

**“GREAT TRADITION AND LITTLE CULTURES : A STUDY OF  
MUSLIM PRACTICES WITH REFERENCE TO MARRIAGE,  
INHERITANCE AND PURDAH”**

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CERTIFICATE

Certified that the dissertation entitled "GREAT TRADITION AND LITTLE CULTURES: A STUDY OF MUSLIM PRACTICES WITH REFERENCE TO MARRIAGE, INHERITANCE, AND PURDAH" submitted by Abul Hayat in partial fulfilment of eight credits out of the total requirements of twenty-four for the award of the degree of Master of Philosophy (M.Phil) of this University, is his original work and may be placed before the examiners for evaluation. This dissertation has not been submitted for the award of any other University.

(DR. DIPANKAR GUPTA)  
Supervisor

(PROF. R.K. JAIN)  
Chairman

To the loving memory of my father  
who kindled the flame of learning.

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CHAPTER - I

INTRODUCTION AND THE THEORETICAL PERSPECTIVE

"Unlike Hinduism in India or Islam in Arabia, Islam in India was intrusive in character. It came over an already established civilization and could establish itself only gradually and by slow degrees over the already deeply entrenched indigenous traditions. On arrival in India, it had been diluted through conversion to its fold of large groups of local converts who were bound to bring their pre-conversion beliefs and practices into the faith. Thus, it was almost inevitable that the religious traditions of the Muslims in India should comprise two distinct elements: one ultimate and formal, derived from the Islamic texts; the other proximate and local, validated by custom." 1

#### MUSLIM HETEROPRAXY IN INDIA

A general impression is that Muslims in India (as in other parts of the globe) strictly adhere to Islamic tenets, i.e., the shariat laws, particularly when it involves marriage, inheritance, divorce and religious rituals. However the impression does not bear testimony to sociological enquiry. Though there is no denying the fact that Muslims in India do have a "personal law" based on the shariat but it does not mean that in practice they adhere to it with utmost severity. Islamic law explicitly expounds specific prescriptions about the

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1. Imtiaz Ahmad, Ritual and Religion among Muslims in India (ed.), in the introduction, Manohar, 1981 p.15



structure of family life, marriage, inheritance, divorce, etc., and it is also possible that such prescriptions serve as fundamental determinants for the execution and functioning of these institutions. "However, the essence of these institutions would seem to lie not so much in the presence of a prescribed body of religious norms governing them as in the peculiar social conditions within these absolute Islamic tenets are translated into practice."<sup>2</sup>

It is this apparent diversity of social conditions and the impact they have had on the working of these institutions that should be the real concern of the sociologist or for that matter the social anthropologist. "A sociological approach.... concentrates first and foremost on a theoretical understanding of institutions, and of their mutual interconnexions, within the local setting and context."<sup>3</sup> On the contrary the Islamists' approach would proceed to separate law and custom, or the Islamic theory and its local application in order to "investigate the effects of the religious (and legal) system of Islam on the life and organization of the

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<sup>2</sup> Imtiaz Ahmad, Family, Kinship and Marriage among Muslims in India, (ed.) in the Preface, Manohar, 1976, p.XI.

<sup>3</sup> J.P. Singh Uberoi; "Men, Women and Property in Northern Afghanistan" in T.S. Lakhandwalla's India and Contemporary Islam, Indian Institute of Advanced Study, 1971, p.399.

societies which acknowledge it."<sup>4</sup> The sociological approach would rather emphasize the actual working of religious or kinship institutions in local practices and the impact these local folk traditions have had in the implementation of the Great Culture in specific situations. As Uberoi notes; "According to the sociological method, we must first observe a number of particular Muslim communities in detail, and with a view to understanding the inner structure and interconnectedness of Muslim institutions in each particular case. Only when we possess such a body of knowledge, in which concrete observation is married to analytic understanding, could we properly say what the system of Islam (in India) really is, and speculate as to what it might become."<sup>5</sup>

#### SHARIAT AND ITS ACTUAL TRANSLATION INTO PRACTICE

True, Muslims in India, as indeed the Muslims elsewhere in the Islamic world, believe in and adhere to the cardinal pillars of the faith. At the same time, a number of sociological studies based on field research implicitly or explicitly draws attention to the fact that Islam as practiced in India is heavily

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<sup>4</sup>Reuben Levy, The Social Structure of Islam, Cambridge University Press, 1957, p.V.

<sup>5</sup>Uberoi; op.cit. p.399.

underlined and influenced by elements which are accretions drawn from the local environment. These accretions often contradict the so called fundamentalist views enshrined in the texts of the shariat or the Koran. The shariat has formally laid down prescriptions and an orthodox Islamic expectation from the faithfuls is to strictly conform to the injunctions of the shariat. But in practice, it is found that shariat laws and rarely, if ever, followed strictly adhere to.

Theoretically speaking, marriage in Islam is a mere contract and gets dissolved with a simple divorce subject only to the payment of the 'mahr' which obviously favours the man. But in actual practice a Muslim marriage is considered no less sanctimonious than a Hindu one and divorce is not as simple as it stands to be according to the law. A Muslim marriage, or for that matter a divorce, does not only come into being simply by abiding religious tenets. There are other important factors, some of them very local and contingent that come into play. Similarly Islam expounds clearly about inheritance and provides for a share for the daughters too in the parental estate though not in equal measure. The share of a daughter being half of the brother's share. But in actual practice, in majority of the cases the daughter/sister is not expected to extract her share. Here again

the environment and local traditions have an important bearing in the application of a modality that often subtly undermines the great tradition. How this is done with marriage, inheritance and pardah from the basis of our study.

An overall macro view makes one realise the historical fact that before the coming of Islam in India, the people of India had their beliefs and rituals that were deeply rooted in their culture. The sudden and "intrusive" arrival of Islam could not possibly uproot all these pre-Islamic customs and traditions of the people who had now converted to Islam. The permeation of Islamic culture was obviously gradual and in the process a large number of pre-Islamic cultural traits were assimilated with an apparently subtle Islamic garb into the aggregate Islamic system in India. Very often cultural practices approximate Hindu rituals rather than Islamic principles, though nowhere are they at direct loggerheads with the fundamentals of Islam.

#### THE SOCIOLOGICAL APPROACH

The sociological debate on issues like marriage, inheritance, divorce, and pardah, would remain incomplete unless understood in the light of the fact that Islamic injunctions could not be translated into practice without

heavy accretions of local customs and folk traditions. "The integration of the two elements to a point that they should come to co-exist as complementary and integral parts of a single common religious system was presumably conditioned by the constraints of Islam's own struggle for survivals in an alien environment."<sup>6</sup> In a similar vein Leela Dube points out, "Islam had to accommodate to some extent at least the beliefs, customs, and traditions of the people who embraced it."<sup>7</sup> To believe that the Islamic sharia will be followed uniformly throughout the world without adjustments and compromises with local traditions and contextual circumstances is sociologically untenable. Imtiaz Ahmad is quite right when he says that the "logical modus operandi whereby presumably Islam was eventually successful in establishing its integrity and at the same time stabilizing itself on the otherwise religiously clustered Indian scene."<sup>8</sup> There is no dearth of exegetical works based entirely on the sharia and the hadith. Though nobody can deny their intrinsic merit

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<sup>6</sup> Imtiaz Ahmad; 1981; p.15.

<sup>7</sup> Leela Dube, Matriliny and Islam, Religion and Society in the Laccadives, National: Delhi, 1969, p.5.

<sup>8</sup> Imtiaz Ahmad; 1981; p.15.

in the canonical tradition, a study of these works based on the formal Islamic law would hardly enable one to get an insight as to how such laws are actually translated into practice in different parts of the world. For this reason a sociological perspective is required and therefore the emphasis shifts from theory to practice. In the analysis of the Muslim social system in India, an attempt should be made to understand the processes of compromise and accommodation between the sharia, which is the embodiment of the Islamic world view, and the pre-Islamic cultural roots in India emanating from the Hindu beliefs and practices. According to Leela Dube one should study the "resolution of conflicts and dovetailing of the two codes, taking off in the process the edges from and changing the slants in the prescriptions and injunctions of Islam, and thus resulting in changes in the complexion of institutions."<sup>9</sup>

The process of conversion too is also painfully slow.

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<sup>9</sup>Leela Dube, op.cit p.7.

"First comes the confession of faith, then the other pillars...., a certain amount of learning in the law and the Quran and Hadith upon which it rests. The intricate norms, doctrines, explications, and annotations that make up Islam, ...can be apprehended only step by step, as one comes to control, to a greater or lesser degree, the scriptural sources upon which it rests. For most people, such control never goes beyond accepting, at second hand, the interpretations of those who control those sources directly. But that learning, however, crude, and access to scholarship, however shabby, are central to becoming a Muslim in anything more than a formal sense, is apparent everywhere in the Islamic world... Islamic conversion is not, as a rule, a sudden, total overwhelming illumination but a slow turning toward a new light (1965-67)."<sup>10</sup>

This also suggests that at no stage the "illumination" could be so complete as to eliminate every ritual and belief pre-existing in these societies. A "major consequence of the imperial extension of Islam was that many structural and cultural characteristics which pre-existed in the societies before conversion to Islam were added on to its structure, when a majority of its members joined this religion."<sup>11</sup> This is why Islam in India encouraged the acceptance and retention of several local cultural traditions. after:"putting an Islamic content into them. This seems to be the logical modus

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<sup>10</sup>Clifford Geertz quoted by Imtiaz Ahmad in "Ritual And Religion Among Muslims in India", op.cited;1981, p.10-11.

<sup>11</sup>Imtiaz Ahmad; 1981; p.15.

Operandi whereby presumably Islam was eventually successful in establishing its integrity and at the same time stabilizing itself on the otherwise religiously clustered Indian scene."<sup>12</sup>

#### ADAPTATION AND INTEGRATION

Fruzetti's<sup>13</sup> study of Muslims of Bishanpur (W.B.) is illustrative in this context. The Muslims here have forged a unique culture by combining Islamic percepts with the experience of everyday life, its social contexts and the elements that come from a non-Islamic culture. There are points at which these two spheres overlap and using this as a principle, the Muslims of the town (Bishanpur) see no contradiction between strictly Islamic and non-Islamic practices. "In an abstract sense, they see both as having their concrete parallels in the world of action. We have seen that whatever does not fit into the one fits into the other."<sup>14</sup> Fruzetti's account of the rituals practised in the Muslim house-holds on the sixth day after a child's birth indicates how the deeply entrenched

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<sup>12</sup> Imtiaz Ahmad, 1981, p.15.

<sup>13</sup> Fruzetti, Lina M., "Muslim Rituals, The Household Rites vs. The Public Festivals in Rural India," in Imtiaz Ahmad's, "Ritual and Religion among Muslims in India (ed.), 1981.

<sup>14</sup> Ibid. p.111



indigenous traditions encouraged Islam in India to accept and retain the local cultural traditions but adapt them to its own needs by putting an Islamic content into the rituals. The ceremony on the sixth day marks the visit of Angel Gabriel. This ritual has a striking similarity to the one among Hindus where the deity which is supposed to visit the house is called Bidata Prush. It is clear that that ritual existed among them before their conversion to Islam. Angel Gabriel replaced Bidata Prush after their conversion, for they could not have gone on observing this ritual without some of the formal Islamic principles coming into direct conflict with it. "The possibility of such a conflict was suitably avoided by keeping the ritual intact but putting an Islamic content into it."<sup>15</sup>

Fruzetti's example is indicative of the fact that the supralocal tradition of Islam does not require the absolute white-washing of all the pre-existing rituals and practices. It does not come at direct conflict with the local customs so long as some of the ostensible principles of Islam are obeyed and accepted. A cosmetic change in the local rituals, providing them with some Islamic contents, makes them

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<sup>15</sup>Intiaz Ahmad, 1981, p.16

acceptable. It is also interesting to note that the local traditions of Islam, albeit retaining most of the pre-Islamic rituals and customs, put some Islamic symbols and contents into them so that a differentiation could be visible between the local tradition of Islam with the local tradition of the past religion which is in most cases Hinduism.

The supralocal tradition of Islam itself is not much influenced by such rituals and here we see again the difference with the Great tradition of Hinduism. With regards to Hinduism, McKim Marriot observes that the situation can be "conceived as resulting from continuous processes of communication between a little and local tradition and greater traditions which have their places partly inside and partly outside the village. Only residual fragments of the religion of such a little community can be conceived as distinctive or separable."<sup>16</sup> It is different with Indian Islam. There is no continuous process of give and take between the supra local and local Islam. The supralocal in Islam provides certain inalienable prescriptions and tenets that have to be

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<sup>16</sup>McKim Marriot, "Little Communities in indigenous civilization", in his edited book, "Village India, Studies in the little community", The University of Chicago Press, 1955, p.218.

accepted. Many other such supralocal principal need not be accorded a similar reception. Many Muslims converts from Hinduism have continued to maintain their cultural links with their festivals, deities and rituals. The Rajput converts maintain their caste superiority and marriage customs. Village exogamy, gotra exogamy are often practised even after conversion to Islam. Marriage among cousins was considered incestuous which was rather up-Islamic. "In this manner the little tradition of Islam was symbiotically integrated with the little tradition of Hinduism for hundreds of years."<sup>17</sup>

THE THEORETICAL PERSPECTIVE FROM MCKIM MARRIOT TO RAMONDFIRTH

McKim Marriot would rather emphasise that religion in a typical Indian universe (and more correctly a village) may be "conceived as resulting from continuous processes of communication between a little, local tradition and greater traditions which have their places partly inside and partly outside the village."<sup>18</sup> Marriot's reference was toward Hinduism, which was

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<sup>17</sup>Y. Singh, op.cit. p. 76.

<sup>18</sup>McKim Marriot, op.cit. p. 218.

indigenous, evolutionary and mass based and was amorphous unlike religions that have a revealed book with strong and superimposing tenets. Marriot considers an Indian village neither an autarchic and isolate whole nor wholly submerged into the greater whole, i.e. the Indian society. "In India we are on the middle ground."<sup>19</sup> Thus villages may be conceived as relative structural nexuses, as sub-systems within a greater system. "They cannot be conceived as things in themselves in their organisation of marriage and kinship, residence patterns, modes of conflict, or caste organisation. Nor are they conceivable as isolates since Indian civilization began. The traditional greater community of India similarly cannot be understood as apart from its continuing existence in relation to hundreds of thousands of little communities. Both little communities and greater communities are mutually necessary conditions of each other's existence in their present forms. One must consider both in order to thoroughly understand either."<sup>20</sup> Studies of Hinduism from a sociological perspective have been greatly influenced by Marriot's

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<sup>19</sup>Ibid. p.172.

<sup>20</sup>Ibid. p.191.

position. In this case it must be remembered that the great tradition and the Little Tradition of Hinduism have been indigenous and complementary. To quote Marriot: "That Great and Little Traditions may remain in equilibrium within the little community, neither tending to exclude the other: elements of the great tradition undergo parochial transformation as they spread, while the great tradition itself...lacks authority to replace elements of the little tradition."<sup>21</sup> This perspective would not be entirely appropriate in studying Islam in India, though the temptation to do so is obvious. Islamic practices are not complementary to the greater tradition of Islam. One rather superimposes upon the existing local cultures. "In contradistinction to the structure of Hindu great tradition, the great tradition of Islam is founded on a world view which is apparently non-hierarchical, is purely monotheistic and messianic historical in ethos."<sup>22</sup> Islam was also 'assertive' and 'intrusive' in character in as much as it was not indigenous to India. Unlike Hinduism which is an evolutionist religion, Islam's birth took place with a 'sharp break' with the past and every aspect of

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<sup>21</sup>Ibid. p.218

<sup>22</sup>Yogender Singh, op.cit. p.64.

human life was revised and codified. Whereas Hinduism has assimilated contradiction, Islam is rather more uncompromising. In Y.Singh's view, "The typical form that the holistic principle took in the great tradition also influenced its character as an exclusive and assertive religion. The exclusiveness in this tradition could be discerned from the fact that a sharp line is drawn between those who belong to the community of the faithful (millat) and those who do not...".<sup>23</sup>

An attempt to study Indian Islam in the same perspective as that of McKim Marriot (for Hinduism) would be rather faulty, for the great tradition of Islam does not have the same rapport with the little tradition of Islam as in the case of Hinduism. The great tradition of Islam was superimposing in character and demanded a drastic change in the character of the local folk traditions, which derived their roots from Hinduism and the local past traditions. "Unlike Hinduism in India or Islam in Arabia, Islam in India was intrusive in character. It came over an already established civilization and could establish itself only gradually and by slow degrees over the already deeply entrenched indigenous traditions."<sup>24</sup>

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<sup>23</sup> Ibid. p.64

<sup>24</sup> Imtiaz Ahmad, 1981, p.15

It would be rather conducive to our present situation if the Great tradition of Islam is adopted as the "supra-local tradition" signifying the all encompassing orthodox-orthoprax Islam and the little tradition as "the local tradition" representing the contextual, local folk tradition.

The necessity to reformulate the two dichotomous spheres of Indian Islam is essential or else one might lapse into the perspective put forward by Marriot and which is applicable only to Hinduism. To move away from the stereo-type of "Great and Little Traditions" is crucial in our case for reasons that are at once both historical and sociological. The great tradition of Islam entered India and did not evolve in the context of India's Little Traditions. Its acceptance in India was not one of whole hearted assimilation and complete subjugation. In Yogender Singh's words: "The response to the alien culture pattern could not but be composite of feelings ranging from xenophobic hostility to retreatism or rejection and indifference. The more established the nature of an indigenous cultural tradition, the more intense might be the feelings of cultural disociation and ambivalence."<sup>25</sup> It is obvious

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<sup>25</sup>Y. Singh, op. cit. p.60.

that the spread of Islam in India could not have been possible without a more or less reciprocal attitude of give and take between the two almost contradicting cultures. "The main religious views in Islam, being simple and also crucial, did not undergo major changes, but syncretism with other aspects of indigenous customs and traditions was unavoidable."<sup>26</sup> It is conditional on the part of the Islamic umma to conform to the religio-ethical codes and principles embodied in the Quran and/or Sunna, the "hadith" (various traditions), and the Shariya (legal code-book of Islam). Therefore, theoretically speaking, religion, politics and social structure are united into one single principle. However, conforming to religious tenets, in the practical sense, is never complete. Adjustment on Islam's part was also necessary if it had to spread in India. The great tradition of Islam being quite simple and formal could very well ignore the local customs and folk traditions of the pre-existing Indian culture so long as these traditions did not directly and demonstratively confront the sharia - the embodiment of greater Islam. Even so one must also note that inspite"of the greater relative impermeability of the

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<sup>26</sup> Ibid. p.64-65.



Islamic tradition, many orthogenetic changes have been taking place in this tradition."<sup>27</sup>

In our study it is important to acknowledge consciously the distance between the perspective adopted here from Marriot's contribution regarding "Little and Great Traditions". The distance is not so much because we disagree with Marriot as much as to point out the inapplicability of the dynamic of "Little and Great Tradition" in the case of Islam. It is worthwhile to note at this point that Raymond Firth had once remarked in his studies on Tikopic that the reason why christianity seemed to do rather well among the Tikopians is because christianity has not interfered with the local traditions and customs of these Island people. The point that Firth was making is that domestic rituals and by extension, local practices are not easily dislodged by an adoption to a different theological persuasion.

In Tikopia Christianity had made advances but the institution of the chieftainship and other "minor" aspects of pre-christian practices (like spirit mediumship) were still retained. For Firth the public aspects of a cult are more liable to change when affected by external forces than the private aspects. In his words: "The more

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<sup>27</sup>Ibid. p.66.

public, the cult, the more liable it is to change when affected by external forces."<sup>28</sup>

Firth's view is quite congruent to the situation of Indian Islam and its phenomenal spread in the Indian subcontinent. Imtiaz Ahmad notes:

"As a distinct religious tradition characterised by a vigorous iconoclastic zeal on the part of those who were responsible for first introducing Islam into India, the intruding Islamic tradition would probably have linked to conquer the indigenous religious traditions wholesale. However, this could not be possible for Islam to achieve because the indigenous mores and traditions were already an integral part of the life of the people and their total displacement could be achieved only at the cost of Islam's own rejection."<sup>29</sup>

The integration that was achieved between the two religious systems was such that the overt and public aspects of rituals were Islamic but the domestic, ancillary, and the more private aspects of rituals remained Hindu or pre-Islamic.

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28 Raymond Firth, Essays In Social Organization and values, Univ. of London; Althone Press, 1964, p.256.

29 Imtiaz Ahmad, 1981, p.15

### SCOPE OF OUR STUDY

In the pages that follow we shall examine how the institutions of marriage, inheritance and pardah are variously observed by Muslims in different parts of India. On marriage and inheritance there are explicit injunctions in the texts of the Great Tradition of Islam, but this is not the case with Pardah. This is why the great tradition is not simply one that is textual, but one which has received an overwhelming approbation in practice by a large number of Muslims. Here too we shall endeavour to demonstrate how the institution of pardah too is observed with significant variations.

The identity of being a Muslim is not one that can be subsumed by a Great Tradition as is often believed by people today. The rise of so-called "fundamentalism" in Islamic societies has encouraged this misunderstanding. Our study argues a contrary case with the help of secondary sources only. No doubt this means we have to accept certain gaps in our arguments because of the nature of our resource base. Perhaps a more focussed study later, with first hand empirical research, might enable us to make a better case.

CHAPTER - II

MARRIAGE TRANSACTION AMONG MUSLIMS IN INDIA

MUSLIM MARRIAGE A MERE CONTRACT ?

Marriage in Islam is a contract and liable to be broken with a simple divorce. In real practice however marriage is not as easily broken as it seems possible according to the 'shariat'. "Islam considers marriage, which is an important safeguard for chastity, to be incumbent on every Muslim man and woman unless they are physically or financially unable to lead conjugal life."<sup>1</sup> The central role of marriage in Islam is avoidance of celibacy, thereby facilitating the continuous growth of the Muslim family. Marriage is the means for procreation. Marriage, therefore, is life affirming rather than life denying. Though according to the 'shariat' marriage is a mere contract, nevertheless "marriage (nikah) in Islam is recognised as a highly religious sacred covenant. However, it is not religious in the sense of a sacrament, but rather in the sense of realizing the essence of Islam. Marriage, reflecting the practical bent of Islam, combines the nature of both "ibadat" (worship) and 'muamalat' (social relations)."<sup>2</sup>



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1. John L. Esposito, Women in Muslim Family Law, Syracuse University Press, 1982, p.15.
  2. Ibid. p.16



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ESSENTIAL ELEMENTS OF MUSLIM MARRIAGE

Essential to the marriage is the offer (ijab) of marriage by one contracting party and the acceptance (qabul) by the other, at the same meeting before two witnesses. This completes the 'nikah' -- the actual marriage. Dower (mahr) is considered an essential factor in every marriage contract. It is a Quranic prescription, intended to safeguard the bride's economic position after marriage. It is paid to the woman and not to her father or brother and hence can't be seen as a case of 'bride wealth'. It is also meant for purposes of controlling the husband's power since upon dissolution of the marriage he is required to pay back the total amount of the dower (mahr) at once. "Mahr is usually payable in two instalments, the 'prompt' mahr being payable on the wife's demand at, or any time after, the marriage, and the 'deferred' mahr being payable at the time when the marriage is dissolved by death or divorce."<sup>3</sup> Mahr (dower) is a Quranic prescription and without it, a Muslim marriage is impossible. Dowry or Jahez is quite

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3. Lucy Carroll, The Muslim Family in India: Law, Custom and Empirical Research, .... in Contributions to Indian Sociology, 1983, vol.17, No.2. p.218

different, for unlike 'Dower' (mahr) it is not an integral part of the marriage contract according to the 'shariat'. Again bride price, though found among Muslims too, is not an integral part of the marriage contract and is even seen with contempt. "It (bride wealth) differs from dowry (jahez) in that it moves in the opposite direction (i.e. from the husband's side to wife's side) and from 'mahr' (dower) in that it goes to the bride's father or brothers and not to the bride herself."<sup>4</sup>

A Muslim can marry anyone except a few closely related relations. Apart from that, marriage of a male Muslim is possible with a woman of any of the other revealed faiths like Christianity and Judaism. "He can't, however, marry an idolatress or a fire-worshipper. A Muslim woman, again more controlled in the exercise of her options, can marry only a Muslim man."<sup>5</sup> It is quite axiomatic, however, that marriage with a convert to Islam from any previous faith is lawfully prescribed.

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4. Ibid. p.218

5. John L. Esposito, op.cit. p.20.

"The exogamous group is a small ego-focussed kindred, as determined by 'Muslim Law', for a person may not marry i) a sibling (or step sibling), ii) a descent or descendant of sibling, iii) an ascendant or sibling of ascendant and iv) a man may not marry his wife's mother and during the lifetime of his wife, his wife's sister."<sup>6</sup> A foster sister/brother also come under the prohibitive category, to whom the mother has given suck. "The last category is referred to as 'doodh-ka-bachaw', in which the entire sib group becomes prohibitive, in case one of them had been given suck by the other's mother."<sup>7</sup>

It is clear that Islam prohibits marriage to a very few closely related relations and compared to other religions, particularly Hinduism it is relatively open. However, the conception of Muslim marriage as a civil contract has tended to create the impression that marriage among Muslim groups in India is a relatively simple affair. Nonetheless, the apparently simple ceremony of Nikah among the

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6. Hamza A. Alavi, Kinship in West Punjab villages, in Contributions to Indian Sociology, No. VI, 1972, (new series), Vikas Publishing House, Pvt. Ltd. p. 5.

7. Shibani Roay, Concept of Zar, Zan and Zamin - A Analysis of Indian Islamic Tradition of inheritance and Kinship, in Man in India, 1984, vol. 64, No. 4. p. 389.



Muslims is actually punctuated by elaborate rites and ceremonies which serve to underscore the social significance of the event both for the individual and his group. Muslim marriage practices are supposed to recognise few restrictions regarding whom one may marry beyond those explicitly prescribed by the Koran. "Even so, restrictions based on considerations of kinship, caste and village do exist in practice. Kinship also enters the numerous rites and ceremonies that are traditionally associated with the celebration of marriage."<sup>8</sup>

Therefore to look into the issue of marriage for instance, it is imperative to explore the whole aspect of marriage in a number of Muslim communities in various parts of the sub-continent. It will be found that a few central motifs like the nikah and the fixation of the 'mahr' are universal to all of them. But apart from those a large number of local customs and practices involving the questions of endogamy and exogamy, hypogamy and hypergamy, and sometimes the caste system too each play an important role in Islamic marriages. There are many variations.

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8. Ismail A. Lambat, "Marriage among the Sunni Vohras", in Intiaz Ahmad's (ed), Family, Kinship and Marriage among Muslims in India, Op.cit. p.20.

The Swat Pathans, for instance, consider marriage with the FBD most preferred. This is not an absolute Islamic imperative. The Meos of Rajasthan, on the contrary, consider cousin marriage incestuous. The mother-right Muslims of Laccadives and Kerala practice the Nayar type visiting marriage. The fact is that "Islam had to accommodate to some extent at least the beliefs, customs and traditions of the people who embraced it. In practice, thus in addition to the 'sharia', the local customary law and the regulations of the local government have had great influence in regulating people's lives."<sup>9</sup>

#### EXO GAMY AND ENDO GAMY

A Muslim can enter into a marriage contract with any one except a few very closely related kins. "The prohibitive categories include mothers, daughters, sisters and maternal aunts, and daughters of sisters and brothers, and foster sister to whom the mother had given such."<sup>10</sup> A Muslim male can marry a Jew or a Christian

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9. Leela Dube, op.cit. p.5

10. Shibani Roy, op.cit. p. 389

female, though he is forbidden to marry an idolatress or a fire worshipper. A Muslim female, however, is prohibited from marrying any male who is not a Muslim.

Apart from the above conditions, according to the Great Tradition of Islam there is no other restriction. But a number of case studies by sociologists and social anthropologists reveal that in the Indian subcontinent a number of factors come into play in marriage considerations that have nothing to do with Islam.

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Fredrick Barth, dealing primarily with social stratification, has shed ample light on the existence of caste considerations, almost leading to caste endogamy among the Swat Pathans of Pakistan. "The system of patriarchal family structure and exclusively patrilineal descent serves to make matrilineal and matrilineal kinship irrelevant to status and authority ascription, and this obviates the need for caste endogamy."<sup>12</sup> All transmission of status or property takes place through the male line and therefore a tendency toward caste endogamy. But this endogamy does not arise from any need for a precise congruence between the alignment of individuals by

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11. Fredrick Barth, "The System of Social Stratification in Swat, North Pakistan". In: Leach, E. (ed.), Aspects of Caste in South India, Ceylon, and North-West Pakistan, Cambridge Univ. Press, Cambridge papers in Social Anthropology 1960, No. 2.

12. Ibid. p. 132

kinship and caste. In the Pathan system, endogamy seems rather to relate to the hierarchal aspects of castes and to the denial of identity between castes. It would be appropriate to add here that the caste consideration among the Pathans cannot be quite congruent to the Hindu sense of caste. "The people of Swat, as Sunni Moslems, fall far outside the Hindu fold, their system of social stratification may meaningfully be compared to that of Hindu caste systems."<sup>13</sup>

The Pathans assert that sister exchange can only take place between equals. But a Pakhtun can give his daughter to the saints who are higher in caste status. But "saints say they receive wives from Pakhtuns but will not give them daughters return."<sup>14</sup> As a rule, "the tendency towards caste endogamy is quite explicit. Each caste is commonly regarded as constituting the widest order of kin group (nasab), that is to say it is thought of as endogamous."<sup>15</sup>

Hamza A. Alavi, refers quite explicitly towards

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13. Ibid. p.113

14. Ibid. p.135

15. Ibid. p.136

the observance of biraderi endogamy among the Punjabi Muslims of West Punjab villages. Here marriage within the biraderi is almost compulsory and the FBD being the most preferred choice. Where accidents of demography do not make such a match convenient or possible, preference is for structurally equivalent FFBD or FFBSD. It is convenient therefore to refer to the system as one based on biraderi endogamy, although use of the term 'endogamy' in this context may be qualified because it is not an absolute jural prescription but a customary and preferred condition; the degree of compliance with it varies. It is not the rules of exogamy but, rather the norm of endogamy which identifies the kin groups namely the 'biraderis'. "The consequence of ... biraderi endogamy is the creation of extremely involuted and compact patrilineages which 'appropriate' their own women rather than exchange them with other kin group as in the case of kinship systems based on exogamous descent groups."<sup>16</sup> Marriages outside the biraderi are considered as 'hypergamous', though the use of the word in this context places a special construction on it.

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16. Hamza A. Alavi, Op.cit. p.6

Ordinarily, the concept of hypergamy implies the existence of a system of status ranking of respective marriage groups. But in this case there is no prior-ranking of biraderis in an hierarchy of status. An allocation of relative status results from an inter-biraderi marriage. A person who gives a daughter in marriage outside his biraderi, in effect accepts an inferior status. Keeping daughters within ones own biraderi is an index of social prestige.

Shibani Roy finds that the Asna-Ashariya Muslims of U.P. use the term 'Khandan' and not biraderi. "Their understanding of Khandan.... can be defined as 'lineage of recognition', where the persons are traceable and recognised as a 'corporate group' in Weberian sense. Added to this is another character: it is obligatory for a man to marry a girl from his own Khandan, thus making the Khandan an absolutely self-reliant and independent group." <sup>17</sup> Even a high degree of urbanization and job opportunities have not changed this attitude based on the consideration of property and the concept of nasab or nasal which

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17. Shibani Roy, op.cit. p.389.

emphasizes the purity of blood and its retention by close inbred marriages. Khandan endogamy not guards Khandan property by zealously protecting its women from being married outside the Khandan since that would entail gradual dispersal of the landed property.

The village Muslims of Assam, as explored by A.N.M. Irshad Ali,<sup>18</sup> like their Hindu neighbours, are organised like a lineage which strongly observes village exogamy and consider cousin marriage incestuous. They have "strong feelings against marriage involving village households which belong to the same bangsha, such a marriage being regarded as incestuous."<sup>19</sup> Similarly, Pratap C. Aggarwal<sup>20</sup> finds that the Meo Muslims observe village, gotra, and pal, exogamy, thereby dividing the entire Meo caste into a large number of exogamous groups. Members of each of these groups claim common ancestry and therefore no marriage can take place. This is because cousin marriage is considered incestuous here.

It is clear that Islamic Sharia does not recognise any sorts of caste, village, gotra, pal, biraderi or Khandan endogamy or for that matter exogamy. Obedience

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18. A.N.M. Irshad Ali, "Kinship and Marriage Among the Assamese Muslims", in 'Family and Marriage Among Muslims in India', by Intiaz Ahmad (ed.), op.cit.

19. Ibid. p.18

20. Pratap C. Aggarwal, "Kinship and Marriage Among the Meos of Rajasthan", in 'Family, Kinship and Marriage Among Muslims in India' by Intiaz Ahmad (ed.), op.cit.

to such norms are evidently the reflection of the local, pre-Islamic, folk traditions. It is precisely these neighbouring Hindu accretions that are juxtaposed with pure Islamic practices to form the 'local practices of Islam which may have very little to do with the Great Supra-local Tradition of Islam, which in this case emanate directly from Islamic injunctions embodied in the 'sharia'.

#### PREFERENTIAL MARRIAGE

A number of Muslim communities in the sub-continent practice preferential cousin marriages. Islam does enjoin marriage with cousins but nowhere it has been emphasised as a preferential marriage. Hamza A. Alavi observes with regard to his village study of West Punjab that Muslims, "although Muslim law does not prohibit exchanges in marriage outside the patrilineage (nor does it enjoin preferential marriage with FBD), the local custom and value system require that marriages be confined within the biraderi."<sup>21</sup>

The Punjabi Muslim Kinship system is structured on the principle of preferential patrilateral parallel cousin marriage. Marriage with FBD is most preferred; where accidents of demography do not make such a match

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21. Hamza A. Alavi, op.cit. p.5



convenient, preference is then given to FFBD or FFBSD etc. The question of biraderi prestige weighs more with the Punjabi Muslims than inheritance does. This is what has led to Biraderi endogamy. A marriage outside the biraderi is considered hypergamous or hypogamous depending on whether the boy or the girl marries outside the biraderi.

J.P.S. Uberoi<sup>22</sup> who tried "to see the world in a grain of sand" while studying the Andarabi Persian speakers, termed marriage with the FBD a parochial marriage, "because it looks within the smallest local segment, the agnatic cluster, and acts to develop prior bonds rather than to shake out fresh ones."<sup>23</sup> Marriage with the FBD is characterized by no or minimum bride wealth, and is negotiated straightforwardly without clamour and upset from rival suitors. All other match-making is a competitive undertaking, concerned with becoming well-connected in the wider world. The most important factor behind such a preferred marriage is the question of inheritance and the resultant enhancement in the solidarity of the biraderi.

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22. J.P. Singh Uberoi, "Men, Women and Property in Northern Afghanistan", in S.T. Lokhandwall's (ed.), India and Contemporary Islam, Indian Institute of Advanced Study, Simla, 1971.

23. Ibid, p.409.

Even when they have participated, by gradual stages, a set of brothers attempt to re-align themselves through one or more marriages among their children, often the daughter of one brother is committed in infancy to the son of another brother. "Father's brother's daughter marriages, like marriage with the brother's or father's brother's widow, are an element of solidarity within the agnatic cluster. Owing to them the near collateral agnates are also often non-agnatically allied; and the agnatic cluster is a system of co-operation as well as competition."<sup>24</sup>

Shibani Roy, who stresses that "neither the caste model nor the class model can be exclusively used for studying the Muslims of India, holds the view that preferential marriage with the FBD and other cousing is primarily because of the inheritance problem. The second factor is purely of blood and Khandan solidarity. The first preference among the Asna Ashariya Muslims of U.P. is given to the father's brother's daughter who is binte-e-um (first wife), or the paternal parallel cousin, the second to the paternal cross cousin, or father's sister's daughter. The maternal cross cousin or the mother's brother's daughter is another popular type of

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24. Ibid. p.409

preferential mate. Parallel cousin from the maternal side also comes within the category of prescribed mates. Besides, one can also marry bilaterally parent's cousins who are at least once removed.

The proud Pathans of Swat are too conscious of biraderi endogamy. A marriage outside the beraderi is considered a lowering of status by them. The question of prestige, i.e., hypergamy and hypogamy lead to cousin marriages. The caste factor is also quite vital.

Among the mother-right Moplahs of Kerala, writes Victor D'Souza<sup>25</sup> "marriages between members of the same tharavad or interrelated tharavads are a taboo."<sup>26</sup> Marriage between the children of two sisters cannot take place since they reside in the same tharavad whereas the children of a sister with the children of a brother can take place. Tharavad exogamy is the pre-Islamic local influence still strongly persisting whereas marriage between the children of a brother and a sister is a direct Islamic influence. "Thus... the choice of a marriage partner is rigidly limited by the kinship organisation despite the influence of Islam."<sup>27</sup>

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25. Victor S.D 'Souza, "Kinship Organization and Marriage Customs among the Moplahs on the South-West Coast of India", in 'Family, Kinship, and Marriage among Muslims in India, by Intiaz Ahmad (ed.), op.cit.

26. Ibid. p.149

27. Ibid. p.149

Contrary to the Swat Pathans, Asna-Ashariya of U.P., Muslims of West Punjab, the Muslims of Assam villages or the Meos of Rajasthan consider cousin marriage nothing short of incest. Writes A.N.N. Irshad Ali after a detailed case study that the Hindu influence is strong among Assamese village Muslims, who like their neighbours, observe village exogamy and do not practice cousin marriage.

Pratap C. Aggarwal, studying the Meo Muslims of Rajasthan writes, "both cross-cousin and parallel cousin marriages are avoided by the Meos. There is no definite rule regarding the degree of removal of the cousin whom one must avoid marrying. Any person with whom a cousin relationship can be traced cannot be married."<sup>28</sup> Owing to a recent Islamization upsurge, some orthodox outsiders attempted to make cousin-marriage acceptable to the Meos, for Islamic sharia allows such a right. "The Meos in that village became so infuriated at this attempted 'incest' that they beat the culprit and turned him out of the village."<sup>29</sup>

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28. Pratap C. Aggarwal, *op.cit.* p.278

29. *Ibid.* p.278

IMPACT OF LOCAL CULTURE

It has been consistently found that marriage, among all the Muslim communities in India, is primarily considered to be executed through universal Islamic motifs, 'nikah' and the fixation of the dower (mehr). Whether it is the matrilateral Muslims of Laccadives or Kerala, Meo Muslims of Rajasthan or village Muslims of Assam, all observe these two cardinal pillars of Islamic marriage requirements.

But a closer examination reveals that nowhere a marriage among the Indian Muslims is solemnized without being accompanied by a number of such other practices that have nothing to do with Islamic sharia or practices. These other practices are the result of local influences of the neighbouring non-Muslims, but may also be the outcome of the pre-Islamic folk traditional customs that could not be possibly discarded by the converts to Islam.

The village Muslims of Assam, apart from the essential Islamic requirements like the nikah and the fixation of the dower, observe ceremonies that are more similar to the practices of the local neighbouring non-Muslims in those villages. The 'ring-ceremony,' fixation of the marriage date in consultation with

a 'panjika', the ceremonial bath by the bridegroom and the bride together called 'noani' on the day of marriage and the exchange of betel nuts and paan are customs that have no Islamic sanction and are localized in those villages only. These practices are equally observed by the non-Muslims of those villages too. "In some parts of Assam, the custom of presentation (Joran) is also prevalent. This custom is observed by the Assamese Hindus. The groom's mother... blesses the bride by putting vermillion on her forehead and presents her with clothes, ornaments, a comb and a mirror. Among the Assamese Muslims, however, only clothes, ornaments, the comb and the mirror are presented to the bride during joran"<sup>30</sup> and vermillion is omitted, for, it is a purely Hindu practice which provides identity to a Hindu married woman and Islam is strongly against its use.

Writing on the Ismaili Muslims viz., the Bohras and Khojas of Gujarat, S.T. Lokhandwalla, <sup>observes that</sup> "in matters of marriage and other social affairs, the Khojas had evolved an amalgam of Hindu and Muslim customs."<sup>31</sup>

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30. A.N.M. Irshad Ali, op.cit. p.20.

31. S.T. Lokhandwalla, "Islamic Law and Ismaili Communities in his (ed.), "India and Contemporary Islam", Proceedings of a Seminar, Indian Institute of Advanced Study, Simla, 1971, p.386.

Among the Bohras, several innocuous marriage customs of Hindus, which have no relevance to the legality of marriage, were always and are still to a large extent observed as necessary to the completion of marriage. Attempts are also made at times to explain them in terms of tawil or Ismail esoteric interpretations. Child marriages were quite common. Polygamy and divorce are quite rare and widow remarriage is avoided very strongly which is an obvious Hindu practice. The widow, especially during the period of idda, dresses like a Jain Sadhwi in white, and is kept in seclusion.

The Khojas, especially in Kutch and Kathiawar and parts of Gujarat, Lokhandwalla points out practiced many Hindu customs and conventions. About seventy five years ago, Ahmedabad Momnas would keep a Hindu top knot and would go through two marriage ceremonies; the first a Muslim one, performed by a Syed and the second one, performed by a Brahmin. The second one is the reflection of non-Muslim practices and remnant of the pre-Islamic practices. Child marriages were frequent, re-marriage of widow strongly disapproved of. In marriage, a blend of Hindu and Muslim customs can be discerned. The use of turmeric, coconut and rice in different marriage ceremonies is very common and during happy occasions like marriages only Suhagans (whose husband's are alive)

could play the prime role. "Existing within an overwhelming Hindu environment with only a veneer of a different but an insignificant religious dogma, as far as the social affairs or structural organisation of the family was concerned, the Khojas remained within a cultural and ideational framework of the larger community."<sup>32</sup>

D'Souza points out that Kalyanam is by far a more important ceremony than the nikah for sealing the marital union among the Moplahs of Kerala. "Although the central and most important ceremony of a Muslim marriage is the ceremony of marriage contract called 'nikah', for Moplahs, this ceremony is not sufficient to enable the bridal couple to live as man and wife. The consummation of marriage can take place only after holding another function. This latter function is called Kalyanam."<sup>33</sup> Apart from Kalyanam, there are a number of other lesser important ceremonies that are nothing but local accretions which are still lingering on as a part of pre-Islamic practices. They are 'nishchayani', 'mandakani', 'mailanchi', 'Kanhudi', 'ponnoppikkal', etc.

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32. Ibid. p.386

33. Victor S. D'Souza; op.cit. p.157.



RURAL-URBAN CONTEXT

The Muslim concentration, historically speaking, was far greater in the towns than the villages and therefore the impact of the supra-local tradition of Islam is more pronounced amongst the townspeople than the villagers who remained almost autarchic and isolated, governed by local customs and panchayats, drawing direct inspiration from the great tradition of Hinduism.

It is therefore axiomatic that the village Muslims are more influenced and guided by the local customs and folk traditions than the towns people. "The marriage customs of the Assamese Muslims vary in detail not merely in the rural-urban context of Muslim social norms."<sup>34</sup> The Hindu attitude is reflected among the Assam Muslims in the avoidance of cousin marriages and other ceremonial practices. The village Muslims of Assam consider cousin marriage incestuous and like their neighbours they are also organised in lineages which strongly observes village exogamy. But the Gauhati Muslims marry cousins and they do not observe any mohalla exogamy. "The Gauhati Muslims contract marriages even between kin, but they observe the restricted degrees

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34. A.N.M. Irshad Ali, op.cit. p.22.

dictated by Islam."<sup>35</sup> Even in the ceremonies and customs, the towns people are bereft of practices that are heavily loaded with Hindu influences. The Muslims of Assamese towns clearly reflect greater conformity to the sharia than the village Muslims. It is evidently because of the greater permeability and percolation of Islamic influences in the towns than in the villages. The latter remain more insulated and almost cut-off. In contrast to the Gauhati Muslims who are more influenced by the Islamic sharia, the villagers "have harmonized their relations according to the dictates of indigenous folk traditions by totally extending patrilineal marriages."<sup>36</sup>

#### MATRILINEAL PARADOX

Islam is a strongly patriarchal religious system where the position of the male is rather overemphasized. Matriliney is an anathema and a real paradox for Islam. "Nowhere would a social system appear so incompatible with the ideology of Islam and demand so much adjustment and accommodation as in a patrilineal setting and subsequently spread to similarly organised communities in the period of its development and crystallization,

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35. Ibid. p.18

36. Ibid. p.22

Islam invariably assumed patriliney as the natural form of social organization, emphasizing a code of conduct and laying down a system of law in keeping with it."<sup>37</sup>

The central part of the marriage among Muslims of Laccadives is definitely the 'Nikah' and the fixation of 'mahr'. Apparently marriage in the Laccadives islands "is based on the sharia. But in reality the nature of this marriage is radically different from what Islam visualizes and emphasizes in marriage."<sup>38</sup>

Though no matrilineal marriage is translated without the 'nikah' and the 'dower', it is noteworthy to mention that they do not complete the marriage. To enable the bridal couple to live as man and wife there are even more important ceremonies that are pre-Islamic and folk traditional. Among the mother-right Moplahs, ceremonies like 'Kalyanam' and 'nishchayam' are definitely crucial to sanction the bridal couple to consummate the marriage.

The husband has no authority over the wife and he is not expected to support the household and need not maintain and protect the wife. He has no obligation to support his children. Instead he supports and maintains the children of his sister. As Leela Dube writes: "The entire

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<sup>37</sup>Leela Dube, 'Matriliney and Islam, Religion and Society in the Laccadives', National, Delhi, 1969, p.6.

<sup>38</sup>Ibid. pp. 80-81.

complex of relationship is thus significantly different. Paternity is established through 'Nikah', but the children do not belong to the father."<sup>39</sup> The marriage only enables the husband to co-habit with his wife.

"The traditional pattern of residence at marriage ordinarily excludes the possibility of husband, wife and children living together in one domestic unit. Neither the bridegroom nor the bride is required to leave his or her respective residence on marriage. The socially approved sexual relationship between the spouses, which the marriage establishes, is effected through the pattern of night visits of the husband to his wife."<sup>40</sup>

It is clear that except for the nikah and the dower, there is hardly anything Islamic in these marriages. They "no doubt satisfy all these (Islamic) requirements, but their local marriage customs almost overshadow the importance to Islamic practices."<sup>41</sup>

The 'nikah' and 'mahr' distinguish these marriages from non-Muslim matrilineal neighbouring marriages. This is obviously the impact of supra-local Islamic tenets that provides them with the Muslim identity.

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39. Ibid, pp.80-81.

40. Ibid. p.19.

41. Victor D'Souza, op.cit. p.166.

These central motifs distinguish and differentiate them as Muslims from their immediate neighbours who are also matrilineal much in the same way but non-Muslims. But for such explicit Islamic features there would have been hardly anything to differentiate them from non-Muslim neighbours.

Islam is emphatically patrilineal where the authority line is prescribed through the male. Features like tharavad exogamy, visiting type of marriages, husband without any conjugal responsibility, Kalyanam ceremony, transmission of authority through the female line are anathema to Islam. A few universal motifs are testimony to the acceptance of the supra-local tradition of Islam by these people but it is undeniably true that the local cultures play an important role in their lives through their marriage customs.

#### POLYGyny AND WIDOW REMARRIAGE

Though Islam allows up to four wives at a time, the conditions prescribed are too difficult to maintain. The historical circumstance was such that it was looked upon as a social remedy. "Social circumstances during this period must be kept in mind: the widely accepted practice of polygamy and the existence of many widows and orphans left by men who had died in battle who were

in need of protection through marriage."<sup>42</sup>

Sociological case studies prove that people practice polygyny (or do not practice it) only on the demand of the social needs and circumstances. Not all the Muslim communities practice polygyny. For instance, the Andrabī Persian speakers practice polygyny owing to the practice of bride wealth and the desire to have large size of families in order to enlarge the scope of paterfamilia's authority. As Uberoi states, "Men desire polygyny to establish affinal alliances, and to generate many sons and daughters, who will work for them and widen their influence in the local community, as did earlier their own brothers and sisters."<sup>43</sup>

Among the Gujar Bakarwals of Jammu and Kashmir (J&K), the negative sex ratio and caste endogamy have put their women in an exceptionally advantageous position. Therefore widow remarriage is practiced. "There is no taboo against widow remarriage among the Gujar Bakarwals..... There are no young widows among them as even widows are in considerable demand as wives on account of the overall shortage of women in Gujar Bakarwal society."<sup>44</sup> Usually

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42. John L. Esposito, op.cit. p.20.

43. J.P. Singh Uberoi, op.cit. p.401.

44. R.P. Khatana, "Marriage and Kinship among the Gujar Bakarwals of Jammu and Kashmir," in Family, Kinship and Marriage Among Muslims in India by Imtiaz Ahmad (ed.), Manohar, 1976, p.102

an attempt is made to marry the widow with the younger brother of the deceased, though it is by no means a rule. Owing to the shortage of women, polygyny is not a rule among the Gujar-Bakarwals. In fact, many men do not find the opportunity to marry even once.

Among the Meos of Rajasthan, "there is no prohibition on widow or widower remarriage among the Meos. As a matter of fact, all widows, unless they have many children, continue to re-marry till they are too old to do so."<sup>45</sup> The majority of marriages among the Meos are monogamous but polygyny is permissible. Since a high bride price has to be paid, there is little scope for a second wife. Occasionally, a Meo may marry his brother's widow as his second wife if it is considered advantageous for the family.

The Ismaili Muslims of Gujarat rarely practice polygyny and avoid remarriage of widows. "The child marriages were quite common. Polygyny was and is rarely practised, more often in the priestly circles. Divorces were rare and widow re-marriage till very recently was largely avoided."<sup>46</sup>

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45. Pratap C. Aggarwal, op.cit. p.275.

46. S.T. Lokhandwalla, op.cit. p.392.

Leela Dube writes that both polygyny and widow re-marriage are quite common among the matrilineal people of Laccadives. "Though marriage is mostly monogamous, more than half the number of men and women in the community are found to have married more than once and many even several times."<sup>47</sup> Though Islam permits polygyny, we have found that its prevalence or non-prevalence depends more on local, environmental, demographic and certain other conditions (for instance biraderi or Khandan endogamy). This is equally applicable to the question of widow remarriage too. The Meos, the Gujar Bakarwals, the Andarbi Persian speakers practice widow remarriage, whereas the Ismaili Muslims of Gujarat generally avoid widow remarriage. The Meos avoid cousin marriage but accept widow remarriage. The influence of the supra and local traditions of Islam vary with under different situations and conditions.

#### CONCLUSION

A close analysis enables one to discern several levels in the religious system of the Muslims in India. The beliefs, values and ritual practices at each level

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47. Leela Dube, op.cit. p.69.



enjoy a certain degree of autonomy, being relevant for presumably different purposes, yet remaining an integral part of Indian Islam. Broadly speaking, we have two levels that dichotomize the Muslim social system into an upper level and a lower level.

"The first level... as that of the beliefs and practices that are traditionally described as belonging to formal or scriptural Islam."<sup>48</sup> This represents the orthodox-orthoprax Islam and which in our case we would call the 'supralocal tradition of Islam'. Like Muslims throughout the world, the Indian Muslims also recognize and acknowledge it to be all encompassing and paramount. It is supposed to be on a higher plane. However, these beliefs and practices are essentially ideals enjoined on all Muslims. Correspondence between them and actual religious behaviour remains an open question.

"The second level includes beliefs and values of a more limited spread. They are not derived from the Islamic scriptural literature, and it is not necessary that they must always accord with the beliefs and values enshrined in the scriptural texts."<sup>49</sup> At times

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48. Intiaz Ahmad, 1981, p.12.

49. Ibid. p.13.

they might appear to be antithetical to the shariat. The essential characteristic of these beliefs is that they are pre-supposed by actual religious behaviour. They are therefore regarded by the Muslim masses as a part of their religious system. Consequently correspondence between the actual beliefs and values and religious behaviour is much greater at this level.

The first level represents the 'supra-local tradition' of Islam and the second level, the 'local cultures and practices. The supra-local can be a parallel of the Hindu great tradition but the primary contradiction lies in the fact that supra-local tradition of Islam does not have a continuous and complementary support with its local tradition as in the case of Hinduism. It is more a question of accommodation and adjustment in order to survive. The Indian environment has exercised an influence over the Muslim communities in India which can be seen in these local cultures. This development, particularly in its social and cultural forms is what has made the Indian Muslim communities a distinct entity. "Fruzzetti's account of the life cycle rituals and Saiyid's account of Moharram celebrations testify to the existence of (the second) level."<sup>50</sup>

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50. Intiaz Ahmad, 1981, p.13.

The 'supra-local' is more or less uniform and universal throughout the subcontinent and it is not compromising in nature. Its impact is not equally uniform on all the sections of the Muslims in the country. Its impact on the Swat Pathans is different from that of the Meo Muslims of Mewat or for that matter the Matrilineal Muslims of Laccadives or Kerala. But the supra-local itself has not changed radically so as to give different and contradictory pictures at different places and peoples. The concept of 'Nikah' and the fixation of 'Mahr' (dower) are the direct commandments of the supra-local tradition of Islam and we have found that these two centrally important motifs are recognised and practised everywhere. Whether it is the Matrilineal Moplas or the Rajput converts to Islam, i.e. the Meos or the Muslims of Assam village all recognise these two ceremonies and everywhere these two motifs basically differentiate a Muslim marriage from a non-Muslim marriage in the neighbourhood.

It is worthwhile to note that the supra-local tradition itself has not got changed by the continuous permeation and percolation of the influences of the local tradition of Islam as in the case of Hinduism. We find that instead there is the attitude of 'accommodation' between the two, depending upon the intensity of the local

tradition. Where the impact of the local tradition has been in a diluted state the impressions of the supra-local tradition of Islam have been invariably pronounced and conspicuous. For instance we find that the urban Assamese Muslims are more influenced by the Islamic percepts than the village Muslims of Assam. We have seen that the village Muslims disapprove of cousin marriages and believe in concepts of caste and gotra whereas there is no such evidence amongst the urban Assamese Muslims.

The "local tradition of Islam" in India is an amalgam of local, Hindu and pre-Islamic values and Islamic traditions, emanating from the supra-local Islam. There is no universal and uniform 'local tradition of Islam'. The 'local Tradition of Islam' unlike its supra-local tradition is not a monolithic religious structure. It varies from region to region, society to society, people to people and its impact also depends on the historical and social background of the concerned people. People who were Hindu converts and particularly from high caste Hindus are relatively more attached to the pre-Islamic customs and traditions than those who either came from central Asia or who were lower caste or Buddhist converts. The Meos of Rajasthan who claim Rajput ancestry are an example.

Coming to the question of marriage, we see that a muslim marriage in any part of India reflects the actual translation of Islamic injunctions into practice. Whereas the Muslim marriage is differentiated by the act of Nikah ceremony, etc., from the non-Muslim neighbouring marriages, nevertheless a lot of customs and practices are identical to the local non-Islamic marriage practices. The interesting thing is that the Muslims, in their respective settings and locales, do not distinguish between the two as Islamic and non-Islamic.

CHAPTER - III

INHERITANCE AMONG MUSLIMS IN INDIA

INHERITANCE IN ACCORDANCE WITH THE QURAN

In the pre-Islamic days women were blatantly denied any property rights. The Quran granted rights of inheritance to the wife, mother and daughter. "This Islamic reform is mirrored in the new Quranically stipulated rules of inheritance that were superimposed upon certain unjust customary laws."<sup>1</sup> The Quran granted rights of inheritance to the wife, to female children, and to a number of close female relatives who previously had no rights of succession at all. "Generally speaking, female heirs were awarded a share equal to one-half that of their male counterparts, whose heavy maintenance responsibilities also cited in the Quran justified their larger share."<sup>2</sup>

The first two Quranic heirs are heirs by "affinity", the husband and wife. These heirs always succeed. They do not exclude nor are they excluded by any other relative. If they are alive, they reduce the residue that may be taken by the class two relatives (agnates). "The husband takes one fourth of his wife's estate. If his wife has no living children or children of a son..... he takes

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1. Esposito John L., op.cit. p.39.

2. Ibid. pp. 39-40

One-half. The wife inherits one-eighth of her husband's estate if there are children or children of a son....., and one fourth if there are no children. However, the wife's portion is a collective one. In the case of a polygamous union, the wives share the one-eighth or one-fourth equally."<sup>3</sup> As a mother a woman receives one sixth. As a daughter she receives half the share of her brother from her patrimony. However, according to Esposito: "The reforms introduced by the Quran, however, did not replace the existing legal scheme. Instead, the customary laws and Quranic reforms were fused into a comprehensive and coherent legal structure by the efforts of jurists and the force of events. The system of inheritance that resulted represents a feat of juristic achievement."<sup>4</sup>

#### SCRIPTURAL NORMS : A POOR GUIDE TO SOCIAL PRACTICE

Norms emanating from religious texts are a poor guide to social practice. They do not exist in isolation but are juxtaposed by local, traditional and other cultural values and therefore represents a response to certain existential conditions. "The Holy Quran contains many verses which deal with women's rights to property.....

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3. Ibid. p.41

4. Ibid. p.41



Merely reading the Holy Quran does not supply us with a detailed historical or ethnographic account of how Muslims behave when faced with the crucial problem of who should receive how much of what. Local conditions always have a way of limiting compliance with scriptural injunction."<sup>5</sup> People may say that they subscribe to the shariat laws but act contrary to them in actual practice. Some Muslims ignore all or part of what the Holy Book and the shariat command on the subject of a female's rights to property. Some societies deny women the full exercise of their Quranic rights and privileges. In a few others, women are able to enjoy somewhat more than what the standards of the faith grant them.

"Sacred books usually set standards which mortals have trouble living up to."<sup>6</sup> It is equally true of the Quran. This is because Muslims of the world, by occupation, region, ethnicity, history, and culture are as diverse as any on the globe. "That they have not, to date, created a single distinctly 'Islamic' system which solves to everyone's satisfaction the

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5. Gregory C. Kozlowski, "Muslim women and the control of property in North India", in The Indian Economic and Social History Review, 1989, 24 (2), p.163.

6. Ibid. 163.

complex issue arising from the acquisition, distribution and transmission of wealth is a reflection of internal variety of Muslims."<sup>7</sup> The prescriptions of the sharia are not fully adhered to in practice to determine the rights and privileges of the followers of the faith. In the case of women it is even rarer that their position is established only on the basis of Quranic injunctions. "Apart from a host of adverse factors, to establish whether or not women control wealth and partake of the prestige which goes with it depends very much on where and when they live."<sup>8</sup>

Not unlike Muslim marriage, the question of inheritance in the Indian subcontinent, is also characterized by an unbridgeable chasm between theory and practice. As a matter of fact, Muslims in India have studiously avoided or ignored the shariat laws that have armed Muslim women with the right to inherit property as a mother, daughter and wife. In matters of inheritance, where women figure as the claimant, they have invariably tried to opt for the pre-Islamic and to a great extent, Hindu customs, thereby trying to scuttle, and if possible deny, the rights of actual

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7. Ibid.

8. Ibid.

transfer of property. Where a flat denial of such rights have been found difficult, Muslims have devised subtle and effective customs like cousin marriages, especially with the FBD, to avoid actual transfer of property without coming at loggerheads with the sharia.

It is imperative to explore as to what extent the shariat laws, the representation and embodiment of the 'supra-local tradition of Islam, is actually followed by various Muslim Communities in India and to what extent they are ignored, on and evaded through the effective forces of the 'local cultures' in which Islam finds itself.

STRONG PATRIARCHY : EFFECTIVE DENIAL OF WOMEN 'S RIGHTS

Any Muslim community that professes a strong patrilineal system often denies the rights of their women in almost in all spheres of social and economic transactions, often ignoring even the Quranic injunctions. The tradition of patrilineal descent of status and property render women ineffective in all spheres of social life except to play the role of mother and wife. The Andrabi Persian speakers of northern Afghanistan studied by J.P.Singh Uberoi<sup>9</sup> and the Swat Pathans of north west

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9. J.P.Singh Uberoi, 'Men, Women and Property in Northern Afghanistan in T.S. Lokhandwall's (ed.), 'India and Contemporary Islam, Indian Institute of Advanced Study, Simla, 1971.

Pakistan, observed and discussed by Fredrik Barth,<sup>10</sup> are a few examples.

Among the Swat Pathans, "virtually all property, movable and immovable, is held by men and inherited patrilineally, without regard for islamic laws of inheritance."<sup>11</sup> Apart from property, even status and authority are transmitted through the male line and all familial authority is exercised by male patrilineal relatives.

Marriage alters the affective significance of Kinship for the woman herself, but affinal relations do not create ties between households and thus matrilateral kinship plays no role in the transmission of status or property. By the ceremony of marriage the husband obtains full and exclusive rights over the wife. After marriage, all the legal rights formerly held by the father, as well as exclusive sexual access, are vested in the husband. The wife is denied all the rights that could provide her some independence. Among these Swat Pathans "a married woman can not administer her property, she may not enter any

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10. Fredrik Barth, "The System of Social Stratification in Swat, North Pakistan in 'Aspects of Caste in South India, Ceylon and North-west Pakistan, by E.R. Leach (ed), Cambridge Univ. Press, Cambridge.

11. Ibid. p.134

contract except with the permission of the husband....."<sup>12</sup>

Except for items of personal use and jewellery all property is held by the husband including the property that she inherits from her patrimony and is inherited by her sons. In Andarab, for instance only men own the land and flocks etc., practice cultivation, and take the animals to the pasture. The females are kept in strict purdah. Here purdah plays a very important role.

Andarabe culture sharply separates the realm of women from that of property. The principle practical rule of inheritance in Andarab is equal partition of the patrimonial estate among all the sons. The widow(s)'s Quranic one-eighth share, though it may be nominally computed on the occasion of partition among the sons, is understood to consist in her life's maintenance by the successors (the own sons or husband's sons), with whom she continues to reside. "Similarly, the daughters' Quranic half-shares are commonly assumed to have been made over by them to their brothers or paternal half brothers."<sup>13</sup> The brothers seek good relations with the sisters with occasional gifts, etc. to modify her

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12. Ibid. p.13

13. J.P.Singh Uberoi, op.cit. p.403.

dormant claim upon the parental estate. The Andrabi Muslims, writes Uberoi, try to behave like orthodox Muslims. "The customary rules that regulate...marriage and inheritance among them are, atleast in the people's intention, in accord with the formulations of Islamic Law (Hanafi School)."<sup>14</sup> But in practice what has been observed is just the contrary to what they believe.

It is quite similar with the Swat Pathans who in theory subscribe to the Islamic Laws but in practice ignore it when it comes to the question of women's property rights. Though Islam is patriarchal, it has given rights to women to inherit property. But these Muslims of Swat and Andarab are more influenced with the local customs and traditions. Writes J.P.Singh Uberoi that "in observing and reporting upon such a society, it is possible to proceed to separate law and custom, or the Islamic theory and its local application."<sup>15</sup> The formal acknowledgement and acceptance of the supra-local tradition of Islam without practically translating it into practice is the existing reality among these people.

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14. Ibid. p.398-99

15. Ibid. p.399

SIBLING TIES AS GUARANTEES : DELAYED RECIPROCITY

Though Muslim women have been given inheritance rights, it remains an open question how far they really exercise it. Veena Das's<sup>16</sup> description of the various strategies that are used in arranging marriage between cousins in popular Urdu fiction of local Pakistan is full of insights into the problem of women's inheritance also. Though women inherit a part of their father's property according to Islamic Law, it is unusual for them to exercise this right. "Instead a woman renounces her right to her father's property and expects in return life long protection from the brother(s), the right to visit her natal family when she wants to, and to receive gifts on all important occasions."<sup>17</sup> This is why whereas between two brothers there is a potential for hostility, the relations between a brother and a sister are without any such feelings of animosity. A brother is expected to be the protector of the sister. In case of the sudden demise of her husband or a divorce, she can always have her brother's house to fall back on. She can also reprimand her brother if she feels that she is not being treated properly by him.<sup>18</sup>

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16. Veena Das, "The structure of Marriage Preferences: An Account from Pakistani Fiction," in Man, (New Series) Vol.8, 1973.

17. Ibid. p.38.

18. Ibid. p.39.

She can even ask for the brother's daughter's hand for her own son and a good brother is not expected to refuse. Similarly, if the sister should become destitute or die then the brother should offer to bring up her children. "He can demonstrate his love for the destitute or dead sister by marrying her child (son or daughter) to one of his own children of the appropriate age or sex."<sup>19</sup>

Shibany Roy also notes with reference to the Asna Ashariya Muslims of U.P., that though sanctioned, in practice women never own any property. "However, the custom of 'mayke aana' of the daughter, as long as she lives, compensates for her unclaimed paternal property..... This yearly 'mayke aana' (coming to mother) is actually a type of economic exchange in the form of presentations and gifts in the category of generalized (delayed) reciprocity, which entails a predominantly one way exchange."<sup>20</sup>

Though a host of obligations have to be entertained by the brother, nevertheless the actual transfer of immovable property at least is scuttled. The 'supra-local

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19. Ibid.

20. Shibany Roy; op.cit. p.393.



'tradition of Islam' has no role to play in this subtle device to avoid the divine ordain. It is the 'local tradition of Islam' that is crucial in the making of these subtle moves which deny property rights to women.

THE FBD SYNDROME : "BINT-E-UM"

Though marriage with cousins including the FBD is legal in Islam, no where it has been described as a preferential marriage. The shariat makes no difference between an ordinary alliance and an alliance where it involves the FBD. Yet a large number of Muslim communities, without any religious prescription, consider cousin marriage as a preferential marriage, so much so that the FBD is considered the 'bint-e-um' i.e., the first wife. Various view points have been given that range from purity of blood, Khandan/biraderi endogamy, Ashraf-Ajlaf factor, and the question of women's inheritance, as underlying reasons behind this practice of preferential marriage. Though no one can deny the importance of the other factors, the property question remains the most important factor behind this practice.

According to J.P. Singh Uberoi, the Andrabi Muslims of Northern Afghanistan practice biraderi endogamy and prefer cousin marriages in order to circulate women and property within the Khandan. He has termed marriage with

the FBD "parochial marriage because it looks within the smallest local segment, the agnatic cluster, and acts to develop prior bonds rather than to stake out fresh ones."<sup>21</sup> Such a marriage brings about an element of solidarity within the agnatic cluster and does not entail transfer of property.

Among the Asna-Ashariya Muslims of UP, writes Shibani Roy "the close inbreeding of the 'Khandans' establishes an effective social group which not only guards its property but zealously protects its women from being married outside the Khandan, since it would entail gradual dispersal of the landed property."<sup>22</sup> Added to it is the concept of 'hasab' or 'nasal' which emphasizes upon the purity of blood and its retention by close inbred marriages. "Thus, in this bilateral set up - where cross - as well as parallel - cousins are prescribed unions and the affinal relatives are always located within the consanguines - man and woman become coparceners, that is, agnatic and uterine relatives are share-holders to the property."<sup>23</sup>

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21. Uberoi, op.cited.

22. Shibani Roy; op.cit. p.390

23. Ibid; p.391.

Hamza A. Alavi found that the Kinship system of the Muslims of West Punjab villages is structured on the principle of preferential patrilineal parallel cousin marriage. This obviously entails no transfer of property as per the Quran's injunction of the daughter half-share. A logical consequence of it "is the creation of extremely involuted and compact patrilineages which 'appropriate' their own women rather than exchange them with other kin groups...."<sup>24</sup> This effectively sidelines the Quranic injunction.

The Muslim communities that practice cousin marriage and consider it preferential, are in majority in the case of landed people. The division of land automatically leads to economic deterioration and the loss of social power and prestige. The fact "that in these societies rights in things are not held exclusively by individuals, as they tend to be in Western societies, but rather by specific groups..."<sup>25</sup>, favours the marriage with the FBD, for this insulates the group estate from the danger of a possible partition, or an instant claim by the married daughter of the family.

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24. Hamza A. Alavi, op.cit. p.6.

25. Shibani Roy; op.cit. p.392.

MARGINALISING THE QURAN

AS with the ceremony and consummation of marriage the matrilineal Muslims of Laccadive islands pose a real contrast to patrilineal Islam regarding the question of inheritance. The Muslims on this island reflect "the persistence of all the significant structural features of the social system (pre-Islamic) inspite of its envelopment by Islam."<sup>26</sup> For instance, in the case of inheritance, two entirely different sets of rules are in operations; the Islamic law of inheritance, based on the Quranic prescriptions, and the traditional matrilineal rules based on pre-Islamic and local traditions of the island. Accordingly, the property is classified into two categories - 'the Thingalarcha swoth' or Monday property, which is governed by the Islamic law of inheritance based on the Islamic injunctions, and the 'Velliarcha swoth' or Friday property, which passes on matrilineally. Friday property is the property of a Taravad, writes Leela Dube, and this property is managed and maintained matrilineally. Monday property, on the other hand, is mainly acquired when a man buys, with his own earnings, or he (or a group of siblings) inherits some property through the sharia. Such a property is

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26. Leela Dube, op.cit. p.78.

managed by the individual/group in accordance with the sharia. It is possible that Monday property is merged or changed into Friday or matrilineal property.

The nature of economic activity and the forms of property in the island is such that it is hardly feasible to maintain individual property without collective endeavour, and the available unit to carry on this collective endeavour is the matrilineally constituted group. "Though the Islamic law of inheritance was recognized and ran parallel to the matrilineal principle, its field of operation remained extremely limited."<sup>27</sup> The acceptance of the sharia has not circumscribed the principle of inheritance to the extent of any structural disruption. The institution of Taravad with definite line of authority and coordination as well as close co-operation of the matrilineal kin, has remained the distinctive feature of the social structure of the island. A man has only usufructuary rights over the property of the matrilineal group.

The duolocal system residence "enhances the chances of traditional pattern of inheritance to continue in the future too."<sup>28</sup> The woman is maintained by the 'Karanavar'

27. Ibid.

28. Ibid. p.19

of her tharavad and not by her husband which is not in accordance with Islamic principles where all the responsibilities are supposed to be shouldered by the husband.

Pratap C. Agarwal writes, "Meo females do not have any claim to their father's property. They have the right of maintenance in their families both before and after marriage."<sup>29</sup> The Meos are Hindu converts and claim Rajput ancestry and still practice a lot of Rajput customs. The denial of any share to the daughter in the parental estate is not unbecoming to the Meos who claim Rajput ancestry. "Even if a man has no male heirs his daughters do not have the right of inheritance - his brothers and their male descendants can claim his property."<sup>30</sup> This reflects the extremely unIslamic attitude towards the question of inheritance. The hostility that is evoked is quite violent when a daughter tries to extract her share in the patrimony.

In theory the Islamic Laws of inheritance are recognised but the Meos ignore them by conforming absolutely to their past traditions and practices that

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29. Pratap C. Agarwal, op.cit. p.273.

30. Ibid.

are more close to Rajput practices. "The only property that a woman has sole claim to is the gifts which she may have received from her father or brothers."31

The Quranic injunctions have been equally ignored or marginalised, particularly regarding women's inheritance by the Gujar Bakarwals of Jammu and Kashmir. According to R.P.Khatana, the Gujar Bakarwals are a pastoral people who transhume within the territorial limits of the state, according to set schedules, in search of suitable pastures for their animals. Their repeated oscillation within a specific space-time continuum has exercised a decisive influence in shaping the structure of their kinship and Marriage patterns and they "have been adapted to suit the limits imposed by their peculiar mode of existence and physical environment."32

Being a nomadic people, pasturage rights are of utmost importance for the Gujar Bakarwals and disputes regarding such rights are resolved by the tribal council. Though they claim to adhere to Islamic sharia, in practice it is ignored where the division of the joint

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31. Ibid.

32. R.P.Khatana, op.cit. p.

estate involving pasturage rights is concerned. The daughters, who are admitted in theory to be eligible to receive one-fourth of all property belonging to their father, actually receive a share of movable property only."<sup>33</sup> Thus instead of a share in the pasturage rights, a female after marriage receives animals from her father and brothers.

The matrilineal Muslims of Laccadives, the Meos of Rajasthan and the Gujar Bakarwals of J&K all accept and acknowledge the shariat which implies that in theory they conform to the Supra-local tradition of Islam. But in actual practice and particularly in regard to inheritance they have either marginalised or extremely limited and curtailed the shariat laws. Instead they practice the pre-Islamic neighbouring rules of inheritance with or without slight modifications. This is how local cultures have almost overshadowed the ordains of the supra local Islam which endow Muslim women, in theory, the right of inheritance.

#### AMALGAM OF HINDU-MUSLIM CUSTOMS & LAWS

Some Muslim communities in the subcontinent have unconsciously adopted Hindu laws in regard to inheritance.

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33. Ibid. p.110.



S.T. Lokhandwalla writes, after a careful case study of the Ismaili communities of Gujarat, that in matters like marriage, the Khojas in particular (and to a lesser extent the Bohras too) had "evolved an amalgam of Hindu and Muslim customs, in intestate succession, the Khojas followed the Hindu law as an established custom."<sup>34</sup>

Existing within an overwhelming Hindu environment and being Hindu converts, the Khojas (and Bohras) remained in significant way within the cultural and ideational framework of their larger neighbouring community.

Lokhandwalla writes with reference to Sarjan Mir Ali's case (1846), that Hindu Law of Inheritance was judicially applied to a Khoja on the strength of a widely adopted custom in the community, the effect of which was to exclude females from any right to succession."<sup>35</sup> The exclusion of women from inheritance was widely accepted practice in different Muslim communities of Gujarat and is still not abjured. Even after the upsurge of Islamization by the Wahabi movement and the Khilafat movement issues like "testamentary succession, and in matters of agricultural lands, they are still governed by Hindu Law."<sup>36</sup> The impact of Islamization did make the Khojas discern and

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34. S.T. Lokhandwalla, op.cit. p.386.

35. Ibid.

36. Ibid.

acknowledge the Islamic shariat, nevertheless "customary law of the Khojas has not yet been completely superseded in the villages in Kathiawar and Gujarat is still considered dubious."<sup>37</sup>

The Bohras are no different and till very recently they accepted and gave interest and opened their new account books for the fresh fiscal year only after worshipping the Hindu goddess of wealth 'Lakshmi'. "The right of females to succession was and is not wholly recognised, although for avoiding an unpleasant court proceedings, arrangements are usually arrived at by which the females get certain shares, which are not always equivalent to what they would be entitled to under Islamic Law."<sup>38</sup>

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37. Ibid.

38. Ibid. p.392

CONCLUSION

When it comes to the question of inheritance, it has been found, in a number of case studies, that the Islamic injunctions are not conformed in actual practice. In fact, women are almost universally denied any inheritance rights even though they have been provided such rights in the Quranic verses. Whether it is the Swat Pathans, Meo Muslims of Rajasthan, Asna-Ashariya Muslims of UP, Ismaili Muslims of Gujarat, Gujar Bakarwals of J&K or the mother right Muslims of Laccadives and Kerala, it has been noticed that invariably in all Muslim communities women's rights of inheritance have been virtually denied, when it comes to the actual transfer of wealth and property - especially landed property. In some cases, as among the Swat Pathans, the extremely patriarchal family system emphatically denies women any rights of inheritance. In some cases, a very subtle device is used to avoid any actual transfer of property from the patrimony to the daughter. One very popular way is by considering cousin marriage, particularly with the FBD, as a preferential marriage, and making it appear as if this were divinely sanctioned.

Coming to the cardinal theme of this dissertation, we find that the chasm between the 'supra-local Islam' and 'Local Islam' is very great when it comes to issue of inheritance. Notwithstanding the very fact that Islam clearly prescribes a share (though not in equal measure) to the daughter in the parental estate, in actual practice almost all Muslim communities do not allow such a right to be practically harnessed.

The impact of the 'supra-local tradition' that characterizes the inflexible and all pervasive character of Islam has been almost negligent in as much as the actual transfer of immovable property to the women is strongly avoided. It is noteworthy that the injunctions professed by the Great or the 'supra-local tradition' of Islam embodied in the sharia are whole heartedly accepted in theory by the Muslims everywhere and yet this divine ordain is not actually translated into practice.

The purdah system is one major factor behind the passive attitude of women toward their rights of inheritance. Even if a woman wants to go to the court, she is practically discouraged owing to the formidable purdah system that leads to the seclusion of women and thus impede every effort to bring women in parity with men. The second major factor that leads to the near

total denial of such a right is the impact of indigenous Hindu traditions where women have been absolutely denied any such rights till the Hindu code and reform bills came after Independence. The third is the psychological factor which always inhibits the daughter to take such an extreme step. Women are quite insecure particularly in an Islamic environment and a woman looks up to her father/brothers for sustained moral, social, and material help. In case the husband dies pre-maturely or divorces her, the father/brothers take up the cause of the daughter/sister. A woman, who had extracted her inheritable share from her patrimony automatically loses all kind of support from her brothers.

CHAPTER - IV

PURDAH AMONG MUSLIM WOMEN IN INDIA

CLARIFYING THE CONCEPT "GREAT TRADITION"

In this chapter we will examine the observance of Pardah. But in this process we must clarify at this stage itself our notion of a Great Tradition. In the previous chapters aspects of the Great Tradition were those that were universally adhered by Muslims in various parts of the subcontinent and which also found mention in the Quran. But we must remember that not all elements of the Great Tradition are recommended in these holy texts. Many find mention in lesser exegetical works, and yet the reason they are considered part of the Great Tradition is because they are almost universally subscribed to in moral terms and practiced extensively by Muslims.

Though the institution of Pardah is not unambiguously recommended in the Quran it is still widely subscribed to by Muslims in India. Perhaps the fact that Pardah gets strong approval in the Hadith has aided in getting this institution the moral acceptance that it possesses. Anyhow the most important fact is that it has an universal appeal for Muslims and this is

why we consider the Pardah as part of the Great Tradition.

The institution of Pardah many wrongly believe is solely an Islamic phenomenon. Our presentation in this chapter will not quite follow the scheme of arguments in the earlier chapters, because we want to highlight a contiguous reality here. What we wish to emphasise now is that (i) there may be a great degree of similarity between Hindu and Muslim practices which have little to do with the revered textual traditions of either Hinduism or of Islam; (ii) the observance of such a phenomenon may vary greatly within a community and this variation is mainly because of economic reasons. The economic factor too constitutes part of the local contextual reality within which we are trying to place the practice of Islam. But when we focus on the economic then the local element gets further categorically differentiated.

We must remember that though Pardah is accepted as "proper" by Muslims all over India, and that it does constitute a part of the great tradition, yet this



should not mean that those who observe Pardah to a lesser degree are less devout Muslims. We should also like to take this opportunity to comment on the fact that pardah is not exclusively an Islamic practice. The burqa is of course a typically Muslim way of observing pardah.

#### PURDAH: ITS ISLAMIC GENESIS

Feminine immodesty, both of dress and demeanor is an anathema to people throughout the world upon whom Islam has left its imprint. A few exceptions apart, most Muslim women of the world are expected to avoid wearing scanty apparel. Their activities in public too are severely limited. According to Jacobson "the concept of modesty (sharam) is central to the ideology of purdah as well as to all other rules governing women's dress and behaviour."<sup>1</sup> He further adds, "in South Asia, the vast majority of Muslim women have always been veiled and sequestered to at least some extent, and ideally remain reticent in public. Such feminine veiling and seclusion

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<sup>1</sup>Doranne Jacobson, "The Veil of Virtue, Purdah and the Muslim Family in the Bhopal Region of Central India", in Family, Kinship and Marriage among Muslims in India, Manohar, 1976, p.187.

are referred to as parda, from the Persian word for curtain (usually spelled as purdah).<sup>2</sup>

Devout Muslims often cite Koranic prescriptions as the basis for the observance of purdah by Muslim women:

"Tell the believing men to lower their gaze and be modest. That is purer for them. Lo! Allah is aware of what they do. And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their adornment...." (Surah XXIV, v. 30, 31)

"As for women past child bearing, who have no hope of marriage, it is no sin for them if they discard their (outer) clothing in such a way as not to show adornment. But to refrain is better for them." (Surah XXIV, v.60).

The Koran is however ambiguous and does not prescribe in detail the ideal features of a woman's dress and behaviour. "Indeed, Muslim women observe purdah in a wide variety of ways within South Asia and throughout the world, and some Muslim women do not observe it at all."<sup>3</sup> Purdah and purdah-like behaviour

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<sup>2</sup>Ibid. p.170

<sup>3</sup>Ibid. p.171

are not restricted to Muslim women. There is evidence that in various pre-Islamic Mediterranean, Arab, and Persian peoples and in recent centuries many Hindu, Christian, Buddhist, and other women of various regions of the globe have traditionally followed practices that closely resemble Muslim purdah observances in important respects. But a striking difference is quite conspicuous. "For one thing, purdah is not just an Islamic institution in the Indian subcontinent... it is important to note that many Hindu women observe purdah too. But it would be incorrect to suggest that the purdah of Hindus is the same phenomenon as that of Muslims."<sup>4</sup> Purdah for Muslim women in the sense of complete veiling seems to operate after puberty in relation to all men, except very close kin. Hindu women do not observe purdah in the place where they were born and where their kin live, unless their husband or one of his male relatives is present. There are also differences in the way Hindu and Muslim women veil themselves: the burqa is a garment almost restricted in its use to Muslim women

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<sup>4</sup>Patricia Jeffery, Frogs in a Well, Vikas Publishing House, Pvt. Ltd., New Delhi, 1979, p.3.

but Hindu women can conceal themselves satisfactorily using a shawl or draping the end of their sari over their head and face.

"On the other hand", observes De Stuers, "other elements are generally included in the term purdah seem to be parallel in Hindu and Muslim practices."<sup>5</sup> Young Hindu women often find no more freedom to go out of their homes after puberty than Muslims and the general stress and emphasis on bodily concealment and the separation between the sexes--while differing in detail--can be found in Hindu and Muslim purdah alike.

It is noteworthy that purdah is a middle class--middle income status group characteristic. To the general middle income group "pardah permeates the Muslim social life of northern India from the top to bottom"<sup>6</sup> Obviously those who can afford a burqa and keep their women within the precincts of the four walls separating them from all economic activity only they can maintain the purdah system. It should be regarded as a characteristic of a whole process which in its turn is a composite

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<sup>5</sup>Ibid. p.3

<sup>6</sup>Cora Vreede-De Stuers, *Parda, A study of Muslim Women's Life in Northern India*, Koninklijke Van Gorcum & Comp. n.v., Assen, The Netherlands, 1968, p.98.

of several elements, like ashrafization, islamization and westernization.

A village Muslim woman can hardly maintain purdah where economic hardships make her work in the fields. It is alike for a Hindu and Muslim woman for, "the Muslim village woman may be hardly distinguishable from her Hindu counterpart in dress and speech..."<sup>7</sup> At the lowest echelon of the social order, where parda cannot be practised to any degree in any form, the women are at least liberated. But even these women complain: "oh, the irony of fate ! The whole family feels the 'stigma' of this shameful liberty and desires to be rid of it as soon as possible."<sup>8</sup>

Though Islamic sanction is clearly in favour of purdah, in real practice it is more a status symbol and a very effective instrument of ashrafization and Islamization. The religious content in the general idea is always present but the actual intention is more

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<sup>7</sup>Ibid. p.101

<sup>8</sup>Ibid. p.64

influenced by status and economic stability. As De Stuers says: "Parda is such a complex phenomenon, compounded of constantly shifting aspects of age, social class, environment, education, and fortuitous circumstance, that in order to avoid the frequent error of excessive simplification it is necessary to treat each case individually, retouching, qualifying, and building up bit by bit a valid general description."<sup>9</sup>

#### MIDDLE CLASS STATUS SYMBOL

The wearing of the burqa among women and their exclusion from the public domain is very much a status symbol. According to Brijbhushan: "The hallmark of the middle class Muslim woman, if such a thing can be said to exist, is the 'burqa'. With the hardening of the structure of Islam, the ingrained patriarchy of the people of the areas to which it moved asserted itself and woman became treasures to be guarded above all others."<sup>10</sup> Women's clothes and ornaments became the index of a man's economic worth and honour. Only those

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<sup>9</sup>Ibid. p.64

<sup>10</sup>Jamilla Brijbhushan, Muslim Women, In Purdah and Out of It, Vikas Publishing House, Pvt.Ltd., 1980, p.20.

people can afford purdah who are economically sound and can maintain their women without putting them into any productive economic activity. "Purdah can't simply be regarded as an Islamic institution, although 'Islamic ideals' or notions of 'honour' and 'shame' are important in providing religious and moral justification for the seclusion of women. Concentrating on values diverts attention from the crucial economic dimension to the seclusion of women..."<sup>11</sup> Goody and Boserup both have emphasised the economic dimension behind the purdah system. The types of relationship which they outline, linking seclusion with relative wealth, and contrasting the position of women under different modes of production are very important.

Patricia Jeffery with her case study of the Nizamuddin (Delhi) Pirzadas proves that only a particular section of the Muslims who are economically sound can afford to keep their women behind the veil. Their women are economically 'inactive', marriage and motherhood

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<sup>11</sup>Patricia Jeffery, op.cit. p.33

are the exclusive destinies to which girls from these families are directed. The maintenance of Purdah is very important for the Pirzada men:

"Their position as custodians of a shrine, their dependence on the incomes which pilgrims bring, provide very compelling economic reasons why the men should wish to appear 'orthodox' with respect to purdah.... The seclusion of the pirzada women has implications for their status within their families as well as for the ability of their families as well as for the ability of their men-folk to cut a convincing and respectable pose to the pilgrims at the shrine." 12

Cora Vreedi-De Stuers finds the middle class housewives of Jamia Millia University, Delhi, accepting Purdah almost as the mark of social prestige and as a religious sanction. Still they come out of their houses only to attend to absolute necessities, and occasionally without the burqa. "Many of the young women would have liked to be rid of it, and some of them had even been encouraged by their husbands to abandon the veil."<sup>13</sup> Vreedi-De Stuers finds that in the Aligarh Muslim University Campus the Western ways and styles have influenced the housewives to discard the veil and women are comparatively free. Still it does not present a contrast to the Jamia

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<sup>12</sup>Ibid. p.34

<sup>13</sup>Ibid. p.66



housewives. On a different economic plane exist the people of the Okhla village near the Jamia Campus. These are peasants and labourers and owing to economic compulsion they do not observe strict Purdah. They might favour the burqa but economic hardship does not allow them to wear it. Whether they are Muslims or Hindus, they live a life that is hardly distinguishable on the basis of Purdah. "The Muslim village woman may be hardly distinguishable from her Hindu counterpart in dress and speech...."<sup>14</sup>

Doranne Jacobson observes that the high status Pathan women of Nimkhera (in the erstwhile Bhopal state near Bhopal) observed some form of Purdah and considered its observation to be a mark of prestige. "Indeed, only women who could afford to pay servants to carry water and do agricultural labour for them could observe such seclusion."<sup>15</sup> On the contrary the Fakir women (lowly people) do not observe Purdah and if at all they do, they do it not as a matter of social prestige. "Interestingly,

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<sup>14</sup> Cora Vreede-D. Stuers, op.cit. p.101.

<sup>15</sup> Ibid. 194

the earlier Begams (queens) of Bhopal seem to have observed no purdah..." We find then that it is not the top strata nor the lowly Muslims that endorse Purdah as much as the middle class Muslims who are acutely conscious of their status.

PURDAH: ITS ECONOMIC VIABILITY

"The seclusion of women under different modes of production are very important".<sup>17</sup> A middle class Muslim woman is expected to perform household chores apart from bearing children. But a lower class Muslim or any other woman can't observe Purdah, even though she may desire to do so. She is compelled to come out of it. "The seclusion of women is not just for Muslims, but neither is it for the poor (no matter what their religion), nor for those who live in the more egalitarian systems based on hoe agriculture. The seclusion of some women is but one integral part of a particular type of social system."<sup>18</sup>

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<sup>17</sup>Patricia Jeffery, op. cit. p.33

<sup>18</sup>Ibid. p.33-34

J.P. Singh Uberoi finds that the Persian speaking Andarabi Muslims of Afghanistan observe Purdah and this Purdah system is sustained because these peoples are landed people whose women need not go out to the fields. The Purdah system is not only observed out of purely religious sanction but to scuttle any effort of the women to claim her inheritable share in the patrimony. It also helps maintain biraderi endogamy. Unlike both Muslim and Hindu high castes, Meo women do not observe Purdah. This is because Meo women take active part in the fields. According to the Meos, "Purdah is not practical for their women because they have to work in the fields."<sup>19</sup> It is the question of their survival. In the presence of certain relatives, especially male affinals who are older than their husbands, Meo women however observe some kind of Purdah. "In the presence of these relatives Meo women cover their faces and avoid any kind of contact with them."<sup>20</sup>

Owing to economic situation, the Meos do not observe Purdah and if at all they observe it, it resembles the

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<sup>19</sup>Pratap C. Aggarwal, op. cit. p.274

<sup>20</sup>Ibid. p.274

Hindu style of Purdah consonant with their Hindu ancestry.

The Asna Ashariya Muslims of U.P. observe strict Purdah. This "establishes effective social group which not only guards its property but zealously protects its women from being married outside the Khandan, since it would entail gradual dispersal of the landed property. The institution of Purdah helps segregate women from menfolk..."<sup>21</sup> In opposition to the Asna-Ashariya middle class Muslims, the Gujar Bakarwals of J&K, who have a very negative sex ratio, can't maintain the Purdah system since women too take part in their vital economic activity like pasturage. R.P. Khatana observes that the negative sex ratio and the economic activity of their women have placed the Gujar Bakarwal women in a very advantageous position.

For the lower strata of the people Purdah is an anathema. "The starting point here is poverty or near poverty--a condition in which work is hard and the reward

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<sup>21</sup>Shibani Roy, Op.cit. p.39

meagre. Women work because they have to, and not because they find in it a means for greater freedom, economic independence or self-expression.<sup>22</sup>

INDEX OF ASHRAFIZATION, ISLAMIZATION & WESTERNIZATION

Purdah is a symbol of upward mobility. Purdah attaches with it economic and social prestige and those who are not so fortunate to afford it cherish the ambition of going behind the curtain. "The segregation of a Muslim women became an index of her husband's status and worth".<sup>23</sup> For the labourers and menial workers who are compelled to put their women into active work shoulder to shoulder with them, "the ultimate in economic achievement was to be able to retreat to the shelter of the house...."<sup>24</sup> As soon as their fathers, husbands or sons could afford it they quit the outside world, retreating behind the curtain and abstaining from all outdoor activity. Cora Vreede De Stuers finds the village Muslims of Okhla village comparatively liberated than the Purdah

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<sup>22</sup>Zarina Bhatti, "Muslim Women in Uttar Pradesh: Social Mobility and Directions of Change, in Women in Contemporary India and South Asia", by Alfred de Souza (ed.), Manohar, 1980, p.210-11.

<sup>23</sup>Jamila Brijbhushan, op.cit. p.20

<sup>24</sup>Ibid. p.20

observing housewives of the Jamia Millia staff. But it is also conspicuously evident that this 'liberation' is not desired, it is in fact forced. "Despite their relatively greater freedom, however, the Okhla women are so impressed with the idea of the inherent respectability of parda that they would sacrifice their freedom for the veil without a thought. This phenomenon is less paradoxical than it seems, since liberty is permitted them only from necessity."<sup>25</sup>

Doranne Jacobson, with his case study of the Bhopal area, observes that among the low status Muslims, Purdah continues to be considered a mark of prestige and is not being abandoned. "If some of the poor Muslims were to become more prosperous, they would probably tend to observe more Purdah, as in fact has happened in few families."<sup>26</sup> None of the poor Muslims want to give up Purdah because it is 'old fashioned'. In fact, quite the reverse is true. As the low status Muslims move further away from their Hindu past, and as they increase

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<sup>25</sup>Cora Vreeda- De Stuers, op. cit. p.83

<sup>26</sup>Ibid. p.197

their contacts with Bhopal Muslims, they seem to be increasing their use of the burka. Older Sheikh women in neighbouring villages wore the fullskirt (ghaghra) and sari of their Hindu neighbours until just a few years ago; now they wear salwar-kamiz like the Pathans and other Muslims do, and their newly-wed grand daughters wear burka and remain secluded in their susrals.

Zarina Bhatti finds that Muslim society in India is sharply divided into two distinct sections--the Ashrafs and the non-Ashraf. The Ashrafs boast of their foreign origin and superior status. The situation among the non-Ashrafs is towards seclusion of women. Women in this segment of Muslim society are losing the freedom they had in an effort to emulate the Ashrafs. "There is a marked tendency among those non-Ashraf families who have done relatively well to put their women in Purdah and to withdraw them from the family work force."<sup>27</sup> When income rises and it becomes possible to substitute the labour of the woman in the family by a hired hand or the addition to income contributed by the woman does not seem

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<sup>27</sup>Ibid. p.208

worthwhile, the attraction of withdrawing from work appears too strong. "While the modulation of women's working hours or character of work or both with the possibility of giving the increase in family income a greater impetus might appear a more rational solution, it is rejected due to the psychological satisfaction of appearing closer to the behaviour pattern of upper classes."<sup>28</sup>

#### RURAL URBAN CONTEXT AND WESTERNIZATION

It is no doubt a fact that urban Muslims (or Hindus) are more strict in the observance of Purdah but <sup>it</sup> would be an exaggeration to claim that rural women do not observe Purdah at all. The rural women may not wear the burqa but Purdah is not only confined to the wearing of burqa. "The parda of seclusion can be expressed in even more symbolic fashion: by down cast eyes, by the bowing of the head, by the complete silence a woman observes in the presence of a man or by the hasty gesture of veiling her head with a corner of her sari or dupatta if she is caught unawares."<sup>29</sup> In the two villages of Himachal Pradesh,

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<sup>28</sup>Ibid. p.211

<sup>29</sup>Cora Vreede-De Stuers, op.cit. p.62



Ghanyari and Chaili wives of the small peasants who are Hindus also observe some kind of Purdah though they do not use the formal veil. "Women of the lower classes might be obliged to move abroad to cultivate their fields... but they might not linger unnecessarily in the public streets."<sup>30</sup> If they violate the general normative condition they are meted out some kind of instant punishment. Therefore, it is not sociologically valid to generalise that only urban women observe Purdah. However the impact of 'burqa' which is a middle/<sup>-class</sup>prestige symbol also, is obviously greater among the towns' women.

#### WESTERNIZATION

It is curious that the lower class women are trying to imitate the upper class women by putting on the burqa. The upper class Muslim women are on their turn now discarding the burqa as they "are now more urbanized, in matters of dress styles, manners and language. This imitation extended further to attitudes towards education,

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<sup>30</sup>U.M. Sharma, "Purdah and Public Space", in Women in Contemporary India and South Asia by Alfred de Souza, Manohar, 1980, p.218

religion and family structure."<sup>31</sup> The wealthy Pathans of Nemkhera and Bhopal, writes Doranne Jacobson, are discarding the burqa as a "result of immediate contact with sophisticated city dwellers who regard Purdah as a slightly 'backward' or 'old-fashioned' custom."<sup>32</sup>

The same has been observed by M.N. Srinivas<sup>33</sup> with respect to the Hindus. He calls 'sanskritization' when a lower caste Hindu emulates the higher caste Hindu. It is westernization when the higher caste Hindu discards caste orthodoxy and emulates the life style and dress of the western people. The Purdahs are quite striking between the Hindu and the Muslims in this case and needs to be taken note of. Additionally one may suggest that reference group theory may also enhance ones understanding of this phenomenon.

#### PURDAH: HINDU vs MUSLIM

It is a historical fact that Purdah existed in pre-Islamic days. Even the Quran is not very clear about it.

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<sup>31</sup>Zarina Bhatti, Op.cit. p.208

<sup>32</sup>Doranne Jacobson, op. cit.pp.198-9

<sup>33</sup>M.N. Srinivas, Caste in Modern India, and Other Essays, Media Promoters & Publishers Pvt.Ltd., Bombay, 1962.

The ambiguities in Quran have led to a proliferation of a number of different schools of thought. It is established that Hindus also subscribe to the Purdah system. The uppermost strata of Hindus and Muslims both do not observe Purdah. Similarly the labourers and poorer class is also forced not to observe it owing to economic hardships. Basically Purdah is a middle class phenomenon both among the Muslims and Hindus. Observes Patricia Jeffery:

"But it would be incorrect to suggest that the Purdah of Hindus is the same phenomenon as that of Muslims. For Muslim women, Purdah in the sense of complete veiling seems to operate after puberty in relation to all men, except very close kin. Hindu women do not veil themselves in the place where they were born and where their own kin live, unless their husband or one of his male relatives is present. There are also differences in the way Hindu and Muslim women veil themselves: the burqa is a garment almost restricted in its use to Muslim women, but Hindu women can conceal themselves satisfactorily using a shawl or draping the end of their sari over their head and face." 34

Apart from that, other elements which are generally included in the term Purdah seem to be parallel in Hindu and Muslim practices. "Hindu and Muslim Purdah can be

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<sup>34</sup> Patricia Jeffery, op. cit. p.3

seen as variant combinations of a set of culturally available norms and concepts, which have very similar functions so far as the structuring of women's relationships in the local is concerned. There are further variants within the Hindu and Muslim groups, related to local conditions, social class, caste practices, etc."<sup>35</sup>

With her case study of Harbassi, a large village District Hoshiarpur and two villages of Himachal Pradesh, Ghanyari and Chaili, U.M. Sharma writes that wives of well to do Hindu capitalist farmers, professional people and shop keepers or traders maintained Purdah system and moved outside the confines of their homes very little. Even those women who go out to fields do not mix with people on the crowded streets and come to their homes with a lower gaze once the work finishes. "The basic fear which motivates the sense of unease in public places is the fear of breaking the norm that forbids women to receive attention from unrelated men...."<sup>36</sup> A woman jeopardises not only her own good name but that of her

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<sup>35</sup>Ibid. p.214

<sup>36</sup>Ibid. p.219

family by inviting such attention however unconsciously from unrelated men. Since Hindu women do not wear the burqa, they have still greater problem in outdoor movement. "For Muslim women, the burqa offers a form of shelter for the woman, a screen from such attention which still allows her to be mobile."<sup>37</sup> Hindu middle class women observe Purdah the same way her Muslim counterpart does. The apparel can be different but the actual sense of Purdah remains by and large the same.

Therefore, "purdah... no longer appears as a cultural peculiarity of Islamic societies or of Hindus in South Asia. It is one way, among others, of controlling women and restricting them to the domestic sphere...."<sup>38</sup>

#### CONCLUSION

On the basis of Islamic scriptures alone, it is difficult to explain or understand Purdah in its many forms.

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<sup>37</sup>H. Papanek, Purdah: Separate World and Symbolic Shelter, Comparative Studies in Society and History, n.3, 1973, p.50

<sup>38</sup>U.M. Sharma, op.cit. pp.214-15

Even in pre-Islamic and other non-Islamic societies Purdah in different forms has been found. "For one thing, purdah is not just an Islamic institution in the Indian subcontinent... it is important to note that many Hindu women observe purdah too."<sup>39</sup> But "because of its unsuspected forms, there have been imprecise and even contradictory descriptions of it."<sup>40</sup> Some writers define pardah as exclusively religious, conforming to Quranic injunctions and thus characterizing the Muslims. Others characterize it as a social distinction emphasizing that only middle class Muslim and Hindus can afford it. Some say that it is confined to the towns people and women in the countryside are free of it. "The extreme flexibility and variety of the Purdah system give rise to these contradistinctions when the observer concerns himself solely with external signs--even these in many cases seem actually to go unnoticed--while forgetting to take into account the basic principle of Purdah: the segregation of the sexes and the subordinate position

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<sup>39</sup>Patricia Jeffery, op.cit. p.3

<sup>40</sup>Cora Vreeda -De Stuers, op.cit. p.62

of women...."<sup>41</sup> It is sometimes ignored that the institution of Purdah play a vital role in keeping women excluded from social, political and economic spheres of life. It is one way, among a few others, of keeping paramount control over women and thereby restricting them to the domestic sphere. "Purdah, seen in these terms, no longer appears as a cultural peculiarity of Islamic societies or of Hindus in South Asia."<sup>42</sup>

Nevertheless, one may say in conclusion that though the Quran does not specifically sanction Purdah, this institution is generally accepted as valid by both Muslims and Hindus. The variation in Purdah observance depends on the economic factor--the middle class being most favourable to observing it, and the poorest the most lax. That Purdah, in one form or another, is vociferously advocated by all Islamic fundamentalists does not make the poorer Islamic women any the less devout because they observe Purdah the least. The supra local practice of Purdah and the general favour with which it is viewed nevertheless does not

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<sup>41</sup>Ibid. p.62

<sup>42</sup>U.M. Sharma, op.cit. p.62.

insulate this aspect of great tradition either from being modified in practice because of contingent, existential and economic factors.



CHAPTER - V

CONCLUSION

The popular view of Islam is that it is a codified religion and Muslims all over the world conform to its injunctions in practice. It is presumed that Muslims are governed by the Islamic sharia and the deviations from it in actual life are perhaps not adequately known: "Others", as Ahmad notes, "do not altogether deny the presence of folk and syncretic elements in Indian Islam, but are prone to regard them as a temporary anomaly susceptible of being eliminated through the process of reform".....<sup>1</sup>

Sociologically it is important to remember and underline that the presence of the Great or Supra Local Tradition which emanates from the Quran and finds expression in a codified form in the Shariat, is not uniformly adhered to by Muslims of the sub-continent. Infact, everywhere, a chasm is conspicuous between theory and actual social practice. Far from strictly conforming to the shariat, the Muslim communities in India either legitimize folk and local customs and practices or reconcile them with the sharia. "It has .... allowed the Muslim communities to have, and to project, a truly Islamic

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1. Imtiaz Ahmad, Ritual Religion Among Muslims in India, Manohar, 1981, p.8

image of themselves and yet continue to remain an integral part of the cultural complex within which they are embeded.<sup>2</sup> This is because religious norms that are textual and theoretical are not always a good guide to what actually happens in practice. Islamic laws were basically formulated keeping an eye on the Arabian society of those days and it is obvious that such laws can not be absolutely congruent with all the needs and requirements of Muslims for all times on the globe. There is an allegiance to the shariat laws but in practice many aspects of the shariat are ignored without any compunction, to suit their local and contemporary social needs and requirements. The masses in India, observes Aziz Ahmad: "especially in the rural areas, are yielding to popular Hinduism's pull of absorption, largely through folk beliefs and through participation in Hindu festivals."<sup>3</sup>

There are thus two broad levels in the religious system of Muslims in India. The first level, identified by Intiaz Ahmad is that of the beliefs and practices of scriptural Islam. We can term it 'the Supralocal Tradition of Islam.' The second level is an amalgam of Hindu-Muslim traditions and functions rather locally in

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2. Intiaz Ahmad, 1976, in the Introduction, p xxxvii

3. Aziz Ahmad, An Intellectual History of Islam in India (1969), Edinburg, Univ. of Edinburg Press, p.51

opposition to the all pervasive supralocal Tradition of Islam.

Owing to Islam's intrusive character, Islamic expansion necessitated its codes to be adapted, to a great extent, to the local customs and institutions, though the most crucial and formal codes were never changed. A major consequence of the extension of Islam to nations other than Saudi Arabia, was that many structural and cultural characteristics which pre-existed in the societies before conversion to Islam were added on to its structure, when a majority of its members converted to this religion. This was almost inevitable. As Singh says: "The main religious vows in Islam, being simple and also crucial, did not undergo major changes, but syncretism with other aspects of indigenous customs and traditions was unavoidable."<sup>4</sup> Since the main vows were not required to change, Islam, even if apparently looking quite inflexible, allowed many syncretic changes to take place below the main principles of Greater Islam.

In the little cultures of Islam we find that pre-Islamic cultures happily co-exist with some of the principles<sup>&</sup> tenets of the Great Tradition of Islam.

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4. Yogendra Singh, op.cit. p.65

These cultures of Islam are as crucial (if not more) as the former, particularly in matters of family and kinship.

The Great Tradition and Little Cultures of Islam are not exactly like the Great and Little Traditions of Hinduism. This is basically because Hinduism in India was evolutionary whereas, Islam in India was not, it came from outside. The resilience that Islam had to face in order to adjust and assimilate itself resulted in a dynamic quite different from that posited Great and Little Traditions by Marriot. The 'Supralocal Tradition of Islam which reflected a stern and uncompromising attitude is not spirally bound to the Local Cultures of Islam which are more influenced by the pre-Islamic, local traditions and folk cultures and economic circumstances. Mc-Kim Marriot writes that the Great and Little Traditions of Hinduism are complementary to each other and that a stable exchange and complementarity exists between the two. Because of its historical reasons Islam in India does not enjoy such a situation. Its Great Tradition and Little Cultures donot follow the same combinatory logic as found in Marriot. Here Firth's insight is perhaps more relevant when he

distinguishes the public and private aspects of cultural and religious observances. This Great Tradition remains unaffected by the Little Cultures of Islam and yet it significantly alters them from what they used to be in their pre-Islamic past. On each occasion we found that there were certain observances from the Great Tradition of Islam that served to differentiate locally the Hindus from the Muslims. Whereas the Supralocal is formalistic, urban and elitebased, the Local Cultures of Islam are massbased, rural and regional in nature. Apart from that, Islam in India, has, observes Yogendra Singh: "one distinctive historical characteristic - it consists mainly of the converts from Hinduism"<sup>5</sup>. It is obvious that people after conversion would not be able to change their mode of life, economy and culture with a sharp break. And even after vigorous Islamization efforts elements of pre-Islamic traditions exist within the Local or Little Cultures of Islam. At best an apparently Islamic garb is given to it so that it does not come at loggerheads with the supra-Local Tradition of Islam.

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5. Yogendra Singh, 1986, p. 73

These aspects were treated in some detail in our earlier chapters with reference to marriage, inheritance and Purdah.

The Meos of Rajasthan claim to be Muslims but still they are very conscious of their Rajput ancestry. To date they practice rituals that have nothing to do with Islam. Even in marriage they do not conform fully to the Islamic sharia. They observe gotra exogamy and consider cousin marriage incestuous. Islam prescribes a patriarchal family system but the Muslims of Laccadive Islands are matrilineal despite claiming to be Muslims. They practice tharavad exogamy and practice visiting type of marriages. The husband bears no responsibility to maintain his wife and children. The marriage contract in Islam comes into existence with the ceremony of nikah. The groom formally promises to provide food, clothing and other requirements after marriage till death or divorce. ~~The matrilineal or divorce.~~ The matrilineal system, in practice, is the negation of the Islamic marriage, for the husband does not maintain his wife and children. Some Muslim communities observe clan biraderi endogamy and consider cousin marriage preferential. Islam allows cousin marriage but does not ordain it to be a preferential one. Clan and biraderi endogamy are not positively endorsed by the Shariat which seem to prefer an open marriage system.

Coming to inheritance we see that majority of the Muslims throughout the sub-continent try to deny women the right to inherit immovable property. A number of devices, religious and non-religious are adopted to create conditions under which women find it practically impossible to claim a share in the patrimony. The supposed to be religiously sanctioned preferential marriage with the FBD is in effect a successful device to keep the Khandan women within it and thus check the dispersal of property, especially landed property. This keeps the family secure from potential disintegration. Strong Patriarchy or matriliney both are factors that either ignore or marginalize the Quranic prescriptions. People with strong patriarchy like the Swat Pathans of north west Pakistan ignore the rights of women in several respects including the transmission of status and property to the descendants. The matrilineal system of Laccadives has its own rules of property inheritance which are not totally abandoned under Islam. The Gujar Bakarwa's of Jammu and Kashmir allow their women to receive movable property.



The Quran is a bit ambiguous about the Purdah system, nevertheless the Hadis and other exegetical works do prescribe Purdah to Muslim women. Therefore the Muslims of the world are expected to maintain proper dress and demeanor for their females. But in actual practice there are factors like local culture, or more importantly the economic situation of women that determine whether one should observe Purdah or not. The lower classes who work in the fields can't afford to keep their women in Purdah. Similarly the highest strata of the Muslims consider Purdah a backward phenomenon and do not observe it. It is the urban middle status group who consider it a mark of prestige and observe it.

We find that Muslims in the sub-continent as elsewhere in the world do not conform to what the shariat says in absolute terms. And yet there is sufficient subservience in some crucial respects to the Great Tradition that separate at the local level Muslims from Hindus. All else may be alike but the Muslims will observe Nikah and mehr which differentiate their marriage from the Hindus, or they will observe as in Laccadive, the institution of Monday property, whose rules of inheritance are closer to the shariat without giving up Friday property rules which are indigeneous. The making of Muslim identity at the

level of local cultures is a peculiar amalgam of the Great Tradition of Islam and the Little Culture of the region. Nikah, mehr, burga, Monday property, are the ostensible marks of separation marking out one culture from another which otherwise share many more traits in common.

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