic position, gender equality etc<sup>1</sup>. 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 occasion where Muslim women's rights were violated in the name of religion. But, it is wrongly understood that Islam is totally opposed to the rights, freedom and liberty of women<sup>2</sup>. The paramount sources of Muslim personal law are the Holy Quran and the Traditions or ahadis of Prophet Mohammad (PBUH). The holy Quran is regarded as the magna carta of basic human rights, from which bundles of Muslim women's right emerges. But unfortunately, the age old social customs and the heartless conservatives values has led more to the miseries of women sections in Islamic society. Although, the constitutional law of India guaranteed 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 this is mainly because most part of the Muslim personal law are uncodified and till today decisions are given against the true spirit of the constitution of India. The evil practice of Triple Talaq, Nikah Halala and

---

<sup>1</sup> Dr. Nuzhat Parveen Khan, *Women and the Law* 1, (Universal Law Publishing, 1st Edn., 2016).

<sup>2</sup> Ibid.

polygamy largely ruined the social status of Muslim women and render them to gender inequality and vulnerable treatment belonging to their own society. The true spirit of Holy Quran should be interpreted which is always adherent to the progress of Muslim women in all areas. Again, it is also significant to take note that gender is a man made concept while sex is biological features of human being. Thus, importance should be attached to study, analyse and interpret the Quranic verses in a way that it will benefit the Muslim women to a larger extent.

The position of Muslim women in the Indian society varies according to the changes with time, tradition and civil society. The Indian patriarchal society makes it visible that women are not born, but made because her central obligations are best defined as dedicated daughters, dedicated wives and dedicated mothers for centuries. The quotation from the father of the nation, Mahatma Gandhi “The poorest and most powerless individual, is actually a women”<sup>3</sup> truly reflects the position of women in the Indian society. The statistics on gender inequality submit discrimination against woman as upsetting, dejected and dark picture. The principal roles of women accepted by all the patriarchal societies in India are mainly wifehood and motherhood. Substantial gender inequalities are noticeable in the sphere of education, healthcare, financial resources and also visible in the availability of opportunities in the political, economic, social and cultural spheres.

Thus, from the pre-natal chamber to Mausoleum women are sufferers of deprivation. The literary backwardness and less development of women in general and Muslim women in particular, is an issue of worry. Thus the status of Muslim women was very pathetic, because Muslims are among the depreciate communities in the country. Due to dominance of patriarchy and the discrimination against religious minorities, the women section of the Muslim community has to tolerate dual perversion. The difficulty faced by the Muslim women is mainly due to the unreasonable limitation imposed in their day to day life by their own family members. Gender inequality may

---

<sup>3</sup> Rajiv Azad, *Gender Discrimination, An Indian Perspective 1*, (Atlantic Publishers and Distributors (P) Ltd., New Delhi, 2014).

be said as the root cause of many other social evils like polygamy, triple talaq, lack of education and lack of opportunity in employment, failure to take decision in the family, no financial independency and over all sorrowful status of women in the patriarchal society. The present situation requires a greater 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 must raise voice for all suffering they have been facing since several years in the name of religion.

### **5.1.1 Meaning of Gender Equality:**

It is a laborious task to define the term Gender Equality in a single sentence. It is a multidimensional concept which refers equality in all the filed. It incorporates equality of opportunities in social, economical, political as well as in legal spheres. Over the past few years, gender equality and the protection of rights of Muslim women have been considerably debated and has become key focus, not mainly to the health of the nations, but also to the development of the nation. Additionally, the promotion of gender equality and empowerment of women is one of the eight millennium development Goals (MDG) to which India is a signatory<sup>4</sup>. The coupling of the two concepts of women's empowerment and gender equality into one MDG implicitly recognises that gender equality and women's empowerment are two sides of the same coin as progress towards gender equality requires women's empowerment and women's empowerment require, increase in gender equality<sup>5</sup>.

Gender equality is a human right, but our world faces a persistent gap in access to opportunities and decision making power for women and men<sup>6</sup>. Following are three important aspects of gender namely:

---

<sup>4</sup> In September 2000, at the Millennium Summit, 189 Head of State and Government Committed their countries to meet a set of time-bound and measurable goals by 2015.

<sup>5</sup> Dr. Nuzhat Parveen Khan, *Women and the Law* 16, (Universal Law Publishing, 1st Edn., 2016).

<sup>6</sup> Global Issues: Gender Equality and Women's Empowerment available at: [https://www.peacecorps.gov/educators/resources/global-issues-gender-equality-and-womens-empowerment/?\\_ga=2.112890050.771137888.1607363082-2098691637.1607363082](https://www.peacecorps.gov/educators/resources/global-issues-gender-equality-and-womens-empowerment/?_ga=2.112890050.771137888.1607363082-2098691637.1607363082) (visited on 07th May, 2019).

- (a). Gender is not value neutral. The rights, duties and function entrusted to both the sexes are not only different but there is unequal importance given to the functions discharge by a male than by the roles played by a female.
- (b). Gender entails distinction in power, both power to and power over. The concept of power to comprises of legal and informal rights, access to resources, and pursuit of knowledge including familial, cultural, and institutional domain. Power over means control over societal and household resources. Significantly, men tend to have greater power than women, and in some aspects, even power over women<sup>7</sup>.
- (c). Gender is not inflexible or rigid. Being racially established, gender roles, rights, and assumptions can change over time and across geographical space as societal needs, opportunities, and customs change<sup>8</sup>.

The word gender suggests the socially constructed roles and responsibilities that societies assume correct for men and women. It is important to understand that entrusting certain right to Muslim women would not suggest gender equality. But complying with international development goals, authorizing women to contribute in the societal development so that it will be beneficial to all. Thus, time has emerged where the Muslim women should come out of their irrational boundaries to follow their dreams rather than worrying about the illogical views given by some organisations.

### **5.1.2 Meaning of Gender Inequality:**

The nation of Gender Inequality is a serious concern all over the world and even more racial when it comes to the status of Muslim women in India. Gender inequality may mean social discrepancy or incongruity or unequal distribution of opportunity.

It is a multifarious concept which means withdrawal from parity in all sphere: economic, educational, health, financial and social. One of the basic features of gender

---

<sup>7</sup> Supra Note 5 at P.16.

<sup>8</sup> Ibid.

inequality in that the base of gender inequality is upon the traditional ideologies of patriarchal values. The occurrence of gender inequality is visible when both male and female interact and function together. Gender inequality is experienced differently across different culture.

### **5.1.3 Indicators of Gender Inequality:**

Gender inequality serves as a major obstacle to human development. The stumbling block which are being faced by women sections in the Muslim community are the major source of inequality. Muslim women are discriminated against health, education, political representation, labour market etc. with a miserable consequence for development of their capabilities and their freedom of choice. In India, the reference of sex ratio of birth, infant and child mortality by sex, and low ages at marriage for women can be measured to analyse the various situations of gender inequality. Again, men's control over women can be measured and also the subject of spousal violence may be taken into consideration to assess the level of gender inequality. Some of the age old belief that has led to the disparity of Muslim women in India are –

#### **(a). Son Preference, Sex Ratios and Related Indicator:**

An underlying indicator of gender inequality in India, and feasibly, one of the most potent, is the preference of sons, so powerful that it is resulting in reducing the birth and survival of girls. A drastic lessen in the sex ratio for the population age 0-6, from 945 females in 1991 to 927 females per 1000 males was clearly visible in the 2001 census data for India. The trend does not stop here, in 2005-06 national family survey data sex ratio further reduced to 918 females per 1000 males. And in 2011 census, it was 914 females against 1000 male<sup>9</sup>.

Such disdain in the under seven sex ratio over few years may be due to the following reasons:

---

<sup>9</sup> Supra Note 5 at P. 19.

For mostly, a reduction in the sex ratio at the time of birthing through the utilization of new mechanization that enables sex selection.

Secondly, arise in the mortality of girls children in comparison with the mortality of boy children, indicating increase in the discrimination on against girl child.

Thirdly, a structured under-count of female children in comparison with the male children under the age of seven. It is to be noted that the disparity against the female child was well known by the policy makers, so, the government has taken steps in this regard by passing the pre-natal diagnostic testing (Regulation and prevention of Misuse) Act, 1994 prohibiting the use of prenatal diagnostic technique to determine the sex of the child even steps were taken to protect the health of girl child through various policy initiatives. The entire sex ratio is mainly influenced by the Pre-Natal technology namely ultra sound or ultra sonography through which the couple decide to undergo only desired sex<sup>10</sup>.

For instance, a society with more son preference would have male as last birth wherein the females are expected to be grown up in such families consequently, a scrutiny of sex ratios of last births suggest institution of son preference.

#### **(b). Gender Discrimination in Education:**

Education is the mirror of society, a significant tool in bringing about a dynamic change in the social fabric of any society. There are instances galore wherein leveraging the essence of education, people have scaled insurmountable challenges. Education is one of the critical tools to “empower women”<sup>11</sup>.

Gender equality can only be achieved when there will no discrimination between male and female with regard to education and when it is easily attainable by female section than it may serve as a basic component of accomplishing gender equality and decreasing the disparity of women. The millennium development goals also aim to

---

<sup>10</sup> Supra Note 5 at P. 19-20.

<sup>11</sup> Rajiv Azad, *Gender Discrimination an Indian Perspective* 37, (Atlantic Publishers and Distributors (P) Ltd., New Delhi, 2014).

remove all kind of gender inequality in primary education. Gender inequality in education is a persistent obstacle within the Indian society, especially for the girls, belonging to the Muslim community. Although efforts are carried out to tackle the disparity, but the socio-economic factors contributes mainly for the educational gap. A reliable stock of extremely educated and proficient human capital for which peak level of educational achievement of both women and men is necessary. Nevertheless, only skilled human capital will not remove the entire gender inequalities in educational accomplishment. Emphasis must be laid on the higher education of the women section which will help to raise over all standard in a society. Higher education will enable her to improve family welfare, finer health and endow her ability to understand and influence the world around them. Study has revealed that community belonging to weaker, deprived and marginalized are mainly disallow their girls from the access of education and encourages their involvement in the household activities.

### **(c). Marriage and Spousal Age Differentials:**

Marriage age also affects education gender inequality. Socio-cultural traditions serve as determining identification for a girl marriage age. The age gap between the spouses also affects the female education comparison to male education. National family health survey (NFHS-3) shows that the vast majority of Indian women and men age 15-49 are married<sup>12</sup>. Marriage of women untimely also suggests the low status of women in society. Early marriage is often the result of entrenched gender in equality, making girls disproportionately affected by the practice. Globally, the prevalence of child marriage among boys is just one sixth that among girls<sup>13</sup>. Early marriages have higher risk of disadvantageous reproductive and other progenitive consequences. Early marriage is not only steals the childhood but also results worst economic and health outcomes. Marriage at the early age hampers the women's to get education and limit the time required to develop and mature unhampered by duties of marriage and

---

<sup>12</sup> National Family Health Survey, India available at: <http://rchiips.org/nfhs/nfhs3.shtml> (visited on 7th Oct. 2020).

<sup>13</sup> Child marriage available at: <https://www.unicef.org/protection/child-marriage> (visited on 7th Oct. 2020).

children. Further, women married very early are immature and inexperienced, but are often married too much older sexual experienced men. This have highly impacted the women's health due to sexually transmitted infections including HIV as the women fails to convince the spouse for safe sex due to her own tender age and immaturity and often, the large spousal age difference<sup>14</sup>.

#### **5.1.4 Gender Inequality in Islamic Society:**

Islam as a religion has always been applauding for its historically liberating roles of Muslim women. But regrettably, the debate on gender inequality in Islamic society has become highly controversial in India. Nevertheless the Holy Quran provides the basic right of equality between men and women in the society, yet the study reveals that religious experts are liable and responsible for the inferior status and subservient legal rights of Muslim women in Islamic Society.

The central debate on Islam and gender in equality of Muslim women revolves round the patriarchal ideologies and tradition. Patriarchal beliefs have been part and parcel of Islamic society. To understand the concept of gender inequality in Islamic society a historical approach study is needed. Studies have highlighted that the opportunities available to Muslim women to raise their voice even for their basic rights – educational rights and work opportunities are very less and they rarely have the courage to say anything in the personal matters for example – Marriage, divorce and maintenance and custody of the children. Many restrictions were imposed on them which they have to bear each and every day. In India the Muslim women are considered as financially endangered and politically marginalized. Muslim community are referred as 'Backward Community' and this is due to low socio-economic status of women section. They hardly have or invisible role to play in public domain. Ignorance among the Muslim women about their own right fortifies the societal stereotype and scuffle.

---

<sup>14</sup> Supra Note 5 at P. 21.



Studies conducted on Muslim women reveals that apart from lack of opportunity for education and no decision making power, the validity of polygamy, divorce and Nikah Halala by the Muslim Personal law has a great impact on the status of Muslim women in India. This has also affected the political and communal situation of the country.

The distress relating to Muslim marriage (Polygamy), men's higher share of inheritance, unilateral right of husband to divorce his wife, absence of Mahr, Provision relating to maintenance suggest the instances of gender inequality in Muslim community which results the undefined miseries of Muslim women in Islamic society.

The study revealed that the values, customs, beliefs and the societal norms are the reason to preclude Muslim women in many occasions. They are deprived of their rights through the different phases of life starting from childhood to motherhood. They regrettably have to face dual discrimination both on the basis of gender and age. Moreover, the family back ground, education, poverty and race also contribute in the gender inequality of Muslim women.

The Holy Quran ordained the equality of men and women, and their obligations for the sake of religious duty. The Holy Quran highlighted various social characters of men and women, as a result of their different nature. As regard to marriage, women's part is in household activities nevertheless they are allowed to participate in other activities so far it do not confront with the family duties. Men's roles are assigned as the supplier and caretaker of the family including offspring's wives and all other relatives. In Islam it was viewed that almighty Allah has granted more physical toughness to men so he is the protector and provider of the family. Islam supports to control the sexual desire and channelized it by social institution and seeks to prohibit adultery for both men and women. Islam empowers both men and women to put condition with regard to marriage but in practice women has no or less say in the matters of marriage. The Holy Quran gives women's right to ownership of property and independent financial income. Gender inequalities are also noticeable by the interpretation given by irrational fatwa's which favoured many rights, significantly the right relating to economic, political and social participation. Again, the age of marriage of a girl differs

according to the dominance of patriarchy rather than the implementation of any legislation and the consequences has given rise miseries and suffering to women.

In the name of religion the husband has boundless right to divorce his wife by simply pronouncing talaq three times without any reasonable cause which is against the true spirit of Holy Quran. Moreover the maintenance responsibility on the husband after divorcing wife is so minimal. On the other hand, if the wife desire to get separated from her husband by invoking the procedure of court of law, she needs to file the suit on any of the specified ground mentioned under the legislation.

Gender inequality is also seen with regard to the inheritance right of Muslim women. Male get twice what the female gets. It was justified by Islamic text that the man needs to look after his family and liable to give maintenance to his divorced wife, but the real picture is gloomy, the practice reveals that maintenance given to women are highly insignificant as, it does not fulfil her basic needs of day to day life. Study on Muslim women also makes it clear that the division of labour based on gender is very striking. The work with which women engaged are mainly cooking, cleaning, child upbringing etc. i.e. mainly confined to household and domestic activities where as men are engaged in outdoor work. The impact of patriarchal dominance is so high that women have very low self image and scepticism for which they failed to participate in any decision making process of the family. The Muslim women rarely have any awareness about the political set up of the country. Although with the passage of time, eventually a steady awareness has been seen and their mind sets are also changing to know about their basic rights. The development programmes and education may be regarded as the key to raise the standard of Muslim women. As there are several factors that have led to gender in equality, it is significant for the Muslim women primarily to understand that hurdles they are facing in every sphere are not religion made but manmade. The inferior position is not allotted by the Holy Quran or by the Ahadis of Prophet (PBUH) but by the religious practitioners. Illiteracy is the biggest problems among the Muslim women, only education can bring new pathway towards gender equality. Increasing consciousness about rights relating marriage, Mahr and Divorce will address the issue

of Gender inequality. Enforcement of existing laws against gender based employment discrimination and against sexual harassment. Apart from it, government efforts in true sense rather than fulfilling their own political deserve may solve the issue. The government should give financial support for childcare, make stringent reforms to eliminate rape and sexual assault both by the insider of the family as well as by outsider.

## **5.2 Health Status of Muslim Women and Gender Inequality in India:**

An Analysis of Health status of Muslim women in India gives details on the various constrain faced by a woman and the various effects that policies and schemes may have on them because of their situation. Gender inequality is a heterogeneous happening and a combination of many interlinked problems. It is beyond any doubt that a good health is one of the most important human rights, still in many cases, the women, especially in the initial age are deprived of health care services. Increase infant mortality rate (IMR), under 5 mortality rate (U5MR) and malnutrition of female children support this truth. One of the greatest disparities is seen in the reproductive health of females which cause the higher maternal mortality rate (MMR). Preference of son by the family members, differences in the care of female child and sex-selective abortion (Female foeticide) are the reason for this situation. It is to be understood that disparity in one context may lead to disparity in other context too. For example, early motherhood not only hampers her health but deprived her from school thus leading to higher dropout rate of girls which again will lead less women Empowerment and increase in maternal mortality rate (MMR). In substandard families, women's are not accessible to health nutrition's diet which is meant in the time of pregnancy for reproductive health, so the suffer anaemia and malnutrition. The overall neglect of the female health and nutrition leads to the violation of women right of basic health.

Women's health is a right, and it is the duty of all people to respect the "rights" of the person. This is acknowledged in the preamble of the universal declaration of human rights. Article 1 of this declaration reaffirms the essence of human beings when it

established “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”<sup>15</sup>.

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 Article 25 provides the “right to a way of life that guarantees good health....with particular respect... to the medical treatment.... (and) to job security in the case of .... illness, (and it establishes that) maternity... (Warrants Treatment)”<sup>16</sup>.

The financial security of a society depends on the health of the members of the society. It is only possible when the civilians have sustainable level of health, to enjoy the benefits of life. Health well being is significant for the overall development of the society.

A good health of a woman is her basic right which is not only based on biological factors and procreation, but also affected by the work pressure of domestic life, food and nutrition, anxiety, was and migration among others (Kwaak, 1991). Half of the world’s population is women, her health is important both for herself and for the coming generations. The happiness of the family is confined to her. The health of the other member of the family depends are tied to the health of women. The ill-health or death of a woman has drastic impact on the health of her children, and family circle. Although the health of women highly signifies her status in the society like any other area of development, gender based discrimination is intrinsic in health too. It is found that in Muslim community, the socio-economic inequalities in women’s health are highly visible. The majority of Indian Muslims suffer grave deprivation in social opportunity due to failure to acquire to education, health care and other facilities (frontline 2006) “Muslims are not only poor, there is also poor understanding of their human conditions, which has more long lasting effect for a change can come from knowledge and understating (Shariff, 2004) in the analysis of status of Muslim women

---

<sup>15</sup> Indrani Sen, *Human Rights of Minority and Women’s* 139, (Isha Book Publication, New Delhi, 2005).

<sup>16</sup> Ibid.

it is essential to measure the two important criteria i.e. health care and family planning. Study reveals that women in India prone to peculiar illness like tumours in the reproductive system, osteoporosis, menopause, anorexia, unfictious disease (AIDS, TB, Skin usions and sexually transmitted disease) Genital tumour, 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 financial capabilities of the father and the health of the mother has been ruined by frequent pregnancy.

Muslim women are relatively behind in their knowledge about AIDS the illness which is caused by HIV virus. It weakens the immune system and leads to death through secondary infections such as tuberculosis and pneumonia etc<sup>17</sup>.

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<sup>18</sup> has added to the detoriating status of Muslim women in India.

It is to this end that all national and international organizations and association must now focus their attention on health care and above all, on women's health care, because health is a valued “given right” of human beings. This valued right can also be seen economically, since illness not only removes workers from the job, but also represents hidden costs in the budgets of every government, to the extent in which the good “health” of a human creates comfort and happiness, it is also the cause of wealth

---

<sup>17</sup> S. N. Singh, *Muslims in India* 101, (Anmol Publication Pvt. Ltd., New Delhi, 1st Edn., 2003).

<sup>18</sup> Ibid.

of every nation, because through work, material wealth is created and therefore also comfort and improvements for all<sup>19</sup>.

### **5.3 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. To empower women, education is one of the important tool<sup>20</sup>. Education is considered as significant human pursuit. It begins with nativity of a human and shall last till the human being exists. It was perquisite for the societal development starting from the ancient effortless life and it will endure vital part forever for the contemporary technological based society. It is regarded as an important human righteousness. It is only by way of education man becomes a real 'man' education makes him what he is. It has been correctly exclaimed that without education, man is bondsman, reasoning savage. It is one of the primary necessities of man's development in society. It is also assumed that enlargement of availability of education are vital ingredients to lead socio-economic expansion of the society education is thus regarded as the core process of righteous and rational development of a person. It plays a focal role in overall development of the society. It is direct force, standard – bearer for all those to eliminate ignorance and to widen the scope for knowledge and wisdom.

Education has significant role to set a better society. The institution of education is not static and its concept differs in different society. It is so much essential for the betterment of the society that its importance is felt till the life of a human being.

India is a country with multi-diversity, multi-cultural and multi-linguistic. People following Islam as their religion constitute the largest minority in India. Due to the impact of different social-political and economic system, the Muslims in India are not homogeneous and that resulted very much discreditable and even miserable than comparing with other backward classes (Sachar Committee Report).

---

<sup>19</sup> Indrani Sen, *Human Rights of Minority and Women's* 142, (Isha Books Publication, Volume 4, New Delhi, 2005).

<sup>20</sup> Supra Note 11.

The status of Muslim women has also been found very much unworthy on the basis of same grounds. The growth graph is also inclined downward in comparison to the national level. Unfortunately it is to be noted that the problems are increasing day by day in various aspects.

Research studies shows that educational status of Muslim women in India is much pitiable “Gender Disparity and Inequality is the vital reason for every day irksome challenges in life. Although the constitution guarantees equal status of men and women in every sphere of life, but the real picture is very much alarming and shocking. The evil practice imposed by patriarchal customs goes against women’s right and results in the occurrences of child marriage, dowry, instant divorce polygamy etc. The present Muslim society is highly in need of education because without which Muslim women’s have been facing injustice, exploitation and violence. Prophet Muhammad (PBUH) emphasised more in education which will bring moral standard, deep knowledge and understanding about perception. The appropriacy and preservation of mankind based upon their thinking and conduct. The well behaviour and noble beliefs will definitely aid to grow good qualities of human beings. Education will aid to eradicate ill practices and unworthy behaviour, however it is essential to understand the religion. Islam as a standard way of life. The commencement of Islamic education is the Holy Quran. It is also known as Al-Quran, “The Reading”. The first revelation is the Surah Iqra which emphasised on the art of reading and the art of writing upon which the meaning depends. In the medieval India there are Maktab, Madrasah and Khangah, where elementary, religious instructions were taught. Muslims man literature is in Arabic which is called as the language of Prophet Muhammad. Islam always fix great importance to education and gives focus on the spreading of knowledge. Islam regards gaining knowledge through education as a prerequisite for being a good Muslim and essential condition for the development of society. Islam view education to be the most favourite activities. Islam never discourages Muslim Women access to higher education, in the Holy Quran there is express mention of favour of equal rights of both sexes. However, equal freedom to both men and women were granted by the verse of Holy Quran, but the patriarchal

dominance in the Muslim society deprived them to enjoy the opportunity of freedom given by Holy Quran. The religious system is so conservative that they restrict the Muslim women to enjoy their rights.

The government of India has appointed committees and commissions to deal with the problem of education of women in general but no such committees were formed to focus upon the problem of Muslim women's education.

### **5.3.1 Factors which influence the attainment of Education:**

**Economical and Societal Factors:** The Study reveals that the socio-economic factor has influenced the attainment of education when an individual is financial able and well qualified, then he engaged her children in higher educational institutions. But if an individual is deprived and socio-economically backward, then his children cannot access to higher education or if possible then they provide education to son and not to the girls. Thus, girls get deprived of her opportunity to grand knowledge of education due to lack of financial stability.

### **Patriarchal Attitudes in Providing Education to Female Child:**

The traditional perspectives regarding educating girls are implant in the patriarchal norms and standards. The Muslim women have less access to education due to the irrational views given by some of the Muslim organisations. The patriarchal ideologies have led to the lower status of Muslim women. The conservative beliefs of the Muslim fundamentalist that girls are other property prohibit her to access to education. It is high time to understand the liberal interpretation of the Holy Quran and Ahadis which specified on the equality of both man and women.

### **Early Marriage:**

Child marriage affects the education of girls, marrying at the young age deprived girls to attain education. Young age marriage generally demands more stay at homes, implement household obligations and to care about requirements of other family members. It is due to the dominance of patriarchy, girls are prohibited to get education, employment opportunities, and even getting engaged in other childhood



activities. Most of the time, they need to stay at homes and they become so much habitual that they hesitate to go out or to go against the desire of their parents. The patriarchal dominance has created a mindset that if they get education and get older, then, it would not be possible to find perfect grooms for them. Although policies are there to control the menace of child marriage. In 2006, Child Marriage Act was passed which fixed the lawful age for marriage as 21 years for boys and 18 years for girls respectively.

### **Schooling of the parents:**

One of the vital factors for encouraging education among girls is the education of the parents. The mindset of the parents about the education of girls is important, when the parents are well educated, engaged in good employment that is implicit that the children will also get good quality of education. Literate parents are fully aware about the rights of a girl and knows that equality to be maintained between girls and boys. Contrary to this, if the parents are not educated and not aware about the necessity of education in the development of self being, than there will no education of their children too. It is to be noted that such parents beliefs that educating boys will be more beneficial for the family than to educate the girls. This may be due to another two important causes i.e. lack of financial resources and unawareness. It is high time for such parents to realise the importance of educating girl for the development of the nation.

### **Not Much Interest in Studies:**

The study reveals that girls of Muslim rural community are not aware much about significance of education. It is vital to develop interest and enthusiasm to enable them to achieve academic goals. Sufficient attention is required mainly when the teaching is in process. Educational resources must be available to them so as to create more focus in the studies. Apart from it, support from the teachers and parents must be given to them, in case they fail to understand any concept. It appears that when a student finds difficulties to solve any problems then they mostly dropout and started disliking

studies. Hence, lacking of interest in one of the critical factor that lead to gender inequality in education.

### **Household Liabilities:**

Research indicated that girls are mostly engaged in household management and responsibilities. There are numerous activities which make girls busy almost for the whole day for example, preparing food, cleaning, and washing and so on. However, the work load is even more in case of rural households like fetching water and taking care of livestock. Due to the responsibility of domestic affairs, they are unable to acquire education.

### **Inequality Treatment among Girls:**

The discriminatory treatment among girls is visible in many aspects. They are accessions of education, availability of employment opportunity, inequality in right to property, no say in decision making process, confinement within the domestic life. The existence of discriminatory treatment against women has become a barrier for women to get not only education but also the development of the nation.

Thus, the presence of gender inequality in education is termed as the significant obstacle within the course of development of the education in the country. The vital factors that led to gender inequality in education are early marriage of girls, social opposition to sending girls to schools for higher education, purdah, preoccupation of girls with domestic household activities, no availability of girl's 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 partners in life, in the development of a society and in the attainment of peace are just as important as taking legal steps to protect women's human rights<sup>21</sup>.

---

<sup>21</sup> M. A. Khan, *Women and Human Rights* 320, (SBS Publishers & Distributors P. Ltd., New Delhi, 1st Edn., 2006).

#### 5.4 Uniform Civil Code towards Gender Justice:

One of important philosophy enshrined in the constitution of India is to establish an egalitarian society. The founding father 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 directive given to the state so as to achieve the goal of an egalitarian society.

Although, the constitution of India guaranteed equal rights to both the men and women, but unfortunately, the Muslim women in India suffered a lot due to the dominance of patriarchy in the Islamic society which is irrationally supported by fatwa's given by some Muslim organisation. 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 enshrined in the constitution of India is the need of the hour.

The implementation of a common code and the question of gender justice, both are interlinked to each other in India. Empowerment of women in central aspects like social status, gender bias, education, health are of emergent requirement. 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<sup>22</sup>. Although in India till date there is no uniform civil code but a uniform criminal code exists in India which is applicable to all citizens irrespective of tier personal laws. A personal law in India is grounded upon religion, culture, norms and values. The Muslim personal law makes certain provisions which are unjust to women section. The Muslim personal law found to be discriminatory towards women as it is based upon the traditions of patriarchy.

The jurisprudence of Indian Islamic principles has been neatly stated by Dr. Tahir Mahmood in his 'the MUSLIM LAW OF INDIA (pages 8 & 9)<sup>23</sup>.

---

<sup>22</sup> Dr. Narender Kumar, *Constitutional Law of India* 471, (Allahabad Law Agency, Faridabad, 7th Edn., 2008).

<sup>23</sup> V. R. Krishna Iyer, *The Muslim Women (Protection Rights on Divorce) Act, 26*, (Easter Book Company, Lucknow, 1987).

“In India Muslim law is applied to Muslims under the authority of the state, which has adopted the policy of retaining the various religion based civil laws for the time being... the Indian courts apply Muslim law since it is a part of the comprehensive Indian civil law, which the state wants to be applied to a particular section of the citizens, namely, the Muslims...the Muslim law, like all other personal laws, operates in India only so long as its application is not ousted by any of such uniform laws, enacted in this country”<sup>24</sup>.

The state should come forward to execute a uniform civil code of ensure gender equality. Reform of the Muslim personal law should be made in conformity of fundamental rights of the constitution which seek to promote gender equality and social justice<sup>25</sup>.

#### **5.4.1 Meaning of Uniform Civil Code:**

A uniform Civil code is one that would provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc. Article 44 of the constitution of India requires the state to strive to secure for the citizen of India uniform civil code throughout the territory of India.

The debates in the constituents assembly about this subject was raised by many Muslim members, in November, 1948 by the then league president, Mr. Muhammad Ismail, urged that through the addition to Article 44 of proviso: “Provided that any group, section or community of people shall not be obliged to give up its own personal law in case it has such a law”<sup>26</sup>.

Another view was made by Mr. Naziruddin Ahmed;

---

<sup>24</sup> Id.

<sup>25</sup> Art. 14, 15 and 16 of the Constitution of India.

<sup>26</sup> Supra Note 23 at P. 27.

“Provided that personal law of any community which has been guaranteed by the statute shall not be changed except with the previous approval of the community ascertained in such manner as the union legislature may determine by law”<sup>27</sup>.

Basically the two grounds are raised against the implementation of uniform civil code. Firstly it will infringe the fundamental right of religion and secondly it will lead autocracy to the minority<sup>28</sup>. One of the member of the drafting committee of the constituent assembly, K. M. Munshi opined that uniform civil code will bring unity and secularism in the country and there would be no tyranny over minority<sup>29</sup>.

Shri Alladi Krishna Ayyar explained the rationale of a civil code and spoke<sup>30</sup> uniform civil code actually aims at amity. It does not destroy amity. It seeks to arrive at a common measure of agreement in regard to inheritance and a like matters. We want to whole of India to be welded and united together as a single nation.

The most pragmatic contribution to the debate on article 44 by Dr. B. R. Ambedkar was made when he said “I don’t personally understand why religion should be given this vast, expansive, jurisdiction so as to cover the whole life and to prevent the legislature from encroaching upon that field. After all, what we are having this liberty for. We are having this liberty in order to reform our social system, which is so full of inequalities, discriminations and other things, which conflict with our fundamental rights”<sup>31</sup>.

The founding father 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 taken in favour of the uniform civil code in their political agenda. But no development so far has been done in this direction.

---

<sup>27</sup> Id.

<sup>28</sup> Mahendra Pal Singh, *V.N. Shukla’s Constitution of India* 378, (Eastern Book Company, Lucknow, 11th Edn., 2008).

<sup>29</sup> Constituent Assembly Debate, Vol-VII, 547-48.

<sup>30</sup> Supra Note 23, at P. 29.

<sup>31</sup> Supra Note 29.

### 5.4.2 Uniform Civil Code towards Gender Equality:

Women enjoyed a secondary status in the entire situation in comparison to men. The Holy Quran entrust equal rights to both men and women and gives woman a dignified position. But unfortunately under certain situation Muslim women feels insecure and subordinate. For instance under Muslim law, a man is empowered to marry four women at a time and maintain the four wives at a time. Against, the husband has boundless and unilateral power to pronounce talaq to his wife without citing any reasonable cause to her. Similarly the provision of maintenance has too led to the miseries to Muslim to women's.

The judiciary has focused that injustice is caused to Muslim women in the name of religion. It was felt urgent necessity to bring consistency in the personal law for the entire citizen. The judiciary since many years expressing its responsibility through many judgements pointing the need to have a line from civil code. The famous case, in Mohammad Ahmed Khan V. Shah Bano Begum, also known as Shah Bano's Case<sup>32</sup> concerning the husband liability to maintain his wife beyond the period of Iddat. The Supreme Court held that section 125 CrPC is applicable to all irrespective of any religion and imposes liability on the all husband which is secular in character. The Supreme Court also opined that "It is also a matter of regret that Article 44 of our constitution has remained a dead letter". The decision was highly criticised by Muslim fundamentalist. 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<sup>33</sup>.

In M. S. Jordan Deigndeh V. S. S. Chopra<sup>34</sup>, D. Chinappa Reddy, J., referring to the observation made in Shah Bano case opined "The Present case is yet another event which focuses on the immediate and compulsive need for a uniform civil code". Again

---

<sup>32</sup> AIR (1985) SC 945 CriLJ 875.

<sup>33</sup> Anita Dhanda, Archana Prashar, Engendering Law: Essay in Honour of Lokita Sarkar 137, (1999).

<sup>34</sup> AIR 935, 1985 SCR.

in *Sarala Mudgal*<sup>35</sup> V. Union of India, a division bench of Supreme Court consisting of Kuldip Singh and R. M. Sahai, J. J. Strongly advocated the introduction of uniform civil code in India. The Supreme Court held that the Hindu male converted to Islam solely for the sake of contracting bigamous circumvents section 494 Indian Penal Code. The Court declared such Marriage as bigamous and void. The division bench said, it is failure on the part of the government till today, to execute the constitutional instruction under Article 44 of the constitution of India. It was argued that the personal laws of the minorities should be regularised and the task was given to the law commission and minorities' commission.

Again in *Seema V. Ashewani Kumar*<sup>36</sup>, the Supreme Court held that the state should come out with specified steps to endeavour to secure the citizens a uniform civil code throughout the country.

However, in *Lily Thomas V. Union of India*<sup>37</sup>, expressed the view that the court does not issued any direction for the implementation of uniform civil code thus took a backward step with this clarification.

To conclude, the battle for common civil code is a battle of the tenses, the present, representing the spirit of secular humanism, pushing into submission the past representing feudal-clerical absolutism. It is to be noted that gender equality cannot be achieved until there will be a uniform civil code comprising the most suitable provision of all the religions, with the ultimate aim of maintain gender equality and justice. All the women irrespective of their religion should be entrusted with equal rights balanced with men in all personal matters, then only the constitutional provision of right to, equality and opportunity will be achieved. It is to be noted that uniformity should be made with regards to rights only and with the personal ceremonies and rituals, the basic culture and norms of all the religion should be preserved or it could infringe the basic structure of the constitution namely secularism.

---

<sup>35</sup> AIR 1995 SC 1531.

<sup>36</sup> (2005) 2 SCC 578.

<sup>37</sup> AIR 2000 SC 1650.

### 5.5 Discussion:

- The aforementioned study of gender inequality among Muslim women is of an explorative in nature. In many Muslim society women are facing disparity. Relatively secondary value is given on their existence because of their gender. In India, a low earning, unawareness and male dominated system etc build up their inferior position.
- In India, the status of women must be scrutinized within the setup of dominance of patriarchy and social discrimination. These two factors are very much significant than personal law in ascertaining the status of Muslim women.
- The irrational customs and norms of the patriarchal society has led to victimise the Muslim women even today. This is understandable from the less or no participation of women in socio, economic and political sphere.
- The provision relating to marriage, divorce, mahr and inheritance are discriminatory against Muslim women. The infringement of Muslim women's largely depends upon the social structure starting from traditional to modern, humanistic to conventional and Pious to worldly.
- The concept of gender inequality and status of Muslim women are closely interlinked. It is pertinent to understand the rights and duties of individual to understand the status of Muslim women in a society.
- The roles acquired and played by Muslim women and the duties assigned to them in her daily life also determine her status in a society.
- Different indicators like marriage, education, health, economy and women empowerment helps to analyze the position of Muslim women in a society.
- Holy Quran is regarded as the Magna Carta of human rights from which bundles of rights for Muslim women emerges.



- The evil practice of Triple Talaq, Polygamy and Nikah Halala large ruined the status of Muslim women.
- On the other hand, it is cumbersome task to define gender inequality as it is a multifaceted term which means existence of disparity in all spheres.
- Gender is not value neutral, not only the rights and duties entrusted to both man and woman differs but there is unequal importance given to them.
- Gender inequality is visible differently across different culture. It is mainly based on traditional ideologies of patriarchal dominance in various society.
- Son preference, sex ratios, gender crimination in education, marriage and spousal age differentials, health of women are the criteria to understand the gender discrimination against women section.
- In India Muslim women are considered as financially vulnerable and politically marginalized, they hardly have any say in the public domain.
- Health and family planning are the two major indicator to analyze the status of Muslim women.
- Women's are mostly prone to illness like tumours in the reproductive system, menopause, HIV, TB, AIDS, mental illness, cardio vascular risk and threat of premature birth.
- Muslim women's have less known ledge about reproductive illness, a part of it, they use temporary methods to prevent unwanted pregnancy.
- Sterilization to permanently and fertility is rarely done by Muslim women, as they believe it forbidden by Islam.
- The studies show that the health of the mother has been irreparably damaged due to frequent pregnancy. There is also lack of knowledge about the use of contraceptive methods.

- The study also reveals the behaviours like diet and fitness effect higher risk for high blood pressure, high cholesterol; hypertension which in turn increases the chances of developing cardio muscular problems.
- Gender disparity is also visible in the field of education too. For every society, education is the vital by for civilising its members be it male or female. Educations give morals values, impress expertise and motivate a dignified life both in personal and professional matters. From this point of view it is significant to educate women to a higher level as she is one who lead the family, participate in societal activities and takes decision for the welfare of the family.
- Knowing the importance of education Islam has always supported for the education of both men and women. The Holy Prophet (PBUH) taught to get oneself engaged in search of knowledge than to attend the funerals. Educational institution and researches are though encouraged even after the Holy Prophet, not much progress is done for the sake of modern education of Muslim women.
- Muslim women were not encouraged to attend schools outside their neighbourhood. Patriarchal ideologies and lack of awareness are the main reason for the miseries of Indian Muslim women towards education.
- The Prime responsibilities of Muslim women are confined to the role played as dutiful wife, dutiful mother and dutiful daughter. At any cost they cannot ignore these duties but can give up education and jobs.
- The presence of disparity in educating boys and girls is a social reality among the Muslims. The Muslim community finds education as investment, so they believe investing on boy will be more fruitful than on girls. Girls are regarded as property of other family.
- More discrimination is visible in case of education after secondary examination, where girls need to go for distant schools or college.

- Education of girls is dependent upon several factors like education of parents, their employment and income, property etc.
- Marriage pattern, employment opportunities, health care and Family planning, property ownership are the sphere in which disparity against Muslim women are clearly visible.
- The supreme law of land, constitution of India, provide equal rights to both man and woman and seek to establish an egalitarian and peaceful society. In order to raise the status of women, several steps are taken to maximize the participation of women in different public domain. The aim of realising involvement in education was done by planning for introducing subsidised educational facilities, recruitment of women teachers and providing other facilities.
- Article 44 of Directive Principle of state policy of the constitution of India directs the state to implement uniform civil code, throughout the territory of India. Legislation solely will not bring gender equality in a country where religion is extensive.
- The demand for a uniform civil code has followed the triple talaq judgment, it was argued that Muslim personal law benefitted India's Muslim population disproportionately.
- The execution of uniform civil code will replace all the personal laws governing matters like marriage, divorce, inheritance and succession. An example of reform of personal law came when the Supreme Court abolished the practice of triple talaq.
- Nevertheless the court has several times spoken about the need for uniform civil code; law commission of India has taken the view against the implementation of uniform civil code. After consultations of a period of two years, the law commission come to the conclusion that uniform civil code was neither necessary nor desirable in the current political climate. It was affirmed

that uniformity cannot be achieved at the cost of ruining cultural diversity and viewed that such a loss may harm India's integrity.

- Thus, the overall study upon gender inequality and Muslim women suggest grave suffering and lack of opportunity in education, health care and employment.