

CHAPTER - I

PRELIMINARIES

1.1 Introduction

All human being either male or female by reason of being humans, enjoy remarkable privileges and fundamental rights. The unchallengeable privileges are regarded as human rights which is inherent in every individual. These rights are ingrained among all irrespective of any faith, gender, race etc. the Holy Almighty Allah has created both man and woman and invest them with equal rights and obligations. The societal structure is founded upon these two pillars. The rights and duties granted to both of them are supportive and amplifying to each other. Among the two pillars, one of the strongest pillars is women, which is half of the total population. She is the producer earth and central role played by her in dutiful mother, dutiful wife and dutiful daughter. Women are considered as substantial invocation of God to Humanity. Women are the emblem of God's heavenly power. She is a personification of creation, responsibility and happiness. While dealing with many austerity, deprivation and sufferings, bitterly this strong pillar of the society has been oppressed and suppressed by the other i.e. men and it has happened from many years and still continuing till today.

Islam as a religion grants enormous rights to women. Recognition of all basic individual, social, economical and political rights have been made by the text of Holy Quran and the Hadith of Prophet Muhammad (PBUH). To understand the position of women in Islam and the rights guaranteed to her from Islamic perspective, it is vital to understand the status of Muslim women during the Jahiliyah period. Jahiliyah period is the period of Ignorance, because during those days there was no systematic way of living life, no religion and no Prophet. Analysis of the Pre-Islamic period was essential for the reason that no changes can totally erase the traces of the past. As in the

preceding chapters, reformation was seen made, or abolished by the Islamic revolution which was practiced during the Pre-Islamic days in respect of women.

Whether the status of women in Pre-Islamic society was good or bad? Whether it was little better or worse after the advent of Islam? The philosophers were of the view that no rights were granted to woman at all and her recognition is not more than chattels. They are easily suppressed and could be easily taken as a commodity. This was against the injunction of Holy Quran¹. Once the possession of woman taken from the father, a man will marry her. This too is against the spirit of Holy Quran². Instances of burying daughters alive in the Pre-Islamic days were also against the injunction of Holy Quran³. The practice of this barbaric custom was justified on the ground that rise in girl child would ultimately increase the economic burden and also for the reason that girl would have to face humiliation by an aggressive tribe.

However, after the advent of Islam, the Holy Prophet (PBUH) made great improvement in raising the status of women. The Holy Prophet (PBUH) acclaimed that to whom a daughter is born and who raise her, up bring her and prefer a daughter to a son will be sent to paradise by the Almighty Allah. With respect to marriage also there is no regular system during the Jahiliyah period, there was no limitation as to the number of wives a man could have. The Quranic injunctions, however has permitted to marry one and up to four wives. Islam never take any steps to allow more than one wife, contradictorily, Islam restricted, demoralized it and unwillingly granting four wives in the then prevailing situation. So, it would not be fair to impeach Islam of needlessly permitting more than one wife. During Jahiliyah period, there was no uniform practice prevalent in respect to Mahr. There was no fixed limit of Mahr, generally it was based upon the economical status of the concerned person. It is to be noted that Islam prohibits bride's parents or relatives from taking her Mahr, as it was solely bride's property and exclusive right of the bride to retain the Mahr. Mahr in

¹ Abdullah Yusuf Ali, *The Holy Quran* 4:19 (Royal Publishers & Distributors, New Delhi, 1st Edn., 2009).

² Ibid.

³ *The Holy Quran* 81:9 as referred in Supra Note 1.

those days were actually handed over to the family of the bride for asking her in marriage. It was regarded as bride price, but in Islam Mahr is a symbol of love and respect and a security of the bride for her rainy days. Thus, it was seen that the condition of women was pitiable although marital rights and importance of Mahr has specifically mentioned in the Holy Quran, instances are showing dark and gloomy picture of women's miseries. Interpreting the true spirit of Holy Quran and implementing it in support of women will certainly safeguard her from facing lower and inferior status in the society.

The Holy Prophet (PBUH) was savior of the Holy Quran and Islamic values. He was a great reformer who seeks to mould the mindsets of male dominated Arabians, to bring sympathy for women, he asked the male section to be very kind towards women. Even the Holy Prophet (PBUH) granted woman to get separated from her husband on reasonable grounds. This was the most beneficial reform done with regard to Muslim women. The power of husband to pronounce Talaq was boundless and uncontrolled during the Jahiliya period. This unilateral power was curtailed to a greater extent by the Holy Prophet (PBUH). Women have been entrusted conjugal rights which are justifiable in the Courts of law. Her dignity cannot be ruined just for the sake of submitting meekly before the husband. Muslim women are not merely an instrument of physical satisfaction of her husband. Assuredly, she has marital duties towards her husband and his family. Thus, the Prophet (PBUH) seeks to bring a respectful status both before and after marriage. Under his guidance and reformation female Infanticide was abolished, polygamy was restricted, education and equal status of Muslim women was insisted, noble practices in the form of Sunnah were laid down, and most importantly Shariah which appears from the text of Quranic injunctions.

Khula, was the essential right given to Muslim women to divorce their husbands. The term Khula is not expressly mentioned in the Holy Quran, however a Muslim woman shall have the right to acquire her freedom by paying compensation to her husband which is also known as Fidyah, and the nature of the right is absolute.

So, the Quran lays,

“Then if you fear that they cannot keep within the limits of Allah, there is no blame on them for what she gives up to become free thereby”⁴.

Islam recognized divorce but it is the most disliked before Allah and it is highly discouraged. The Quranic injunctions provides for fair provision with regard to divorce for both male and female. It permits for arbitration (Sulah) between the parties.

Thus, the Quranic verse says’

“And if you fear breach between the two (i.e. husband and wife) appoint an arbiter from his people and an arbiter from her people. If they both desire agreement. Allah will effect harmony between them”⁵.

It is very unfortunate to say that no importance is attached to the concept of arbitration which was mentioned 1400 years ago in the Holy Quran and such fair provision is ignored by exponent of Muslim law. The common practice which was frequently used by the Muslim to separate their wives is triple divorce in one sitting. Triple Talaq is against the spirit of Holy Quran, but it was so much in practice that it appears that there is no other form to separate their wives other than Triple Talaq. Divorce was permitted only as a last resort when it becomes impossible to carry the marriage any long. The Holy Prophet (PBUH) to sustain marriage allows divorce to be effected in three stages. In the first two stages there is a chance of reconciliation between the husband and the wife. But once divorce is given for the third time again, then it becomes impossible to sustain marital bond and it is better to get complete separation. The Quranic verse makes it clear that these are the limitation set forth by Almighty Allah and who transgress the limits is said to commit sin. Therefore, it is desirable to understand the institution of divorce in a proper way and it should be bear in mind that the injunction on divorce is laid down by one who has created the entire human race.

⁴ Al-Quran 2:229

⁵ Al-Quran 4:35.

The Holy Prophet Muhammad (PBUH) was the first complainer and promoter of human rights of women. He appears as a messiah, defender and preserver of women's rights in order to protect her from discrimination, oppression and humiliation. The Prophet (PBUH) said 'you have rights over your women and your women have right over you' which signifies the massive worthiness. He entrusted His mission as a guard of women's marital, social, financial and other rights to uplift her status and social magnificent. The concept of multiple marriages was mainly allowed for the sake of protecting the Muslim women from the wickedness of Arabians and afterward multiple marriages were restricted to only four with the prime condition of maintaining equality between the wives.

Analyzing the concept of Gender Inequality in Islamic society, the preceding chapter of the research work will reveal that all sorts of discrimination and Gender disparity has been faced by Muslim women in almost all the sectors. The society was fully under male's control in the Pre-Islamic period.

They have exclusive power to deal with the socio-economic and political matters. In family matters also, male had the power of taking decisions and Muslim women were assigned to do household activities. She has to follow the instruction and orders of the man, she even has no right to ask any question relating to any matter whatsoever. She has no say in the matters of marriage, mahr, divorce and even inheritance. She cannot inherit the husband's property after his death. All the patriarchal traditions were against the rights of Muslim women. Discrimination may be known from the fact that girls were killed after birth, marriage was solemnized without her consent, mahr is not her property, divorce is pronounced to her without citing any reason and no reasonable maintenance is given to her after divorce. Miseries sorrows are part and parcel of women's life. Islam commands its followers to eradicate pain, social and economic inequalities from the aliveness of women by conferring them equal status as to men in every sphere. Disparity is noticeable in health and educational sector too. Preference of son, increase in material mortality ratio, lack of education, unequal distribution of opportunities and lack of availability of resources.

Unlike these situations, the Holy Quran ordains:

“And in no wise covet, those things in which God, hath bestowed His gifts, More freely on some of you, thank on others; to men, Is allotted what they earn, And to women what they earn; But ask God of His bounty, For God hath full knowledge of all things”⁶.

The Holy Quran gives women the right to buy, sell and to contract and own money and property. Further she also has a right of inheritance for which the Quran says:

“From what is left by parents and those nearest related, there is a share for men, and a share for women, whether the property be small or large a determinate share”⁷.

“O, ye who believe, Ye are forbidden to inherit women against their will, Nor should ye treat them with harshness that ye may”⁸.

The Holy Quran further lays down with regard to the status of wife as follows:

“And among His sign is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, And he has put love and mercy between your (hearts)”⁹.

Thus, it is evident from the above mentioned verses that Islam commands equality of both male and female.

Again, in the preceding chapter of this research work, rights guaranteed by the supreme law of the land to all the women section will be mentioned. Fundamental rights are guaranteed to Muslim women by Part III of the constitution of India.

Directive principles of state policy and fundamental duties enshrined in the constitution also provide beneficial provision for women section of their society. There are also welfare legislation for women to elevate her status in the society and to

⁶ Holy Quran 4:32.

⁷ Holy Quran 4:7.

⁸ Holy Quran 4:11.

⁹ Holy Quran 30:21.

protect her from discrimination and infringement of her basic rights. Although in one or other form women have been struggling for their rights in practical scenario. The urgent requirement is the codification and reformation of Muslim Personal law.

The perception that Muslim Personal law is immutable and cannot be reformed is not correct. The dissolution of Muslim Marriage Act is the codified law and makes Triple Talaq a punishable Act. But there is urgent requirement to deal with matters like Polygamy and Nikah Halal. The Muslim law married and divorce found to be in contradiction to marriage and divorce, the provision of constitution.

Such incompetency can be removed by executing a Uniform Civil Code which will bring Gender Justice in matters relating to marriage, divorce, maintenance etc.

1.2 Significance of the Study:

In a society like India where Muslim women are bound by the patriarchal norms and traditional culture, Muslim women are living life not according to the injunctions of Holy Quran but as per the dictates of erroneous traditional values and customs urged by the dominance of patriarchy. There are several instances where inequality existing between men and women are crystal clear which directly infringe the true spirit of Holy Quran. Muslim women have been suffering on daily basis and subjected to discrimination in every step of life. Muslim women have wrong belief that they have inferior status assigned by Allah and ordained in Holy Quran. They believe that they have no right to take decision in public matters, no access to higher education and no economic independency are the injunctions of Holy Quran.

The study assumes significance in the context that plenty of research and study has been done regarding status of Muslim women at national level. But still very less is known about the socio-economic status of Muslim women. At the conceptual level, this study was an attempt to investigate the status of Muslim women in context to Marriage, Mahr and Divorce. This study was an attempt to focus on several aspects of Muslim women's lives. Thus the socio-economic status, education and work, and how Muslim Personal law is affecting their social position in society is a crucial topic to be discussed. The study will help to aware about the rights mentioned in the Holy Quran

and also about the important aspects relating Marriage, Mahr and Divorce in the contemporary society so as to utilize such awareness in more prudent way within the injunction of Quran and Hadith for the enhancement women's status. Keeping in view the above goals, the present area and topic of study was chosen for the present research work.

1.3 Objectives of the Study:

The present research work has been conducted with the objectives which concentrated on the rights of Muslim women under Muslim Personal law. Socio-economic position of Muslim women and the socio-religious constraints which directly influenced the social status of women and how Muslim women struggled for their rights in the Patriarchal Muslim society. The present study covers the following objectives. The objectives of the study are:

1. To trace the historical background of Islam and the position of Muslim women in India.
2. To find out the basic Rights of Muslim women in context to Marriage, Mahr and Divorce from Islamic perspective.
3. To analyze how the patriarchal structure and culture of the society that affect the status of Muslim women with reference to Gender Inequality in the society.
4. To identify the causes and indicator of Gender Discrimination in Islamic society.
5. To examine the Constitutional and Statutory provision dealing with the rights of women in India.
6. To understand the judicial approach in protecting the rights of Muslim women.
7. To find out the contradictory provisions of Muslim Personal law and the Constitution of India.

1.4 Research Hypothesis:

Due to dominance of patriarchy and conservative norms of the society, the Muslim women in general are sufferers and become the secondary and inferior in status. The unawareness of basic rights and lack of education needs to be tackled for protecting the rights of women. To preserve smooth running of the society proper interpretation of Quranic injunction and Ahadees is vital and mandatory. Muslim women in the present scenario are equally important like man for the development of the nation and in no way inferior to men. Although the subject of Muslim women's right has gaining attention of social and academic researcher, yet no strong movement for Muslim women's right has been formed. Muslim law in India is an evolving family law in our country. Grievances of Muslim women are visible in matters of marriage, mahr and divorce that need to be tackled on urgent basis.

1.5 Research Methodology:

The present research work adopts analytical, descriptive and doctrinal methods to draw inferences and deductions. Both primary and secondary sources have been utilized to collect data's for the present study. The primary sources are various text books, article published, files, documents, judicial decisions, reports, journals, debate and discussion available on website upon the topic.

The research methodology is based on the theoretical and descriptive materials. The research work dealt with the analysis and understanding of codified and uncoded Muslim Personal law, Sharia Act, 1937, Dissolution of Muslim Marriage Act, 1939, Maternity Benefit Act, 1961, Protection of women from Domestic Violence Act, 2005, Muslim Women (Protection of Rights on Divorce) Act, 1986, the Muslim women (Protection of Rights on Marriage) Act, 2019. The pressing issues of the topic will be discussed with the aid of relevant verses of Holy Quran, Hadith Al-Bukhari Sahih, Constitution of India, Indian Penal Code 1860, Indecent Representation of women (Prohibition) Act, 1986, Indian Majority Act, 1875, Dowry Prohibition Act, 1961. The research work is also founded upon landmark judgments of the Supreme Court, High Courts of India which have been analyzed to understand and identify the

misconceptions and inconsistencies which have crawl into the working and defining the rights of Muslim women from Islamic perspective.

1.6 Review of Literature:

At the very outset the researcher has gone through number of books related to women and Islam which has influenced the researcher to work on the topic of women rights in Islam. The researcher has also undergone various articles published in law journals. Thus, the researcher tried to develop clarity on the status of Muslim women in India from Islamic perspective and also to examine and to analyze the basic rights of Muslim women relating to Marriage, Mahr and Divorce.

1. Asaf A. A. Fyzee (2008) “*Outlines of Muhammadan Law*”¹⁰. The focus of the author is historical development of Muhammadan law analyzing both the Pre-Islamic and Islamic period. The author gives details about marriage, form and capacity to marriage including the judicial proceeding relating to marriage in chapter two of the book. For understanding the relevance of mahr in the Islamic society chapter III of this book was very helpful for the researcher. In chapter IV, the author throws light upon the modes of dissolution of Muslim marriage. The entire book is really aid full for the researcher.
2. Asghar Ali Engineer (2001) in his book “*Islam women and Gender Justice*”¹¹ focused the discrimination faced by Muslim women in India. The book gives details that economic, educational and health discrimination are being faced by Muslim women. Understanding of all the indicators of gender discrimination is pivotal to determine the status of Muslim women in India. The book provides for the concrete problems and also the possible solution to deal with the issues. The book is very useful for the proper understanding of the issues being faced by Muslim women.

¹⁰ Asaf. A. A. Fyzee, *Outlines of Muhammadan Law*, (Oxford University Press, New Delhi, 2008).

¹¹ Asghar Ali Engineer, *Islam Women and Gender Justice*, (Gyan Publishing House, New Delhi, 2001).

3. Dr. Nuzhat Parveen Khan (2016) “Women and the Law”¹². The author emphasized upon the rights of women under Personal law with the introductory chapter on the historical background of the status of the women in India. The book is consisting of eight chapters. The entire book focused upon the emancipation of women dignity, her economic freedom, safety and security. It also provides for rights of women with respect to Marriage, Divorce, Guardianship and Adaption. The author has also discussed about the various Constitutional and statutory protection of women which was utilized by researcher to incorporate the valuable information in the research work.
4. Tahir Mahmood and Saif Mahmood (2018) “Introduction to Muslim law”¹³. The book consists of ten chapters. It starts from the introduction in which genesis, growth, belief and practices of Muslim law was discussed by the author. The appreciable work of the author was visible in chapter three and four, where the authors tried to incorporate all the Pros and Cons of the institution of divorce. A detailed knowledge was given about marriage and marital rights and also about divorce and post-divorce rights in chapter five and six. The issue of polygamy, horror of Triple Divorce and women’s post divorce right were very precisely written by the author.
5. Amina Wadud (June 10, 1999) “Quran and Women: Rereading the Sacred Text from a woman’s Perspectvie”¹⁴. After the advent of Islam, many interpretation of Holy Quran was done almost by men only. It was the first attempt to interpret the Holy Quran by a woman. The book seeks to include the instances of gender inequality faced by Muslim women. The author makes it clear that men and women are equal and the Quranic injunctions hold that there is a mutual

¹² Nuzhat Parveen Khan, *Women and the Law*, (Universal Law Publishing, New Delhi, 2016).

¹³ Tahir Mahmood and Saif Mahmood, *Introduction to Muslim Law*, (Universal Law Publishing, New Delhi, 2018).

¹⁴ Amina Wadud, *Quran and Woman: Rereading the Sacred Text from a Woman’s Perspective*, (Oxford University Press, New York, USA, 1999).

collaboration between men and women. Islam maintenance equality between men and women.

6. A. M. Bhattarcharjee (1994) “Muslim Law and the Constitution”¹⁵. The author makes an analysis of the provisions of the constitution of India and the provision of Muslim Personal law. The author with sharp analytical dexterity and clarity of knowledge pointed out contradictory provision between Constitutional law and Muslim law. The author very precisely discussed about the concept of Polygamy for males and monogamy for female contradictory to Article 15 of the Constitution of India. Also with the aid of various landmark Judgments the author tried to point out that Triple Talaq is not in accordance with the provision of the constitution. The author also hit upon the lackadaisical attitude to frame Uniform Civil Code in the Country.
7. Danish Yusuf (2013), “Islamic Law and Divorce”¹⁶. The book consists of eight chapters. The author emphasized that there are separate rules for divorce from men and women under the Islamic law. The initiation of divorce by women in Khula and if the husband gives divorce it is known as Talaq. The author pointed out that there is different rules of performing divorce under Shia and Sunni Muslims. The book also focused upon the sinful act of Triple Talaq which is forbidden in Islam.
8. Dr. Rakesh Kumar Singh (2011), “Text Book on Muslim Law”¹⁷. The author has made discussion on the topic of Marriage, Mahr, Divorce and also on the historical background of Islam. The author also elaborates about the developmental phases of Muslim law in different periods. The book also provides information about some fundamental facts of Muslim law. The author

¹⁵ A. M. Bhattarcharjee, *Muslim Law and the Constitution*, (Eastern Law House, Calcutta, 1994).

¹⁶ Danish Yusuf, *Islamic Law & Divorce*, (Random Publication, New Delhi, 2013).

¹⁷ Dr. Rakesh Kumar Singh, *Text Book of Muslim Law*, (Universal Law Publishing, New Delhi, 2011).

has made humble attempt to elaborate the whole Mohammedan law in a systematic and precise form.

9. Syed Khalid Rashid's (2009), "Muslim Law"¹⁸. In this book, the author very precisely elaborates about the concept of Marriage (Nikah), Mahr, Divorce in both the Pre-Islamic period as well as the position after the advent of Islam. The book helps to make analysis of improvement in the status of women after the advent of Islam and by the reformation made by the Holy Prophet (PBUH) for the emancipation of Muslim women in the society.
10. Mohd. Shabbir (1988) "Muslim Personal Law and Judiciary"¹⁹. The book provides for the dynamics of 'Muslim Personal Laws' concerning to some specified area: institutions of marriage, dower, divorce, maintenance and legitimacy of children as traced, evolved, interpreted, developed and reacted by the Indian Judiciary in Pre and Post Independent India. The main focus of the book lies in the deep analysis of ratio-decidenti of case-law.
11. Arif Ali Khan (2007) "Islamic Law in practice"²⁰. The Book makes it clear that Islamic law is highly practicable and applicable in life, the book, provide that any act against the spirit of Holy Quran is anti Islamic and it is punishable. The permissible and prohibited things are differently operating at individual and community levels. The book present a well articulated and codified description of Islamic laws.
12. Tahir Mahmood (1995), "Status Law relating to Muslims in India"²¹, the Book provides for a thorough study of all legislative provisions and case law of India relating to, or having a bearing on, Muslims, their religion, religious and

¹⁸ Syed Khalid Rasid, *Muslim Law*, (Eastern Book Publication, Lucknow, 2009).

¹⁹ Mohd. Shabbir, *Muslim Personal Law and Judiciary*, (The Law Book Company (P) Ltd., Allahabad, 1988).

²⁰ Arif Ali Khan, *Islamic Law in Practice*, (Pentagon Press, New Delhi, 2007).

²¹ Tahir Mahmood, *Statute Law relating to Muslim in India*, (Institute of Objective Studies, New Delhi, 1995).

academic institutions and Personal law. The book critically examined the central and local legislations in the light of the Indian Constitutional philosophy and the five Islamic Teachings.

13. The book authored by **Monica Chawla “Gender Justice Women and Law in India”²²**. This book is an effort to bring together various provisions relating to women nationally and internationally with regards to their Personal laws, Constitutional rights and other legal rights. The book is divided into seven sections and it includes all new amendments and acts relating to Women. The first Chapter deals with the status of women in India and the efforts made at the international level to remove all kind of discrimination against women. The second Chapter deals with the Constitutional provisions relating to women. Chapter third deals with the Personal laws relating to women in India. In this Chapter the Rights of Muslim Women and their position with regard to their personal matters have been discussed. Chapter four deals with provision relating to maintenance, guardianship, adoption and succession relating to women. The fifth Chapter contains various provision in Criminal laws provided for the safeguard of the Women. The last Chapter deals with the Special laws enacted for the welfare of Women. The subject on Gender Justice: Women and Law in India been dealt with in a pragmatic manner throwing lights upon every aspect of the subject.
14. The book authored by **Mohammad Hameedullah Khan “Schools of Islamic Jurisprudence: A Comparative Study”²³** – In this book the author has dealt with all the schools of Islamic Jurisprudence like Hanafi, Shafi, Maliki, Hanbali and Shia etc. it throws light on Islam, Law, Shariah, Islamic Jurisprudence or Fiqh; sources of Islamic legislation like Holy Quran, Hadith or Sunna, Ijma

²² Monica Chawla, *Gender Justice Women and Law in India*, (Deep and Deep Publications Pvt. Ltd., New Delhi, 2006).

²³ Mohammad Hameedullah Khan, *Schools of Islamic Jurisprudence: A Comparative Study*, (Kitab Bhavan Publishers, New Delhi, 2001).

Qiyas etc. and other legal principles developed by all the schools of Islamic Jurisprudence.

15. The book authored by **Fatima Mernissi** “**Women and Islam: An Historical and Theological Enquiry**”²⁴ – In this book the author, who is both a feminist and a Muslim, aims to shed light on the Status of Women in Islam by examining and reassessing the literary sources as far back as seventh- century Islam. She portrays how far from being the oppressor of Women that his detractors have claimed, the Prophet (PBUH) upheld the equality of all time believers. Shifting through the mass of literature surrounding the life, works and teachings of Muhammad (PBUH), some surprising facts emerge such as descriptions of how the wives of the Prophet Muhammad (PBUH) discussed politics with him and even went to war. Later restriction and impositions on women such as the veil were never, she finds the intention of the Prophet Muhammad (PBUH). The author believes that Muslims will eventually feel that pressing need to root their lives in a more liberating memory. There is a bold reconciliation of feminism with the Prophet’s thought and belief, for all who are concerned with the history and the feature of the Islamic world.
16. The book authored by **Bela Rani Sharma** “**Women – Marriage, Family Violence and Divorce**”²⁵. The book Women – Marriage, Family, Violence and Divorce which has been divided into four parts provides a broad description of the multifaceted of the social life of women and their struggle for liberation across the globe in contemporary times. Social adjustment of women after marriage and the role strain faced by them – family, financial, physical and self constraints and the way social medical practitioners and social services view marriage have been analyzed critically. Gender based violence including rape, domestic violence, mutilation, murder and sexual abuse is a profound health

²⁴ Fatima Mernissi, *Women and Islam: An Historical and the Logical Enquiry*, (Blackwell Publishers, 1st Edn., 1991).

²⁵ Bela Rani Sharma, *Women - Marriage, Family Violence and Divorce*, (Mangaldeep Publication, Jaipur, 1997).

problem for women throughout the universe. The aim of this book is to throw light on the problems faced by abused Women – damaging effect on both physical and health. Divorce is another serious problem confronting innumerable families. One of the objectives of this book is to offer new perspective for thinking about divorce and to challenge some unquestioned assumptions. Remarriage and the creation of step families is another aspect dealt with in this book.

17. The book authored by **Sadhna Arya “Women, Gender Equality and the State”**²⁶. The book comprises of 7 Chapters – Chapter-I raise the issues addressed in the study and argue for the reasons as to why Women’s interests have been incorporated in the state policies. Chapter-II analyses the legacy of British Colonial policies social reforms and national liberation movement on the ideological construction of Women. Chapter-III discusses the manner in which the issues of Women’s right and equality were treated within the constituent assembly. It analyses the ambivalence of the Constitution on the issue of equality with regard to man-Women relations in Family and Society. Chapter-IV discusses the shift in state’s welfare approach to women-in-development approach, which emphasized women’s full participation in mainstream development activities. Chapter-V discusses the participation and empowerment approach of the state towards women. Later Chapter analyses the various Laws passed since 1980’s mainly relating to cruelty and violence against women.
18. The book authored by **Furqan Ahmed “Triple Talaq – An Analytical Study with Emphasis on Socio-Legal Aspects”**²⁷. The author has divided the present work into eight Chapters besides a detailed analyses of divergent Juristic views on the subject on attempt is also made to examine as to how judges home perceived the problem of triple Talaq including the recent Judgments of the

²⁶ Sadhna Arya, *Women, Gender Equality and the State*, (Deep and Deep Publications Pvt. Ltd., New Delhi, 2000).

²⁷ Furqan Ahmed, *Triple Talaq - An Analytical Study with Emphasis on Socio-Legal Aspects*, (Regency Publication, New Delhi, 1995).

Gauhati and Allahabad High Courts on the subject – Further, the work includes the law of the Muslim countries where Triple Talaq is either abolished or made impracticable. The techniques which have been adopted by the Muslim world in order to change their law have also been taken into account. In the concluding part of this book attempt has been made to elaborate the effect of Triple Talaq in changed socio-legal conditions with some suggestion to eradicate this social evil.

19. **Human Rights of Minority and Women's by Indrani Sen Gupta**²⁸. This book describes the Human Rights and Fundamental Freedoms of Women's and provides an overview on several issues that need to be considered with respect to Women's Human Rights. It emphasizes the gaps between the Women's agenda and the Human Rights agenda and argues that a merger of the two is important and should become a priority in the work of both Women's and Human Rights organizations.
20. **The Indian Muslim by M. Mujeeb**²⁹, in this book the author made an attempt to portray the life of Indian Muslims in all its aspects beginning with the advent of the Muslim and ending with the present day. In it Indian Muslim history has been divided into three phases – early, middle and modern – and the various aspects of life and activity have been discussed under orthodoxy, statesmanship and administration, religious thought, Sufism, poets and writers, architecture and art, and social life.
21. **Triple Talaq by Salman Khurshid**³⁰ – the book gives details of the story of Triple Talaq Judgment of the Supreme Court – Shayara Bano V. Union of India.
22. **Muslim Law of Marriage, Dowry, Divorce and Maintenance by Dr. Kahkashan Y. Danyal**³¹ elaborates the emerging trends by way of leading

²⁸ Indrani Sen, *Human Rights of Minority and Women*, (Isha Book Publication, New Delhi, 2005).

²⁹ M. Mujeeb, *The Indian Muslim*, (Munshi Ram Manoharlal Publishers Pvt. Ltd., New Delhi, 2003).

³⁰ Salman Khursheed, *Triple Talaq*, (Oxford University Press, New Delhi, 2018).

³¹ Dr. Kehkashan Y. Danyal, *Muslim Law of Marriage, Dowry, Divorce and Maintenance*, (Regal Publication, New Delhi, 2015).

judicial pronouncements in the field of Muslim law, this work very comprehensively and clearly explains the fundamental principles of Family law governing Muslims in India. This book focuses on the portion of Muslim law which deals with the Rights of Muslim Women, i.e. Marriage, Dower, Divorce and maintenance and provides information about the most frequently asked questions on the subject of matrimonial Rights of Muslim Women. It is an affable guide to complex system of Muslim Family law. Land mark judgments of various High Courts and the Supreme Court changing some of the socially discordant concepts relating to Divorce, Dower and maintenance have been included.

23. **The Article “Muslim Women: The Long Road to Equal Rights by Tufail Ahmad** writes on Political Islam, discuss about the movement of Muslim women rights in India, august 27, 2017, will stand out as a mile stone. The Article discuss about historic Supreme Court verdict against the practice of Instant Triple Talaq.
24. **The Article “Rights of Muslim Women: Analysis of Indian Personal Muslim Law” by Ritika Sahu** published in the book; affirmative action; women and law publisher faculty of law university of Lucknow. The Article discuss about the issue of Women’s rights in Muslim Personal Law especially Muslim Women Right related to Triple Talaq, Divorce, Inheritance, Maintenance.

1.7 Chapter Plan of the Study:

Chapter One of the thesis is introductory Chapter. It will comprises of introduction of the topic, objective of the study, research hypothesis, research methodology, literature reviewed and contents of chapter.

Chapter Two of the thesis is entitled as ‘the Historical Background of Islam and the status of Muslim women in India’. This chapter will highlight the evolutionary development of Islam from Pre-Islamic period to the advent of Islam. The sources and schools of Muslim law and also throws light on the position of Muslim women who

has suffered more because of the patriarchal nature of Muslim society in which women are not given enough freedom and hardly access to higher education. The discrimination between male and female is reflected in every field of human life.

Chapter Three of thesis is entitled as “Basic Rights of Muslim Women in context to Marriage and Mahr from Islamic perspective. The chapter will focus on the rights of Muslim women with regard to marriage and mahr. In Islam marriage derives its legality from shariat and it is considered as contract. Mahr in Islam is meant for the economic security of the wife in her rainy days. It is however doubtful as to how many women actually assert their claim to mahr in the event of Divorce.

Chapter Four of the thesis is entitled on Right of Muslim Women in context to Divorce. There is different set of rules of divorce for both husband and wife in the Islamic law. Quranic injunctions of the Holy Quran denies the uncontrolled rights of Muslim husband to pronounce talaq. Women’s post divorced rights are critical issue to be analyzed in this chapter. The controversial issue of Nikah Halala and its impact on women’s right is a crucial topic to be discussed in this chapter.

Chapter Five of the thesis is entitled as Muslim women and gender Inequality in Islamic society. This chapter will analyze the various indicators of Gender discrimination. The social, economical and political discrimination faced by Muslim women. The specified area of health and education is to be analyzed in this chapter. The role of Judiciary in demanding the uniform civil code in India towards gender justice will be discussed in this chapter.

Chapter Six of the thesis is entitled as Constitutional and Statutory protection to the rights of Muslim women in India. The constitution of India under part III guarantees fundamental rights to all citizens including Muslim women. There is fundamental duties and directive principal of state policy in support of women section of the society. The chapter will also emphasized on various statutory legislation enacted for the protection of women’s right along with the landmark judgment decided by Supreme Court and High Court of India.

Chapter Seven of thesis is entitled as ‘Concluding, Observation and Suggestions’. In this chapter the concluding observations will be discussed reflecting the finding of the research along with the positive suggestions to deal with the issues gathered and known in the entire research work.