

**MUSLIM WOMEN IN INDIA AND PAKISTAN :  
A SOCIOLOGICAL ANALYSIS**

Dissertation submitted to the Jawaharlal Nehru University  
in partial fulfilment of the requirements  
for the award of the Degree of

**MASTER OF PHILOSOPHY**

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1989**

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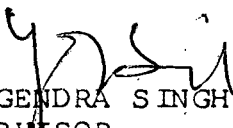
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July 21, 1989

DECLARATION

This is to certify that the Dissertation entitled "Muslim Women in India and Pakistan: A Sociological Analysis", submitted by Ms. Jahanzeb Akhter in partial fulfilment of the requirements for the Degree of Master of Philosophy has not been previously submitted for any other degree of this or any other University.

We recommend that this dissertation should be placed before the examiners for their consideration for the award of the above mentioned degree.

  
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## A C K N O W L E D G E M E N T S

The study on "Muslim Women in India and Pakistan : A Sociological Analysis", has been undertaken in the Centre for the Study of Social Systems for the partial fulfilment of the degree of MASTER OF PHILOSOPHY of the School of Social Sciences, Jawaharlal Nehru University, New Delhi.

I owe a special debt of gratitude to my supervisor Professor Yogendra Singh for his scholarly guidance and for giving me the freedom to work. I gained from him the necessary perspective and direction of this study.

I am thankful to the staff of Jawaharlal Nehru University Library and the Centre for Women's Development Studies for their unstinted cooperation. Thanks are also due to my friends Manjula, Mani and Vismita, my sister Afreen and my little nephew Paps who have helped me in numerous ways in completing this study and keeping the smiles on when the going got rough. Mrs. Veena Arora and her husband Subhash Arora who typed this dissertation with immense care and patience deserve a special word of thanks.

For my Bhaijan, Jawaid, who shared my days of labour and every tension filled moment which preceded the completion of this work, and for Rumi for being what he is and for having done all that he has - a very special and affectionate 'Thank You'.

NEW DELHI,  
Dated: 21.7.1989.

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## I N T R O D U C T I O N

There is no dearth of cliché's when Muslim women are the focus of academic discussions which invoke Islamic Laws and traditions to account for the contours of their status<sup>1</sup>. Exploring the labyrinths of holy texts, the Quran and Sunnat (traditions of the Prophet) and the religio-legal codes of the Shariat, may have advanced the discourses of the Islamicists, but it has contributed little to understanding how Muslim societies actually operate, and what options and constraints confront women therein.

So obsessed have analysts been with images of shrouded, veiled and cloistered female forms, with religiously sanctioned rights of a Muslim male to marry upto four wives, to inherit shares twice that of a woman and to divorce unilaterally, that a profusion of quotes from the Quran are deemed sufficient to illustrate widely held assumptions of Muslim women's absolute subjugation. Empirical evidences are bypassed in attempts to force an understanding in terms of the specific religious ethos and innate conservatism which supposedly characterizes the community. However, sociological and anthropological investigations of the social organisation and

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1 See for instance T.F. Carroll, Women, Religion and Development in the Third World (New York, 1983) pp 194 - 254.

behavioral patterns, even within the core areas of the Islamic world, demonstrate that the status of women, their rights and duties as regards their control over property and over their own body, the degree of seclusion and veiling, marriage practices etc. vary considerably and there are striking differences with regard to women's influences in domestic and political affairs.<sup>2</sup> The variability in the position of Muslim women is even more conspicuous if we move outside the 'core areas' of Islamic civilization to African and Asian Societies. Here Islam and its laws were adopted by cultural and social systems totally different from those in the Arab world in which the religion arose.<sup>3</sup> In the context of the subcontinent, as Mandelbaum puts it "Their original conversion required no profound turn to scriptural Islam; they kept their former ways quite intact and only added an overlay of Muslim features."<sup>4</sup> This is not to deny that Islam and its prescriptions may be important in determining behaviour patterns and organising social relations, nor to ignore the fact that as a complete system of thought and practices codified to envelop man in all his relations, Islam normatively is more than a set of beliefs and rituals. But it does not necessarily follow from this that the

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2        Ida Nicolaisen, 'Introduction' in Bo Utas (ed.) Women in Islamic Societies (London, 1983), p.13

3        Ibid.,

4.        D.G. Mandelbaum, Society in India (Bombay, 1972) p. 559.

details of a Muslim's social existence are minutely ordered by the doctrinaire prescriptions of his religion, or that the embedding of many principles relating to the position of women in Islamic texts, can be used to account for existential realities. This is where an empirically based sociological approach can come into fill the gaps in knowledge and understanding.

It is a sociological truism that status is a function of a multiplicity of complex and interrelated factors, and formally prescribed normative positions cannot be its sole determinant. The socio-economic matrix within which women are located, the socio-cultural ambience of their rural or urban milieu which affects life styles and options, the local and regional customs etc., are all components in any definition of women's status, and the effects of religio-legal norms are influenced, conditioned and often even subverted by their combined, interactive operation. This is as true for Muslim women as for women of other religious communities, and the tendency to ignore the 'secular' variables of status and the impact of 'folk' customs has been largely responsible for the very partial and stereotypical analyses of Muslim women's status in religio-ideological terms alone. Enroute this approach, it is habitual to arrive at conclusions of Muslim women's perpetual tutelage and subordination in an institutional system that bolsters an ideology of over-bearing male dominance, and 'archaic' practices of polygyny, easy divorce etc.



The legal normative postulates of the Islamic doctrine, embodying the teachings of the Quran and the traditions of the Prophet (Sunna), cannot be understood as functioning independently of the prevailing networks of social and cultural linkages in defining the position of Muslim women. However, a knowledge of these religio-normative principles is, nevertheless, important<sup>5</sup> before the extent of their application and the chasm if any, between ideal and reality can be grasped.

Classical Islamic jurisprudence is derived from the Quran and Hadith, and its other sources are ijtihad or reasoning, ijma or consensus, qiyas or analogy and taqlid or imitation. The rights conferred on women by the Quran represented a vast enhancement over the status which they had held in the pre-Islamic Arab World. But a considerable step - a process of juristic development extending over more than two countries - separates the Quran from the classical formulations of Islamic law according to different schools. There arose four schools of jurisprudence among the Sunni themselves - Hanafi, Shafi, Maliki and Hanbali - besides the Shia Jafaria, Shia Ith na Ashari,

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5 For the basic concepts of Islamic law given below we have primarily consulted Asaf A.A. Fyzee, Outlines of Muhammadan Law (London, 1964) David Pear I; A Textbook on Muslim Law (London, 1979) and Tahir Mahmood, Muslim Personal Law : Role of the State in the Subcontinent (Bombay, 1977)

Shia Ismaili and other minor schools, each differing from the other on substantive as well as non-substantive issues. The rights accorded to women in the shariat and which have become the focus of tussle between conservatives and liberals in the drive for legal modernization in parts of the Islamic world, relate mainly to the area of marriage, polygyn, divorce, inheritance and custody of young children after divorce. They are described below in their broad outlines.

Muslim marriage, being in the nature of a public and legal contract between a man and a woman, depends in law upon the consent of the parties to marriage, and is termed ijab and qubul i.e. proposal and acceptance. All schools and sects of Islam recognize the rights of certain 'marriage guardians' to contract their infant wards of either sex in marriage without their consent. In such cases Hanafi law, to which the majority in South Asia - subscribe, allows only the ward ~~who~~ has been contracted in marriage by a guardian other than the father or paternal grandfather the right to repudiate the marriage when he or she attains puberty. Non-Hanafi women, unless they are widows or divorcees, may be contracted in marriage without their consent and against their will even when they are of adult years. Further, Hanafi and Shiite law allows women who have reached majority (which under Muslim law is attained either by the onset of physical puberty or the completion of 15 years of age) to contract their own marriage. They have no such rights under the other schools.

A very important aspect of Muslim marriage is the dower i.e. mehr or sadaq. Paid by the husband, it is an integral component of the marriage contract. By legislating that dower should belong to the wife alone, the prophet created women's right to property and set the Muslim system apart from the erstwhile bride price system, which had made marriage a contract between husband and guardian (wali) with the wife as the sale object. Marriage does not produce any community of property between husband and wife, so the wife retains, in law, her complete freedom of dealing. Mehr can partly be prompt, payable after marriage or on the wife's demand, and partly deferred, becoming payable at the dissolution of the marriage by death or divorce.

Classical Islamic law permits a man to have upto four wives at any one time and if he is an Ithna Ashari Shiite, any number of Muta or temporary wives. While the Quran stresses that a man should not marry a second wife, if he does not feel able to treat his several wives equally, the law regards this purely as a matter for his own conscience and one in which judicial intervention is unnecessary.

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6. Quran, Sura 4, verse 2-3.

Since marriage in Islam is contractual it can be dissolved, with some schools giving the right of divorce to man only. The Hanafiite school is one of these. Sunni Islam recognizes two forms of divorce by repudiation. 'Talaqus Sunna' is based on the prophets injunctions. Here the husband may either pronounce a single 'talaq' which will become effective when the wife has completed her 'idda' (waiting period of three menstrual cycles or, if she is pregnant, until she is delivered of the child), or he may pronounce three talaqs in three successive months, giving himself a chance to have second thoughts on the matter. Talaq-al-bida, the innovated talaq, is regarded as sinful but is nonetheless legally effective. Here the husband pronounces three talaqs at the same time, thus immediately dissolving the marriage irrevocably and moreover, making re-marriage between himself and his divorced wife impossible until she has consummated a marriage with another. Talaq-al-bida is not recognized by the Itana 'Ashari sect of the shiites'. According to the Hanafi school, even a talaq pronounced under pressure has validity and some jurists consider even repudiations uttered in jest, as a threat, or when the husband is drunk as binding.

It is ironical that those schools - Shafii and Maliki-which give a woman the least voice in the contraction of her own marriage, give her the greatest right to seek a dissolution of her marriage by the Quazi or judicial authorities. The Maliki school was most considerate to women in this respect and most of its provisions, with modification, were included in the Dissolution of Muslim Marriage Act, 1939 applicable to India.

There are also other forms of divorce 'Khul' is the divorce where the wife foregoes a part of her mehr, or even whole dower, to seek release. If the wife is compelled by the husband to offer more than the dower, it is considered against the prophetic tradition and so 'makruh' (disapproved) but still valid according to the Hanafi and Hanbali schools. The law also allows the woman absolute separation, after certain prescribed proceedings, in cases where the husband makes an allegation of adultery by the wife and he cannot prove it legally. The denial of paternity of the child by the husband could also lead to such proceedings. These proceedings are called Li'an.

The right of women to inherit property is provided under Islamic laws. A wife whose husband is survived by descendants inherits one-eighth of his estate, and if there are no descendants her share increases to one-quarter. In the case of polygynous unions, the several surviving widows divide this one - eighth or one - quarter share equally. The allotted Quranic share of a daughter is one-half the estate of her parents, while the share of a plurality of daughters is two-thirds. If, however, the deceased is survived by both a son and a daughter, the daughter ceases to be a Quranic heir and is instead converted into a residuary heir by her brother, taking half as much as he does. Sunni Islam gives preference to agnates in matters of succession. Thus, if the sole heirs are a daughter and distant male agnatic cousin, the daughter will be restricted to one-half the estate of her parent and the remaining

half will go to the distant cousin as residuary agnatic heir. Shiite law, on the other hand, gives no such precedence to male agnates. It divides all heirs, excluding the spouse relict (widow or widower) who inherits in all cases, into three classes. Class I comprises parents and all lineal descendants. Class II, grandparents and collaterals and their issue and class III, uncles and aunts and their issue. Any heir in class I excludes all those in class II, so that a daughter will exclude not only brothers and uncles and any male agnates of lower priority but also the grandfather.

Under the impact of western culture or the direct interference of Western colonial powers, Islamic law has been undergoing changes since the 19th century. But what has perplexed scholars is the fact that the family and personal aspects of Islamic legislation have been held on to most tenaciously and changes rigorously opposed, while penal laws, taxation, constitutional laws, laws of contracts and obligations etc. have generally been replaced by civil law. Mernissi seeks an explanation in the fact that most Muslim states have been unable to generate a genuinely modern ideology capable of coping with social change and the problems of modernization and, therefore, turn to the only coherent ideology available i.e. Islam. In their search for a Muslim way and a genuine Muslim identity the Islamic traditions are drawn upon,

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7. J.H. Donohue and J.L. Esposito, "Islam and Social Change" in Donohue and Esposito eds. Islam in Transition: Muslim Perspectives (New York, 1982), p. 179,

and the Shari'a becomes a symbol of Muslim uniqueness. This has repercussions for the women's situation. Since the Sharia, besides religious duties, deals to a large extent exactly with matters that concern women and their rights, their fight for liberation is up against a set of obstacles different from those in the west. And whenever political problems arise in their attempts to cope with modernization, these societies intensify restricting tendencies as this releases a necessity to affirm traditional Muslim values, with immediate effects on the relationship of the sexes. Beck and Keddie, on the other hand, try to explain the phenomena by setting in focus the situation of Muslim men. They maintain that the limits imposed on male freedom by religion and tradition and by the modern powers of employers, government institutions and western incursion, may encourage men lacking wealth and power to keep control of the only area they can, i.e. women and children. Changes in the family law, with its codes on personal status are, therefore, not considered an advantage but a loss of rights and powers, and to a great many, as an encouragement to marital infidelity and sexual license for women.

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8. Fatima Mernissi, Beyond the Veil : Male - Female Dynamics in a Modern Muslim Society (London, 1975) pp. 22-24.
  9. Lois Beck and Nikki Keddie, 'Introduction' in Lois Beck and Nikki Keddie eds. Women in the Muslim World (Cambridge, 1978) p. 28.

Conservative factions in Muslim countries have strongly opposed every move for reforms in the Shariat stipulations regarding women's rights. But reforms and changes have occurred nevertheless, particularly attempts to regulate the practices of polygyny, the husband's unfettered power to repudiate his wife at will granting limited powers of divorce initiation to the wife, excluding remote male agnates from inheritance etc. The scope of reforms, of course, has varied from the Turkish decision to follow a path of complete secularization and adopt the Swiss Civil Code (1928) even in the area of family laws while most other Muslim countries, while carrying out reforms, continue to acknowledge the Sharia as "a source, if not 'the source' of their nations' law".<sup>10</sup> In these countries, legal changes in the area of family laws came very gradually, and has been careful to emphasise its Islamic nature, either by taking the most liberal ruling available on various matters from different schools of law (a mixture that would not have been very conceivable in traditional times), by combining schools on a single question, by providing a modernist exegesis of the quran or of law, (As in Tunisia's outlawing of polygyny through Quranic interpretation), by inserting new provisions in all marriage contracts

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10 Donohue and Esposito, 1982, op. cit. p. 179.



and so forth.<sup>11</sup> Despite the exceptional resistance, and the slowness in the area, these advances in women's legal status represent, in toto, "a radical departure from traditional Islamic doctrines and draw, perhaps, the blue print of a totally new philosophy of family law".<sup>12</sup>

The scope and terms of the reforms undertaken, as outlined above, may seem considerable, but what remains important for a sociologist, as even for a legal historian, is whether they apply in practice to remedy the social mischiefs they are intended to cure, the differences in their application or even awareness across the rural-urban and class divisions and the divergence between everyday customary practices and the provisions of the formal law. Awareness of rights is likely to be minimal for the vast majority of Muslim women who are enmeshed in poverty, malnutrition, illiteracy and ignorance and even if they should be aware "it would take a good deal of courage to run the gauntlet of the various social pressures and sanctions that would undoubtedly face any woman insisting upon

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11 For a detailed review of the reforms in family laws throughout the Muslim Middle East and in the Indian sub-continent see N. Coulson and D. Hinchcliffe, "Women and Law Reform in contemporary Islam" in Beck and Keddie eds. Women in the Muslim World (Cambridge, 1978), pp. 37-51.

12 Ibid., p. 47

these rights in a court of law".<sup>13</sup> Another important factor to be kept in mind is the nature and level of social and economic development approximated in the countries where formulations of reforms have been carried through, the socio-economic category from which advocates and architects of reforms arise, and the degree of relevance of the ideals and aspirations of emancipation reflected in the reforms for the pauperized masses, pre-occupied with tenuous problems of everyday subsistence and survival. Traditional Islamic law has favoured the maintenance of extended patrilineal kinship networks, and the control of women through male members in this network, primarily in a rural subsistence economy. Since reforms cannot follow without changes in political and economic institutions, one can conclude in the words of Anderson and Coulson that it is "obvious that the future of Islamic law cannot be separated from the economic, political and social future of the countries in which it is applied".<sup>14</sup>

The Great Tradition<sup>15</sup> of Islam has general provided the

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13 Ibid, p. 48

14 Cited in Anita M. Weiss, "Womens Position in Pakistan: Socio-cultural Effects of Islamization", Asian Survey, Vol. 25, no. 8, August 1985, p.877

15 The approach of analyzing change with the help of the concept of Little and Great Tradition was used by Robert Redfield in his studies of Mexican Communities. See Redfield, "The Social Organization of Tradition," Far Eastern Quarterly, vol. 15, No. 1, 1955, pp. 13-21.

mould for discussions on the status of Muslim women. Scholars thus tend to ignore the fact that it is the framework of the Little Tradition that orders and regulates most aspects of life for the vast majority of the people in the subcontinent (and elsewhere) who entered the 'Muslim' world through conversion, tenaciously maintaining most of the cultural, social and ritual identities of their pre-Islamic days. Therefore, these local cultures of Hindus, tribals etc. still continue to lay down the parameters of norms and behaviour which affect women and these 'folk' traditions often even contradict the Sharia'. Hence, the urgency for more empirical studies, so that the "groundlevel" reality, as it were, can be understood. An empirical approach is also needed to appreciate the facts of social class differences and realize that woman of the lower strata, irrespective of religion and community, are backward and conservative. "Conservatism, liberalism or enlightenment cannot be shorn of its social context",<sup>16</sup> and thus any harping on Muslim women's backwardness as resulting from the dogmatic conservatism of her community, or her inferior legal status, can only prove prejudicial for a balanced portrayal of reality.

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16 Asghar Ali Engineer, Islam and Muslims: A Critical reassessment (Jaipur, 1985), p.246

An understanding such as outlined above, informs the present work, the endeavour being to locate questions of Muslim women's status in India and Pakistan in contexts other than the purely religious and normative. The exercise will mainly try to indicate how far the legal position of Muslim women, the rights and privileges that the Shariat grants her in matters of marriage, property and inheritance, the "disabilities" with which it encumbers her on issues of polygyny and divorce are realized in actuality in any definition of her status. In addition, the socio-economic grounding of the question of status and the influence of local cultures on 'supra local' Islam will be maintained as one of the primary concerns, so that not only is the variability in Muslim women's position traced, but the lines of contiguity with women from other communities also depicted where possible. The latter is, of course, more applicable in the case of muslim women in India, belonging as they do to a minority community.

We shall also scan the available literature on the practices of seclusion of Muslim women in India and Pakistan in order to try and see to what extent the ideologies of 'purdah' are important for women's status. Many scholars have tended to see in purdah practices, especially veiling by adopting a 'chadar' or 'burqa', the core cause of all the ills that beset Muslim women and keep them deprived of the

benefits of modernization, education, employment, access to public space etc. Profuse quotations of selected passages from the Quran relevant to female modesty and purdah are then posited as evidence of the religious legitimation of the practice, and proof of the obscurantism of the Muslim community which keeps its women deprived and undervalued. This "sexual apartheid"<sup>17</sup> which renders women "a non-person..... just a silent being skulking along"<sup>18</sup> apparently results in a situation where "outside the home, the economic role of women is sharply curtailed"<sup>19</sup>. To another writer, the sight of a Muslim woman in a burqa is "particularly startling in contrast to the emancipation of women both within and outside the community"<sup>20</sup>. It is her conviction that "purdah has made it impossible for women to receive any education from a normal school .... (and serves) to trap the woman within the family which provides her with security but stifles her initiative, consigning her to being just an appendage to the man"<sup>21</sup>. Based on such assumptions, the gloom in the conclusion is not surprising-that purdah

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17 Patricia Jeffery, Frogs in a well: Indian Women in Purdah (New Delhi, 1979), p.21.

18 Ibid., p.4

19 Ibid., p.6

20 Shahida Lateef, "The status of women in a community", Seminar, No. 165, May 1973, p.31.

21. Ibid.,

"actively corrodes" the realization of Muslim women's rights, and therefore "it is pointless talking about the rights of women when a large mass of them are kept imprisoned behind a veil"<sup>22</sup>.

These are polemic positions which ignore the harsh realities of the poverty stricken lives of most Muslim women, labouring in the fields, as domestic workers etc. for whom seclusion remains an unaffordable luxury. They also ignore the possibility that any other perspective may exist, especially the perspective of those supposedly 'imprisoned'. In depth studies of women's perspectives are still not adequate for Muslim women of South Asia, but leads can be taken from the numerous observations which indicate that "the veil is probably much less important in women's lives in many contemporary environments than most people think"<sup>23</sup>, and that demands for education, health facilities, economic improvement etc. have far greater primacy in the lives of the majority of women, both Muslim and non-Muslim, than the desire to discard purdah. Infact, the burqa may not even be perceived to be crippling for liberty, but a type of "portable seclusion"<sup>24</sup> which gives women the opportunity to move out of their house and thus increase their relative mobility.

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22 Ibid.,

23 Beck and Keddie, 1978, op. cit., p.9.

24 Hanna Papanek, 'Purdah: Separate Worlds and Symbolic Shelter' in Hanna Papanek and Gail Minault eds. Separate Worlds : Studies of Purdah in South Asia (Delhi, 1982) p. 10.

In addition to all this, it must be remembered that the depicted helpless condition of women is never absolute. Even subject to the constraints of male dominated society, women are not completely subject to forces outside their control, and they have a variety of strategies enabling them to mitigate the effects of male control. "Even the traditional cultures, in their norms and behaviour patterns, allow considerable autonomy and dignity to women."<sup>25</sup>

It is only by being sensitive to alternative perceptions, by avoiding hasty conclusions of a religion based backwardness and traditionalism afflicting Muslims, that one can appreciate the finer nuances of cultural practices and traditional behaviour patterns. As Keddie and Beck put it, "the force of tradition is not simply a self perpetuating hesitancy to change, but is based on positive values that traditional ways have provided, particularly for the male and dominant members of society, but also for many women who get satisfaction from their children, relatives and communities"<sup>26</sup>. We have tried to be alert to alternate ways of viewing the world when we try to see the operations of a purdah society. The definition of a 'purdah society' depends as much

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25 Suma Chitnis, 'Introduction' in Laeeq Futehally ed. Women in the Third World (Bombay, 1980), p. 3

26 Beck and Keddie, 1978, op. cit., p.14.

on the underlying values of 'honour' through segregation - a value system not confined to South Asia alone - as on the supporting institutions of kinship and economy and their implications for women generally. The differential impact of the values of purdah society according to the variables of region, class, caste, ethnicity etc. will be pursued in order to see whether blanket generalizations of Muslim women's backwardness being rooted in their seclusion is validated by available studies.



CHAPTER - I

MUSLIM WOMEN IN PAKISTAN

It is within the cultural/ideological framework of Islam that most debates on the status of women in Pakistan have been articulated. The centrality of Islam and its idioms in the political process of the country,<sup>1</sup> and the belief that it determines the cultural reality and self-definitions of the people of Pakistan can partly account for such tendencies in scholarship; but this has served in many cases to obscure social scientific insights into the specific operations of patriarchy, its interfacing with the class structure and the consequent oppression for women in terms of class and gender, with legitimations sought in the Islamic doctrine.

GENERAL PROFILE

Like that of her men, a Pakistani woman's life is influenced by the social system, class, region and province to which she belongs, so that a uniform determination of status by the legal - normative codes of the Shariat alone remains as much of a myth as the economic unproductivity of 'dependent' women. Forming 47% of the population, the majority of Pakistani women "belong to the silent and unmentioned peasantry in the rural areas and the working class in the industrial centres.<sup>2</sup> It is a poor and virtually illiterate

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1. See Masudul Hasan, Pakistan : The Call of Islam (Islamabad, 1980).
  2. Khawar Mumtaz and Farida Shaheed, Women of Pakistan : Two steps Forward, One Step Back, (Lahore, 1987), p.23.

majority for whom tedious chores and physical hardships are the only realities of life. In a country where 80% of the rural population is deprived of health cover, the condition of women is deprived of health cover, the condition of women is particularly poignant - with the world's lowest sex ratio at 1000 men to 936 women, female deaths between 15 to 40 years being fully 75% more than male deaths, high rate of maternal mortality with 6 to 8 deaths per thousand deliveries,<sup>3</sup> severe nutritional anaemia compounded by an average of 6 deliveries per woman, and discriminatory access to food and health services working against women since the day of their birth. Education is also not a priority for girls when resources are scarce and some cultural biases against it also present. The literacy rate for women in Pakistan is 16% (rural women only 7.3%) while the average figures for men and for the country remain 35.1% and 26.2% respectively.<sup>4</sup> When education, and not simple literacy, is considered the picture shows the dropout rate for women accelerating terrifyingly after the primary level so that only 0.8% of women can reach the Universities.<sup>5</sup>

An unimpeded exploitation and immiseration of paid and unpaid labour provides the support structure for the regime of accumulation and remarkable economic growth which characterize the Pakistani economy.

3. Hilda Saeed, "Is Health a Feminist Issue?", Subha : A Newsletter on Women and Development, Vol. 2, December, 1988 P.3-4
4. 1981 Census figures cited in Report of Pakistan Commission on Status of Women (July 1985), P.17
5. Muntaz and Shaheed, 1987, op.cit, pp 179-80.

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A conspicuous feature of the labour force here is the extremely low rate of female representation, merely 7.2% in 1985.<sup>6</sup> Many scholars believe that traditional socio-cultural explanations of purdah observance in Islamic societies cannot explain the low figures,<sup>7</sup> which are more due to the fact of under enumeration of females in the agricultural workforce, or because they are not "formally" employed in urban factories or remain concentrated in the informal sector.<sup>8</sup> Further, according to the Sixth Five Year Plan (1983-88) women hold less than 3% of the civil service jobs and less than 1% of top executive positions in government service, banking, business and other fields and in most cases their wages are unequal to male wages for the same amount and quality of work.<sup>9</sup>

Government programmes supposedly geared to bring about a change in the lives and conditions of Pakistani women have been restricted in their success, and far from 'developing' women or 'empowering' them, these policies have further marginalised women in the development process as well as reinforcing the attitude that women are only fit for 'feminine' skills. A shift, for example, from regular and

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6. Hassan N. Garzedi, "Labour, Poverty and Growth in Pakistan's Peripheral Accumulation"; South Asia Bulletin, Vol.8, 1988, p.16
  7. Nadia Yousef, "Women and Agricultural Production in Muslim Societies" (Unpublished mimeograph, 1974) p.1
  8. Nighat Said Khan, Women in Pakistan - A New Era (London, change, undated), p.6
  9. Ibid.,

mainstream agricultural work to home based income generation projects undertaken by the Women's Division in the Cabinet Secretariat can prove retrogressive for rural women.<sup>10</sup>

#### WOMEN AND 'PURDAH SOCIETY'

While Quramic injunctions relevant to female modesty and purdah<sup>11</sup> have formed a major component of most analyses of the status of Muslim women, the Quramic prescriptions themselves form only the barest outline of the definitions of this status. "The particular use of the prescriptions depends on a complex set of legal, philosophical, social and political choices".<sup>12</sup> In the context of Pakistan, blanket generalizations on the nature and extent of prevalence of the practices of female segregation and seclusion are misleading. As Carroll Mc C. Pastner puts it in some detail - "Gradations in the observance of purdah within Pakistan parallel structural differences between levels of socio-economic organisation. The latter include major urban centres, provincial towns, agricultural settlements of varying size and pastoral nomadic camps, class difference and degrees of exposure to Westernization must also be taken into account, as must variations of a cultural nature which reflect the diversity in origin of Pakistani ethnic groups".<sup>13</sup>

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10 Ibid.,

11 The most explicit verse in the Quran occurs in Sura 24("Light"):30

12 Hanna Papanek, "Purdah: Separate Worlds and Symbolic Shelter", in Hanna Papanek and Gail Minault (eds.) Separate Worlds: Studies of Pardah in South Asia. (Delhi) 1982, pp. 23-23.

13 Carroll Mc C. Pastner, "Gradations of Purdah and the Creation of Social Boundaries on a Baluchistan Oasis", in Hanna Papanek and Gail Minault (eds) Separate Worlds: Studies of Purdah in South Asia (Delhi 1982), p.165.

In the less populated and ecologically hostile provinces of Baluchistan and North West Frontier Province (NWFP), a rigid and exacting code of tribal beliefs and behaviour patterns strongly regulate social life, particularly in defining the strict parameters of sexual role functioning in an exaggerated "dichotomization between the sexes".<sup>14</sup> Pukhtun tribal social organisation has been studied intensively in a number of ethnographic accounts. Some of the works in this area are by Fredrik Barth (on Swat Pukhtun), Akbar S. Ahmad while the Pukhtuns of East Afghanistan have been studied by Inger W. Boesen. Each of the scholars report on the obsession of the Pukhtuns with the chastity and seclusion of women as part of that congeries of values which define male and family honour (izzat) in relation to the unsullied honour of their women. Any compromising of her chastity through adultery, elopement etc. is followed by swift retributions wherein the woman (and the presumed paramour) is likely to be killed by her close agnatic kin. The Pukhtun proverb sums up their lot -  
"For a woman either the house (kor) or the grave (gor)."<sup>15</sup>

Profiles of tribal Baluch society display equally strict 'honour codes' centered on womens' 'izzat'. Discussing the Marri Baluch Robert and Jean Pehrson note that "women in Marri society have no rights or responsibilities

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14. Carroll Mc. C. Pastner, "Accomodations to Purdah: The Female Perspective", Journal of Marriage and the Family, vol.36, No.2 May 1974, p. 408.
  15. Cited in Akbar S. Ahmed, "'Mor' and 'Tor' : Binary and Opposing Models of Pukhtun Womanhood", in Akbar S. Ahmed, Pakistan Society, Islam, Ethnicity and leadership in South Asia (New Delhi, 1988) p.30.

vested in them, and female sexuality is a source of pollution".<sup>16</sup> The lack of need for women to engage in agricultural labour in the date economy facilitates purdah practices in terms of invisibility and inactivity in the public sector while for the pastoral Nomadic Baluch concerns about female honour and saame (izat and luj) can be upheld "without recourse to the mudwalls of the settled populace", through the creation of "metaphorical walls of social support composed of interlocking ties of social responsibility" between male co-residents of camps.<sup>17</sup>

Interesting lines of contrast emerge when the case of Zikri Baluch of coastal Pakistan, a community of fishermen who are indistinguishable from their inland counterpart, is considered, substantiating the concordance between gradations of purdah and basic elements of social organisation. Differences in the role of kinship and socio-economic gradations are at the root of the differences in the functions of purdah. In the inland social situation of strict stratification purdah becomes useful for maintaining frontiers between stratas and making "hierarchical statements" about the status of the concerned groups. Contrarily, the absence of rigid stratificatory lines and the presence of a high rate of kin endogamy amongst the Zikri Baluch leads them to isolate their women not from each other but from non - Zikri Baluch and thereby purdah retains "the more general

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16. Robert Pehrson and Jean Pehrson, The Social Organisation of the Marri Baluch (New York, 1966), p.70.

17. Stephen Pastner, "Ideological Aspects of Nomad-Sedentary contact : A case from Southern Baluchistan", Anthropological Quarterly (Special Issue), Vol. 44, No. 3, 1971, p. 182.

function of expressing cultural values about the nature of women  
and the need for minority group exclusivity<sup>18</sup>. In the background  
of a settled agricultural economy lacking sharp socio economic  
differentiations, tribal/lineage practices can even move towards  
a culture of unrestricted female mobility and non-observance of  
purdah, as has been reported about some tribes of the Murree Hills.<sup>19</sup>  
From a review of such a wide spectrum of socio economic formations  
within tribal society alone, the hazards of explaining purdah without  
recourse to the cultural foci and social-institutional arrangements  
in which it is enmeshed becomes apparent.

The variations in purdah and the publi-private dichotomy along  
class and regional lines finds clear evidences in rural Pakistan too.  
The stereotypical image of Muslim women as existing within the dark  
shrouds of a burqa finds little empirical validation in the hard toil  
in which the majority of rural women engage, working alongside their  
menfolk in strenuous agricultural activities. Purdah, infact, remains<sup>20</sup>  
a luxury for the class of poor peasants and the rural proletariat.  
It is only the affluent classes in the village society, the landlords,

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18. Pastner, 1982, op.cit., p. 185

19. Naveed/i/Rahat, "The Role of Women in Reciprocal Relationships in a Punjab village", in T. Scarlett Enstein and Rosemary. A. Watts (eds.) The Endless Day: Some Case Material on Asian Rural Women (Oxford, 1981) p. 79.

20. Saghir Ahmad, "Peasant classes in Pakistan", in Kathleeq Gough and H.P. Sharma (eds.) Imperialism and Revolution in South Asia (New York, 1972) pp. 216-217.

the capitalist farmers etc., who can seclude their women, because they are the only ones who can afford to forego unpaid female labour. Thus, in a sociological study of six villages in Punjab it is noticed that "observation of purdah is a symbol of prestige and fashion in Punjab villages" with veiling, in the sense of donning the burqa, being resorted to only when going out of the village.<sup>21</sup> The association of seclusion of women with the upper classes has led to other classes imitating the practice as a status signifier. Saghir Ahmad, for instance, reports from Sahiwal, a village in Punjab, that goldsmiths, assigned a low rank among the Kammis (traditional artisan service groups), have begun to enforce strict purdah and veiling for their women in their quest for<sup>22</sup> higher social status.

Sex - role organisation in the rural areas has been gradually exposed to forces of change. One of these is the extraordinary situation in the demographic profiles of some villages caused by a high rate of male outmigration, whether to urban centres or to Middle Eastern oil countries, leaving many villages denuded of working age menfolk, while women are left behind as defacto heads of households. Discussing about Mehrabad, a Muslim Punjabi village she studied, Naveed-i-Rahat notes that contradictory processes have simultaneously followed

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21. W.L. Slocum, Jamila Akhtar and A.F. Sahi, Village Life in Lahore District: A study of Selected Sociological Aspects (Lahore, 1960), p.23. 1

22. S. Ahmad, 1973, op.cit. p.215.



such male outmigrations - on the one hand a heightening of women's responsibilities and managerial activities, a venturing beyond narrow domestic confines and greater decision making authority leading to "matri wighted households". On the other hand, there are also some trends towards greater female seclusion and pressures by new 'status aspirants' for restricting women's erstwhile intra village mobility and withdrawing them from work in the fields as a sign of Islamic  
23  
devoutness.

In the wake of the Green revolution in the rich canal colony areas of Punjab, the newly affluent middle peasants, in order to demonstrate higher status, increasingly withdraw their womenfolk from cotton picking, an exclusively female area of work which had tradition-ally given her a little private resource and extra freedom. However, as Alavi noted, there was resentment rather than welcome relief among the women at the reduction of movement and their prized economic  
24  
freedom, however small.

The class correlation of purdah <sup>co</sup> continues in the cities where the lower middle class is most anxious to maintain purdah since it is often <sup>t</sup> "the only visible sign that differentiates them from the working  
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class" and lends credence to their status and mobility aspirations.

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23. Naveed-i-Rahat, "Mehtarabad, A Punjabi Village : Male outmigration and women's changing Role" in Fritz Sehar and Mehtar. S. Karim (eds.) Migration in Pakistan Theories and Facts (Lahore, 1986).

24. Hamza Alavi, "Pakistan : Women in a changing society", Economic and Political Weekly, vol.23 , no.a6 June 25, 1988, p.1328.

25. Mumtaz and Shaheed, 1987, op.cit., p.30.

The oppressive consequences of purdah that have been so widely presumed for Muslim women in general are actually most true for women of the middle strata. Within this class again, the severity has been noticed particularly for rural women married into households with which they had no previous contact. Permitted neither to work nor to visit - for visiting involves elaborate logistic operations which can be undertaken only on special occasions - they are kept purely as mothers, sexual objects and representatives of men's honour - roles played by most other women who also have, however, the advantages of friends, family, visiting and ceremonies.

The arrangements are different in the other strates. The submerged existential circumstances of the working class women make veiling and confinement within the house unaffordable luxuries, while women from the upper classes increasingly gravitate away from normative requirements of seclusion in their pursuit of education and salaried employment and, as an empirical study in Karachi discovered, the majority of well educated career women have no objection to working in offices with the opposite sex.

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26. Alavi, 1988, op.cit. , p. 1329. Also Lois Beck and Nikki Keddie (eds.), Women in the Muslim World (Cambridge, 1978), pp. 9-10.

27. M.S. Baqai, Changes in the Status and Roles of Women in Pakistan : An Empirical Study in Karachi Metropolitan Area (Karachi, 1976), p. 22.

The incursion of purdah values into the realms of education and employment have been noted by some scholars who use the argument to justify the popularity of the "contact professions", mainly teaching and medicine, with the Pakistani women. <sup>28</sup> The recurring demand by fundamentalist and right wing political parties for separate women's universities, the defining of the contents of women's education, even in Government reports, in terms of what is appropriate for 'special' women's needs and the consequent upholding of subjects like Home Economics and Hygiene to create 'enlightened' <sup>28a</sup> mothers are all illustrative of this incursion. But to harp on the ideology of purdah as a sufficient explanation is to espouse a partial view which ignores the sex-typing of education and occupations (including <sup>29</sup> teaching and medicine) in different societies even in the West.

Norms of seclusion and purdah receive the strongest buffeting in urban milieus, especially in the context of a crisis in the household economy due to escalating inflation. This not only impels middle and lower middle class women into the labourforce but gradually also draws in more and diverse jobs within the frontiers of 'respectability'. Studies have

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28, Hanna Papanek, "Purdah in Pakistan: Seclusion and Modern occupations for women" in Hanna Papanek and Gail Minault (Eds.), 1982, op.cit., pp. 190-216.

28a. Government of Pakistan, Report of the Commission on National Education (Karachi, 1959).

29. Cynthia F. Epstein, Woman's Place: Options & Limits of Professional careers (Berkeley: 1970).

conclusively shown that education of women is largely a function of the socio-economic prowess of the family<sup>30</sup> and has come to be regarded as a valued activity in itself in the middle and upper classes. This is, therefore, the class which opposes threats to women's education as threats to the family economy, which interprets Islam in liberal "modernist" ways, counters the obscurantism of the clergy and provides<sup>31</sup> the growing social base of secularism in Pakistan's political life.

Sections of the lower middle class, however, have also provided strength to ideologies and moves favouring a return for women to the "chadar and chardiwari". As a response to the increasingly straitened circumstances of these households, women's employment has been berated as cutting into scarce male job opportunities and vilified as unIslamic and violative of "izzat". One of the options for women compatible with such self definitions of respectability lies in the putting out system in textiles, handicrafts etc., even though the exploitation of women's labour is much more severe, especially when the "occupational dependency"<sup>32</sup> on men (husbands, middlemen etc.) is greater. This system, nevertheless,

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30. Baqai, 1976, op.cit. p. 33. Also J. Henry Korson, "Career Constrains Among Women Graduate Students in a Developing Society, West Pakistan", Journal of Comparative Family Studies, Vol. 1, no. 1, Autumn 1970, pp.82-100.
31. Alavi, 1988, op.cit., p. 1329.
32. Yasmeen Mohiuddin, "Women's Employment in Handicrafts : A Case Study of Sind, Pakistan" (mimeograph, 1985)pp.2-3.

"gives to most women the only opportunity to earn given the social environment, cultural inhibitions, lack of alternative job opportunities and the value scale in terms of which women's work is viewed".<sup>33</sup> And what is most shattering for myths of women being financial liabilities is the fact that the earnings of these women are not just 'pin money', but vital for a family's survival. As one study of an urban and semi-urban sample from Sind clarifies, the contribution of women in the putting out system in handicrafts production was 22% - 46.3% of the joint family income (their income plus their husband's/guardian's) and could not be easily dis-regarded.<sup>34</sup>

From the above attempts to see the norms of purdah society as located in specific and differing social and cultural contexts, what emerges is the fact that simplistic and categorically conclusions about Muslim women's 'imprisonment' behind the veil needs to be approached with lesser haste. A prior judgements of backwardness tend to underplay the importance of women's traditional roles in the social system as such. For instance, the results of empirical studies which estimate that between 70-8-<sup>35</sup> per cent of rural women work in what are recognized productive tasks , tend to be ignored. Studies which have emphasized

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33. Ibid., p.1.

34. Ibid., p. 11.

35. See Simin A. Khan and Faiz Bilquis, "The Environment, Attitudes and Activities of Rural Women: A Case Study of a Village in Punjab ", Pakistan Development Review, Vol. 12, no. 3, 1976, pp 231-69.

the centrality of women in maintaining the power and influence structure  
of powerful village leaders<sup>36</sup> or their role in carrying out the 'vartan  
bhanji' network of customary food and gift exchanges between households<sup>37</sup>  
in Punjab and its consequences for biradari solidarities and alliances  
are but pointers which need to be backed up by more empirical studies to  
arrive at richer insights into the reality of their lives. It is  
important to be sensitive to the differences in the scope of their authority  
as women advance in age, and the area of manipulation and accomodation  
accessible to women even within the strictest of patriachal boundaries  
and purdah norms and thus "question the assumption of male dominance/female  
acquiescence pattern of decision making"<sup>38</sup> within the Pakistani family.  
Some of the available studies in Pakistan suggest the possibility that  
female power/influence networks exist that are coterminous with, or possibly<sup>39</sup>  
alternative to those delineated for males in the kinship groups. Since  
legitimate access to rights and privileges are often difficult to achieve  
with de jure control in the hands of men, "women's use of power is on the  
whole, indirect and negative"<sup>40</sup>. Although contrary to ideal notions of  
proper female behaviour, structural and behavioural accommodations available

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36. Zakiye Eglar, A Punjabi Village in Pakistan (New York, 1960). p.31.
37. For detailed expositions of 'Vartan bhanji' see Hamza Alavi, 'Kinship in West Punjab Village,' Contributions to Indian Sociology, (New Series) vol. 6, 1972, pp. 1-27.  
Also Eglar, 1960, op.cit.
38. S.M. Hafeez Zaidi, Decision making in Pakistani families, (Lahore, 1976), p. 82.
39. See for instance Eglar 1960, op.cit., p. 32.
40. Pastner, 1974, op.cit., p. 410,

to women, are fully institutionalized, structured and regularly utilized in coping with domestic life. This necessitates a revision of the stereotypes of universal suffering womenhood fettered and shackled helplessly in the unchanging patriarchal religion of Islam and the community of its believers.

#### WOMEN'S RIGHTS - NORM AND REALITY

The inventory of rights granted to women by Islam and its proclamation of women's equality with men in the eyes of God finds favour with those who see women's position safeguarded by this religion while others find such that is iniquitous for women even in these rights. But polemics apart, what is sociologically relevant is the understanding that "religion cannot be viewed as an autonomous and independent ~~phenomena~~... (but instead) is a part of a network of social and cultural relations and linkage. <sup>41</sup> Therefore, what is important in analyses is the extent to which religiously granted rights are realised in reality and formal religious injunctions, complied with. Again the ideological debates on the 'woman's question' in Islam have been the prerogative of a few with no systematic efforts to understand popular beliefs and practices. As Saghir Ahmad puts it "while in reality 80% of the Pakistani live in rural areas and follow the Little Tradition, <sup>42</sup> the debate and controversy has been limited to the Great Tradition with little or no attempt to link the two". <sup>43</sup>

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41. Moin Shakir, "Women in Muslim Society", in Asghar Ali Engineer (ed.) Status of Women in Islam (Delhi 1987), p.111.
  42. Robert Redfield first used the concepts of Great and Little Tradition as analytical tools to study the peasant society. See Redfield, "The Social Organisation of Tradition" The Fert Eastern Quarterly, Vol. 15, no.1, September 1955.
  43. Saghir Ahmad, "Islam and Pakistani Peasants", Contributions to Asian Studies, vol: 2, July 1971, p.93.

The three basic sources shaping jurisprudence in Pakistan are - (1) customary Law, (2) religious law and (3) British Civil and Criminal Law as imposed during the colonial period. An examination of customary and religious personal laws practised in Pakistan reveals a selectivity in the implementation of the latter <sup>44</sup> so that "those aspects of Muslim jurisprudence promoting the predominance of men have been widely accepted; Islamic injunctions protecting or promoting the rights of women have been systematically rejected. Inversely, customs which contradict Islam but which ensure the supremacy of men have.... continued to operate. Moreover, where it has suited those in power, the exact letter of Islam as contained in the Quran and Ahedith has been invoked, but where this has conflicted with their economic, social or political interest, the spirit of Islam has been used to justify a particular practice."<sup>44</sup>

Where marriage is concerned, the religious law requires that the principals agree to a marriage before the contract is signed but as in many other societies this remains a formality as much for tribal women<sup>45</sup> as for their rural and urban counterparts. In an urban sample of university students Korson found that more than half of the two

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44. Farida Shaheed, "The cultural Articulation of Patriarchy : Legal Systems, Islam and Women", South Asia Bulletin, vol. 6, no.1, Sprin 1986, p. 39.

45. Ahmed & Ahmed 1988, op.cit. p. 31.  
Inger, W. Boesen, "Conflicts of Solidarity in Pakhtun Women's Lives" in Bo Utas ed. Women in Islamic Societies (London : 1983), p. 109.



samples of students from Karachi and Lahore (52.6%) approved of the current system of arranged marriage while wanting their parents to consult them before the final choice, a significant 13% claimed that no such consultation was to be expected.<sup>46</sup> Here, too, there are significant variations by socio-economic differentials and Baqai found that only 3% of career women hold such rigid attitudes about non-consultation in contrast with 20% of domestic women with such attitudes.<sup>47</sup>

Muslim women are recognized under the Sharia as "economic persons" who can inherit and control property. Whatever her share in property, Islam grants her absolute control over it, but in reality she is generally denied this access, although variations always do exist. Thus the impossibility of women owning or inheriting land is reported for the Pukhtun tribals<sup>48</sup> while in another tribal society, the Baluch, sizeable sections of women receive what is rightfully theirs<sup>49</sup>, This is especially so when a woman has no brothers (this ensures that the estate is not further subdivided among more distantly related potential heirs) or when she enters

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46. J. Henry Korson, "Modernization and Social Change - The Family in Pakistan," in Man Singh Das and Paras. D. Bardis (eds.) The Family in Asia, (New Delhi, 1978), pp. 195-196.
47. J. Henry Korson, "Student Attitudes towards Mate Selection in a Muslim Society : Pakistan", Journal of Marriage and the Family, Vol. 31, no. 1, 1969, p. 156.
48. Baqai, 1976, op.cit., p.22.
49. Fredrik Barth, "The System of Social Stratification in Swat, North Pakistan" in E.R. Leach (ed.) Aspects of caste in South India, Ceylon and North West Pakistan Cambridge, )p.134.

a 'sarmal' marriage, a type in which the groom takes up residence in his father-in-law's house and pays a smaller amount of dowry.<sup>50</sup>

For peasant societies, the picture is much more consistent about denying women their share in the patrimony under customary usages even when the Shariat Act of 1948 was made applicable to enforce her rights. Among large landowners, however, Alavi noticed a relatively better compliance with women's rights of inheritance, probably because of easier access to the machinery of law and a reduced influence of biradari panchayats.<sup>51</sup>

The Haq-mehr (dower), a marriage settlement over which the wife has complete control, has also been subtly scuttled in many ways. Where there is a stress on preferred kin endogamy of either the bilateral or agnatic variety, the mahr is lowered or made nominal. In a tribal setting, the bride price, instead of mahr becomes central to marriage transactions<sup>52</sup> even though such a 'native custom may be recognized by the tribals themselves as being in disaccord with Islam. Ideally, a part of the money is to be reinvested as dowry for the girl, but even this is rarely followed.<sup>53</sup> Baluch

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50. Carroll Mc. C. Pastner, "The Status of Women and Property on a Baluchistan Oasis in Pakistan", in Women in the Muslim World (Cambridge : 1978), Lois Beck & Nikki Keddie (eds.) 1978, op.cit, p. 444.

51. Hamza Alavi, 1972, op.cit.

52. Ahmed and Ahmed, 1988, op.cit., p. 34  
Barth, op.cit., p. 33.

53. Ahmed and Ahmed, 1988, op.cit., Ibid.

tribals, however, present a picture in contrasts in as much as mahr requirements - both prompt (mal) and deferred (lub) are regularly complied with. In the villages and urban centres the norms of mehr continue to be seriously taken although the amount and mehr may vary from the tokenism of 'Rasooli Mehr (approximately standing at Rs. 30-40) to huge amounts bagged upon and negotiated by middle and upper class households.

The growing strength of dowry, unknown in Islam and adopted from Hindu cultural practices, has become a problematic reality in Pakistan, especially amongst the urban population. The financial burden of dowry 'demands' reinforces popular stereotypes of a daughter being a financial liability and it under values her contribution to the household.<sup>54</sup> The burden of dowry is often provided as the rationale for denying inheritance rights to women;<sup>55</sup> women may also willingly forfeit their right to patrimony in order to substantiate other rights contingent on kinship relations, especially with regard to brothers. This appealing of brothers ensures a degree of future security should a divorce or widowhood find the woman returning to her natal family and dependent on male siblings.<sup>56</sup>

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54. It is only in the tribal areas where the practice of brideprice prevails that a girl is seen as a financial asset and is, therefore, cared for assiduously until her marriage.

55. Eglar, 1960. op.cit., p. 50.

56. Ibid., p. 45, 196.

No extensive study of divorce has been conducted in Pakistan but as Korson concludes on the basis of census data and personal studies "Pakistan has one of the lowest divorce rates in the world".<sup>57</sup> The strong social disapproval associated with divorce perhaps explains its low incidence in a society where both by religious tradition and civil law it has been relatively easy for a husband to obtain a divorce. In the tribal area especially amongst the Pukhtun, divorce is non-existent practically.<sup>58</sup> The availability of what are seen by many as Qur'anically permitted rights of polygyny for a Muslim male is sometimes offered as explanations for the low divorce rates in Pakistan; but as fledgling data suggests this is not empirically validated. Hashmi found from a sample survey of Karachi that only 0.8%<sup>59</sup> of the married men had more than one wife and none had four, while from ethnographic details we find that Pukhtuns are largely monogamous with only 0.4%<sup>60</sup> having more than one wife.

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57. J. Henry Korson, 1978, op.cit., p. 201.

58. Ahmed and Ahmed, 1988, op.cit., p.37.

59. Sultan S. Hashmi, The People of Karachi : Demographic Characteristics (Karachi 1965) p. 65.

60. Ahmed and Ahmed, 1988, op.cit., p. 37.

Between independence in 1947 and 1979, when General Zia-ul-Haq announced a series of reforms aimed at bringing laws into conformity with Islamic tenets and values - only two substantial legal reforms affecting women's position in Pakistan were instituted. The first was in 1961 when the Ayubkhan government introduced the Muslim Family Laws Ordinance embodying some of the recommendations of the Rashid Commission, which reformed the Muslim Personal Law (Shariat) Application Act of 1937. The 1961 ordinance is significant not only because it was welcomed as a measure of success for women activists but also because it provoked ideological missile hurlings between the liberal interpreters of Islam and those like Maulana Maududi and his Jamaat-i-Islami which opposed the measures as being unIslamic and unnecessary. They argued that it was not the lack of rights granted by Islam that led to deterioration in Pakistani women's status but their non-realisation owing to lack of consciousness of already existing rights. The significance also lies in highlighting the role of the government as a modernizing force, however moderate the changes, and in the extension of the legal discourse beyond the letters of the scriptures alone.

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61. Fazlur Rahman, "The controversy over the Muslim Family Laws", is Donald E. Smith ed., South Asian Politics and Region (Princeton, 1966) pp. 418-423.
62. M.M. Siddiqui, Women in Islam (Lahore, 1959), p. 180.
63. Sylvia Chipp-Krausher, "The All Pakistan Womens Association and the 1961 Muslim Family Laws Ordinance" in Gail Minault (ed.) The Extended Family : Women and Political Participation in India and Pakistan (Delhi, 1981), pp. 263-85.

The Ordinance did not outlaw polygyny but required the written consent of the first wife and permission from an Arbitration Council before a second marriage could be contracted. However, if a second marriage is entered into without the above procedure, punishment is provided for the husband, but the new marriage is not invalidated. In the matter of divorce, the Ordinance replaced the customary practice of repudiation by utterance of triple 'talaq' and provided instead that the divorce take place in 3 instalments with an Arbitration Council trying to bring about reconciliation in the intervening 90 days. The limited right of initiating divorce provided to the wife under the Muslim Dissolution of Marriage Act, 1939 has been extended and provisions also included for mubara'at (divorce by mutual consent). A divorce not following the prescribed procedure continues to be valid, despite being considered a punishable offence.

A very notable clause of the Ordinance pertained to compulsory registration of all marriages and a standard marriage contract, the Nikahanana, making it possible for the wife to seek enforcement through the courts or dissolve the marriage herself if 'talaq-i-tafwid' (delegated right of divorce) is included in the contract. In addition, the Ordinance prohibits child marriages, raises the minimum marriagable age of girls from 14 to 16, allows inheritance by grandchildren and grants women's rights to inherit agricultural property. It safeguards womens right to dower by laying down that the entire amount of mehr should be payable on demand and it provides for maintenance disputes to be settled by the arbitration council, giving the council the jurisdiction to grant

maintenance retrospectively. Previously maintenance could only be claimed through the courts under Section 144 of the Criminal Procedure Code.

In all the vociferous discussions that focussed on the Islamic basis or otherwise of the Ordinance, the point that has been repeatedly argued above was missed - the issue of implementation. In practice, its application has been limited to the educated and politically aware women, while entrenched customs and traditions have often led to its being ignored. Urban working class women benefitted only marginally while rural women "Isolated as they were from the political scene and from the centre of organizational activity, continued pretty much as before."<sup>64</sup> A survey conducted in Lahore to study the obstacles in the implementation of the Family Laws identified some of the following as major causes - women's ignorance of their rights the the proper forum for seeking implementation, fear of lengthy and costly litigations and a several lack of faith in the Legal machinery.<sup>65</sup>

After the 1961 Ordinance, the second substantial legal reform relating to women occurred during Bhuttos' government. While Pakistan's first general election in 1970 is significant in itself in the massive

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64. Shahanaz Rouse, *Women's Movement in Pakistan: State, Class, Gender*, South Asia Bulletin, vol. 6, no. 1, Spring 1986, p.32. See also Chipp - Krausher, *op.cit.* See also Chipp-Krausher, 1981, *op.cit.*, p. 279,

65. Shehla Zia and others, Muslim Family Laws and their Implementation in Pakistan. (Lahore, 1982).

politicization it offered to all sections of societies including women in large numbers, the institutionalization of change was seen in the constitution of 1973 which prohibited discriminations on the basis of sex (Articles 25, 27). However, one of the long standing demands for female suffrage for a number of reserved seats for women continued to be by passed and under the 1973 constitution women continued to be indirectly elected by the members of the Assemblies.

#### ISLAMIZATION DRIVE AND WOMEN

While it is true that patriarchal customs and traditions, compounded by indigent conditions, are chiefly responsible for keeping the women of Pakistan in a submerged condition, the laws enacted in the country since 1947 had broadly sided with women and sought to marginally protect their position. Even though poor implementation rendered them ineffective, the laws were significant in that they reflected the State's position regarding women. But with General Zia's rhetorics about creating a Nizam-i-Islam (Islamic Order) even this formal process received a set-back. Four aspects of secular life were slated to undergo Islamization - the economy, through the establishment of zakat and Ushr (alms giving mandated in the Quran) programmes and the abolition of riba (interest) including the subsequent adoption of an interest free banking program based on the Saudi Arabian model; judicial reforms including the formation of a federal Shariat Court and lower qazi courts



as well as the inclusion of a federal Mohtasib (ombudsman) to address complaints about the courts; implementation of the Islamic penal code, and a new educational policy emphasizing Urdu, Islamic studies and the proposal for a separate women's university.

The introduction of Islamic economic measure had minimal impact on women since most women work for subsistence and alms tax and savings accounts are irrelevant for them. In the area of judicial reforms women came to be directly addressed when the Attorney General in 1982 compiled evidences from Shariat sources to prove that there was no ban in Islam on women functioning as Qazis.<sup>66</sup>

The implementation of the Islamic penal code and enforcement of hadd<sup>67</sup> punishment under the Hudood Ordinance of 1979 concerned crimes relating to burglary (Saraka), intoxication (el-sharab), adultery (zina) and perjury (qazf) bearing false witness to zina. What had the strongest legal implication was the fact that now adultery was made an offence against the State and, interestingly, the law made no distinction between rape and adultery and required the same

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66 Muntaz and Shaheed, op. cit., pp. 114-15.

67 A crime subject to a hadd punishment (pl. hudood) is one that is against God's commands, and is consequently normative and absolute.

level of evidence (the accused's self confession or the testimony of four 'salah' i.e. morally upright adult Muslim males). This, as agitating women lawyers pointed out, amounted to grave injustice. The high level of proof required for zina is in order to protect the innocent from wrong accusations. But the very same requirement often amounts to protecting the culprit and depriving the victim from getting justice. In fact there are, instances where a woman who registers a case of rape can, by her own admission or as a result of an illegitimate birth, be prosecuted for adultery (pregnancy being the proof).

The fiat perceived as potentially most damaging to women's equality was the Qanon-e-Shahadat, the Islamic law of Evidence, which proposed to reduce the status of a woman to half that of a man in terms of her ability to bear witness in court, besides making her testimony inadmissible in cases of rape. However, following widespread protests, the law as it was finally decreed provided that only in financial cases the clause regarding the testimony of two women being equal to one man would apply, and other cases would be left to the discretion of the judge.

Another proposed legislation concerned qisas - meaning retribution and covering punishment in the logic of an eye for an eye - and diyat which is blood money for murder or financial compensation for physical injury in lieu of retribution. The controversial clause in this said that the 'qisas' and 'diyat' for women would be half that of man.

A further package of controversial measures were put forth by the Ansari Commission set up in 1982 to inform the president on which aspects of contemporary society were repugnant to Islam. Its recommendations included disqualifying women from ever being the head of state; requiring a woman to be at least fifty years of age (a man need only be twenty-five) and securing her husband's permission before becoming members of the Majlis-i-Shoora (Parliament); guaranteeing that 5% of the general membership of the Majlis-i-Shoora for the next ten years be reserved for women, to be appointed by the President, prohibiting women from leaving the country without a male escort; and refusing to allow an unmarried, unaccompanied woman to serve abroad in the foreign service.

The Islamization programme and its efforts to reduce women's status legally, met with substantial resistance from educated women throughout Pakistan and the Women's Action Forum (Khawateen Mahaz-e-Amal), a front of many women's organizations and concerned individuals, was forged to spearhead the agitation and protests and pressurise the government to alter its position.

The parcel of 'Islamizing' directives were hotly debated in Pakistan in terms of the intricacies of interpretation of the Quranic passages relating to women. But as later researches and investigations showed, the application of the official directives

was more in rhetoric than in practice. The Shariat Courts were established but the actions of the military authorities were excluded from their purview,<sup>68</sup> while the implementation machinery for the government's Zakat programmes remained inoperable at the lower levels of the system.<sup>69</sup> The repercussions of the Hudood ordinances in the shape of criminal cases, imprisonment and floggings have not been statistically high, they have not been felt in the upper classes at all but only amongst the poor rural and urban working and lower middle classes.<sup>70</sup> Even this perception must be further qualified by empirical studies like that of Richard Kurin in the Punjabi village of Chakpur, where life was not found to have been dramatically affected by the implementation of the various Islamic reforms, given the tendency of the villagers to view the government "from a distance with a good deal of misapprehension and suspicion".<sup>71</sup> An imposed programme like the Islamization effort "is not understandable to many. It is impractical. It ignores the

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68 Anita M. Weiss, "The Historical Debate on Islam and the State in South Asia", in Anita M. Weiss, ed., Islamic Reassertion in Pakistan: The Application of Islamic Laws in a Modern State (Lahore, 1987), p.11.

69. William L. Richter, "The Political Meaning of Islamization in Pakistan: Prognosis, Implications and Questions" in A.M. Weiss(ed.) 1987, *ibid.* P.133

70 Muntaz and Shaheed, *op. cit.*, p.75.

71 Richard Kurin, "Islamization in Pakistan: A view from the Countryside", Asian Survey, vol. 25, no. 8, August 1985, p.861.

circumstances and realities of village life, and for that matter a rural view of human nature and Pakistani society".<sup>72</sup>

Sociological analysis of a process like Islamization must be conducted at two levels. Firstly, an attempt to place such ideological manoeuvrings within the larger socio-political context and identify the ruling regime's search for a solution to the "crippling crisis of legitimacy",<sup>73</sup> by coopting fundamentalist elements and diverting popular attention away from issues like representative versus authoritarian rule.<sup>74</sup> In this framework, the explanations for the renewed prominence, in the 1970s and later, of Islam in defining the parameters of political discourse in Pakistan must also be pursued.<sup>75</sup> The second level of analysis must concentrate on the relevance and applicability of such legal measures in the lives of the people where informal sanctions, local traditions and customary usages play a greater role. Where women are concerned one must especially realise

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72 Ibid.,

73 Amrita Chhachhi, "The State, Religious Fundamentalism and Women - Trends in South Asia", Economic and Political Weekly, vol. 24, no. 11, March 18, 1989, p.568

74 Hamz Alavi, "Ethnicity, Muslim Society and the Pakistan Ideology", in A.M.Weiss, (ed.) 1987, op.cit, p.45.

75 William L.Richter, "The Political Dynamics of Islamic Resurgence in Pakistan", Asian Survey, vol. 19, no.6 June 1979, pp. 547-57.

the limitations of a purely legalistic approach. Except under duress, for example, women would rarely testify and few women even care if a women's university exists or not, for the majority are poor, illiterate and suffer daily privations in the countryside.<sup>76</sup>

#### Women's Movement

The well orchestrated efforts of the military regime to legally downgrade women's status provoked a reaction in the form of a fledgling women's movement which stridently opposed all such state policies which intensify the dichotomy between public and domestic spheres.

The historical roots of the women's movement in Pakistan can be traced back to the pre-independence period, when educated urban middle and upper class women constituted a vocal element in the anti-colonial period as well as in the Pakistan movement working alongside mostly male family members. They did not challenge the culture of purdah directly nor leave their "symbolic shelter" behind, but only "extended it beyond previously

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76 Weiss, 1987, op. cit., p. 877.

acceptable limits", adhering to tradition, like their Hindu sisters, while they worked for change.<sup>77</sup>

The post independence years in Pakistan have seen the women's movement being transformed from the largely welfare and charity oriented work amongst the less well off sections carried out by the upper class women and their very well known organisation, the All Pakistan Women's Association, in the years following partition. Changes in the class structure and the political processes underlie the change. Bhutto's regime was a period of mushroom growth of left wing political parties and a variety of women's groups in the professions, trade unions and university campuses, accompanied by active politicization and acquisition of organisational experience.<sup>78</sup>

The resistance generated in the post 1977 period to Zia's legal and political moves affecting women has found its leaders in professional middle class women. But this has also

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77. Gail Minault, "Purdah Politics: The Role of Muslim Women in Indian Nationalism, 1911-1924", in Hanna Papanek and Gail Minault, (eds.), 1982, op.cit. p. 246.

78. Mumtaz and Shaheed, 1987, op.cit., pp. 62/66.

brought forth accusations of diversionism<sup>79</sup> by a section of left oriented groups, while the fundamentalist supported Zia regime tried to discredit it as being un-Islamic and representing the voice of the privileged, elitist, Westernised woman. From a historical perspective, the assumption of leadership by this group is understandable<sup>80</sup>, because with the extension of education and skills, it is the middle class women who have most radically altered the parameters of the private-public dichotomy by entering gainful employment. Besides, with their privileged political and economic position, one of the few forms of oppression that they suffer is in terms of their gender. Therefore, as many within the Women's Action Forum have realized, "If the women's movement is to take root in Pakistan, its activists will have to transcend the barriers and privileges of their own class"<sup>81</sup>. Where the vast majority of women suffer from the dual oppression of class and sex, it must be realized that "the women's issue does not

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79. Babar Ali, "Elitist View of Women's Struggle in Pakistan", *Economic and Political Weekly*, vol. , no. , May 14, 1988, pp. 1034-36.  
Also see, Spokeswoman for Tehrik-e-Khawateen, In Jang, Friday Magazine, October 25-31, 1985.

80. See Shiela Rowbotham, Women, Resistance and Revolution (London, 1975).

81. Mumtaz and Shaheed, 1987, op.cit., p. 149.



have the same immediacy for working class woman as it does for upper  
class women".<sup>82</sup> One end of the responses to this dilemma is provided  
by decidedly left oriented political groups (unlike the nonpolitical WAF),  
such as the Tehrik-e-Khawateen (Lahore), Tehrik-e-Niswan (Karachi),  
the Anjuman Jamhooriat Pasand Khawateen and the Sindhiani Tehrik which  
place the "womans' question" within the overall class framework. The  
dilemmas that follow from ideological decisions to give primacy to sex or  
class are not unique to Pakistan and are shared by women's movements  
throughout the world. What is important to remember however are the  
consequences of the shift in class composition for the women's movement  
in Pakistan - "it means that altruism is no longer on the agenda and  
issues of equality, secularism and democratic rights hold the center  
stage".<sup>83</sup>

One issue central for Pakistani women is the relationship of  
the women's movement to the Islamic framework. There are two options  
available. (1) for the WAF it has largely been the practice to support  
"the construction of a feminist engagement of Islam".<sup>84</sup> In a bid to  
root the movement within the cultural bounds of its society. Given  
the historical context of cultural imperialism which opposed 'Oriental'  
to Western and equated the latter with power, superiority and modernity,<sup>85</sup>

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82. Ibid.

83. Rouse, op.cit., p. 35.

84. Shaheed, op.cit., p. 43.

85. See, Edward Said, Orientalism (New York, 1979).

the pejorative dismissal of the woman's movement as 'Westernized' can generate confusion, suspicion and hostility because at a popular level 'Westernized' continues to be associated with the ex-colonial powers. Therefore, the need to counter fundamentalist interpretations of Islam with liberal ones so that the movement continues to "operate within the overall culture and religion of Pakistani reality - yet acts against its structural and cultural claims".<sup>86</sup>

(2) if an understanding of the social and cultural roots of oppression is to inform the women's movement, there are those who believe that it must pose resolutions to its problems in opposition to the Islamic discourse, not by rejecting Islam but by positing women's rights as a secular issue of human rights and thus, avoiding the trap of endless debates with fundamentalists on a just versus a repressive Islam.<sup>87</sup> In addition, legal rights must not be the sole obsession of the movement since even the formal granting of these rights would mean very little in actually transforming the lot of most Pakistanis women and the social relations of oppression which impoverish their lives.

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86. Shaheed, op.cit., p. 43.

87. Rouse, op.cit., p. 36.  
Also Tavleen Singh, "Struggle against Odds in Pakistan" Mainstream, Vol. 23, no. 25, February 16, 1985, p.13.

CHAPTER - II

MUSLIM WOMEN IN INDIA

Gender issues, perse, have been so frequently treated in stereotypical categories that linking it up with a highly politicised, and often emotionally charged, minority identity serves only to enhance the a priori assumptions and clichéd perceptions. Sociological information on Muslims in India continues to be scanty in both quantum and range, and stereotypes continue to be rampant in the analyses that are available about the women of the community. In fact, the paucity of research material and empirical studies is notable, most studies on Indian women having been slanted in favour of the Hindu women.

In most studies of Muslim women in India, the characteristic approach has been to elaborate on the codes of the Shariat alone as they relate to women, thereby "accepting the ideal position as a statement of fact without bothering to look at the empirical reality."<sup>1</sup> Such scholastic endeavours ignore a number of positions - Firstly that Indian Muslims are not a monolithic community and, therefore, the "bewildering variety"<sup>2</sup> in their social organisation, religious beliefs and values should be assessed sociologically in greater details before generalizations

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1. Intiaz Ahmad, ed. Family Kinship and Marriage Among Muslims in India (New Delhi, 1976), p. XVIII.

2. Ibid. p. xx

are hazarded.<sup>3</sup> Secondly, empirical studies need to focus on how the structure and functioning of the formal norms of the Shariat are influenced and shaped by variables such as socio-economic differentials, local regional traditions and wider socio-cultural complexes. The general tendency, of course, has been to regard the influence of religion or culture as being uniform for the entire community, rather than its having differentiated impact on different strata within the community.

Given the scarcity of hard sociological information on Muslim social institutions and behaviour in India, the existential realities confronting Muslim women in defining their status are largely ignored and the parameters of the Quran and Hadith (traditions of the Prophet) are accepted as the framework for debates. Often there is a forcing of interpretation in terms of the distinctive religious ethos and postulated orthodox orientations of Muslims even when empirical data points to the contrary.<sup>4</sup> The Report of the Commission on the status of women in India (CSWI) had pointed to this correlation when it noted that "sex-inequality cannot in reality be differentiated from the variety of social, economic and cultural inequalities in Indian Society."<sup>5</sup>

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3. Imtiaz Ahmad, "For a sociology of India", Contributions to Indian Sociology, New Series, 7, 1972, pp. 182-78.
  4. Some instances of this tendency from current researches are given by Imtiaz Ahmad, "Introduction in Imtiaz Ahmad (ed) Modernization and Social Change Among Muslims in India (New Delhi, 1983).
  5. Government of India, "Towards Equality - Report of the Committee on the Status of Women in India" (New Delhi, 1974) p. 10

The miserable condition of backwardness of Muslim women has been graphically depicted in many of the studies and explained through scriptural quotations and in terms of the religious orthodoxy of Indian Muslims.<sup>6</sup> This mode of analysis and the assumptions on which it is based can be strongly questioned - "Whether the dismal picture normally painted of Muslim women confirms to existing social realities and whether the iniquities are indeed as severe as described .... (and if so) can they be explained entirely in terms of the legal codes or even the religious ethos? Are they not a part of the wider socio - cultural complex which makes not only the position of Muslim women, but of all women in India, generally somewhat iniquitous?"<sup>7</sup> The analytical possibilities generated by this question require a focussing on Muslim women in India qua women and from the few studies available, a tentative portrait can be pieced together, although many more empirically sound studies are called for before generalizations can be made with confidence.

#### GENERAL PROFILE

In terms of the basic categories of socio - economic

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6. Some instances are Shibani Roy, Status of Muslims Women in North India (Delhi, 1979).  
Indu Menon, Status of Muslim Women in India, (New Delhi, 1981)  
Cora Vreede-De-Stuers, Parda : A Study of Muslim Women's Life in Northern India (New York, 1968).
  7. Ahmad, 1976, op.cit., p. xx.

indicators, Muslims exist on the lowest rungs of the ladder . Systematic information on the community is absent and census volumes after independence only record the broad count by religion, but do not sub - classify by literacy, education, occupation etc. Therefore indicative data provided by scholars are all that one has to go by.<sup>8</sup> The current socio-cultural statistics reveal that in terms of literacy, higher education, per capita income, representation in higher government services etc. the share of Muslims has steeply fallen.<sup>9</sup> Information on Muslim women is even more limited. But her disadvantageous position is clearly evident when such severe handicaps of a socio-economic nature beleaguer the community to which she belongs. Infact Muslim women are often referred to as a "double minority" (i.e. a minority within minority) because they stand exposed to both the general cultural discrimination against women, and are simultaneously affected by the poverty and backwardness of her community. From the overall picture of indigence and educational backwardness

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8. See Rasheeduddin Khan "Minority Segment in Indian Polity", Economic and Political Weekly, September 2, 1978, pp.1509-15. Mushirul, Hasan, "Indian Muslims Since Independence: A Search of integration," Third World Quarterly, vol. 10, No. 2, April 1988, pp. 818-42.

9 Annual Report of Ministry of Home Affairs, Government of India, 1980-81, 1981-82 cited in Raghuraj Gupta, "Changing Role and Status of the Muslim Minority in India : A point of view", Journal of Institute of Muslim Minority Affairs, Vol.5, No. 1, 1983-84, p. 200  
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which characterizes Muslims in India, some sensitivity can be derived about the position of Muslim women in socio-economic terms. This sensitivity is necessary to counter both blanket generalizations and the harping on religio-legal formulations which are so characteristic of the studies in this area.

Where education is concerned, the sociologist will agree that for a Muslim woman, as with women in general, the achieved status varies with the economic status of the family, and her social background determines her access to education and employment. Although precise figures are unavailable for female literacy situation amongst Indian Muslims, some micro studies and surveys do confirm that Muslim girls are more educationally backward than Muslim boys and lag behind their non-Muslim counterparts.<sup>10</sup> This situation is in tune with the general educational backwardness of her community, although attempts to explain this in terms of their unchanging religious orthodoxy is more revealing of the authors' biases than of reality. The following is an instance of this view - "It is the group identity of the Muslims, defined almost exclusively in terms of religion, which has kept them at the 'lowest rung of the ladder in terms of

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10 Some of the available studies have been summarized in Sohail Ahmad, Hindu and Muslim Women in the Profession: A comparison of the social background of Teachers and Doctors of Aligarh Muslim University", Unpublished M.Phil dissertation (Jawaharlal Nehru University, 1987).

socio-economic development... The Muslims ... are backward mainly because they refused to shake off the cultural heritage and identify themselves with the rest of the nation"<sup>11</sup>.

Where Muslim women are concerned, there is much more to the question of educational backwardness than the narrow definitions in terms of seclusion, purdah practices and the inherent conservatism of Muslim parents as obstructing them from educating their daughters. As Engineer explains, "Religion is hardly a barrier as far as modern education is concerned. Comparitively, the lower rate of literacy among Muslim women may be ascribed to some extent to conservative outlook, but conservatism again is reinforced by material and economic backwardness... (since) conservatism itself is more of a social phenomena than a religious phenomena."<sup>12</sup> Thus the fundamental factor of the sheer economic in-capacity of large masses of Muslims to educate their children (and not just daughters) must not be lost sight of. Gail Mimault affirms this correlation - "In Moradabad ... some economic improvement preceded the demand for education in a formerly illiterate group of women in the society. In real poverty areas like the Aligarh lock industry, women and girls work alongwith men and boys for pitiful wages and do not have the time to go to school.

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11 A.B.Shah, "Minority Segment in Indian Polity - a comment" Economic and Political Weekly, November 18, 1978, p.1911.

12 Asghar Ali Engineer, Islam and Muslims: A critical reassessment (Jaipur, 1985), p.223.



These generalizations, one suspects, apply not only to Muslims in these areas but also to working class and poor Hindus... while not denying that there is a connection between women's education and a variety of social and economic changes among Indian Muslims, one must recognize that economic changes usually precede educational development, and not the other way round"<sup>13</sup>. And as in most other communities, girls are held back and boys given scope if resources are scarce and education still desired. Infact even those studies which have begun with assumptions of Muslim conservatism in faith and practice, for example that of Indu Menon in Kerala, have had to recognise that income of parents very significantly determines the educational level of the girls<sup>14</sup>.

Therefore, as I.P. Desai correctly points out, when we talk of Hindus being educationally more advanced than Muslims, the correct question should be - which secular strata among the Hindus and Muslims are we referring to?<sup>15</sup> Where comparative studies are available for the two communities,

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13 Gail, Minault, "Women's Education and Social Change Among Indian Muslims in Historical Perspective", Journal of the Institute of Muslim Minority Affairs, vol. 6, No. 1, pp. 89-90.

14 Menon, 1981, op. cit., p. 41.

15 I.P. Desai, "Muslim Educational Backwardness", Economic and Political Weekly, November, 21, 1981.

the picture does not seem to be too different for the women of these communities where social background, motivation for education and employment etc. are concerned.<sup>16</sup> Siddiqui's study of Muslim women shows that the illiteracy rate was 91% and 70% among his rural and urban respondents respectively; since education of girls is positively correlated with parents' education, the fact that out of the total urban household 53% of the family were illiterate, with maximum illiteracy 85% in the lower middle classes<sup>17</sup> gives evidence that harping on purdah as the omnibus cause of backwardness cannot be fruitful in understanding reality.

#### WOMEN AND PURDAH SOCIETY.

To locate Muslim women's oppression and backwardness within the folds of a 'burqa' and to posit purdah as the omnibus cause for every ill besetting them is not uncommon in studies about them.<sup>18</sup> In believing categorically that "one of the most significant feature of Islamic culture is the segregation of women"<sup>19</sup>

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16 Ahmad, 1987, op. cit.

17 H.Y. Siddiqui, Muslim Women in Transition: A Social Profile (New Delhi, 1987), p.11.

18 See for instance - Aisha Khatoun, "The Anguished Cry of Muslim Women", Social Welfare, vol. 23, no. 1, April 1976, p.4  
A.R. Saiyed, "Purdah, Family Structure and the Status of Women: A note on a deviant case" in Intiaz Ahmad ed, 1976, op. cit., p.244-46

19 Sushila Jain , Muslims and Modernization (Jaipur, 1986) p.166

what is ignored is that there is nothing particularly Islamic about the practice of seclusion and in the South Asian context such cultural complexes are present in varying degrees in many non-Islamic societies, including the Hindus. About the latter Rama Mehta writes "just as pativrata (the complete devotion of the woman to her husband) was the moral code, the purdah system was part of the feminine code of modesty."<sup>20</sup> What is important is not the specific mode of segregation, ranging from "modesty codes"<sup>21</sup> in appearance and behaviour to elaborate practices of chaperoning veiling etc., but the "much larger question of what it means to be female in South Asian Societies."<sup>22</sup>

Some authors see a difference in the specific context and purpose of seclusion as practised by Hindus and Muslims in South Asia<sup>23</sup> while others adopt a comparative view and try to discover the similarities between Hindu and Muslim attitudes towards women and towards the nature of femininity.<sup>24</sup> Without entering

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20 Rama Mehta, The Western Educated Hindu Woman (New York, 1970), p.19

21 Richard T. Antoun, "On the Modesty of Women in Arab Muslim Villages: A study in the Accomodation of Traditions", American Anthropologist, vol. 70, no. 4, p.672.

22 Sylvia Vatuk, 'Purdah Revisited: A comparison of Hindu and Muslim Interpretations of the Cultural Meaning of Purdah in South Asia' in Hanna Papanek and Gail Minault eds., Separate Worlds: Studies of Purdah in South Asia (Delhi, 1982) p.59

23 Hanna Papanek, "Purdah: Separate Worlds and Symbolic Shelter" in Ibid.,

24 Ursula M.Sharma, "Purdah and Public Space" in Alfred de Souza ed. Women in contemporary India and South Asia (N.Delhi, 1980) p.214

into the intricacies of the debate, the point to be established is that purdah practices cannot be isolated from the dynamics of a larger patriarchal order and the kinship system it bolsters. The fact that the matrilineal Muslims of Lakshadweep do not observe purdah<sup>25</sup> may provide indirect evidence of this, although even here there is no uniformity and some degree of seclusion has been noted for the matrilineal Mappilla Muslims of South Malabar<sup>26</sup> With local, regional cultural traditions being so varied and diversified, the obsessive emphasis on religion alone as a determinant of status can prove counter productive for understanding.

Sociologically, what is important is not just the nature of purdah observance but also its consequences for the woman. For instance, does it prevent women from taking up education and employment, does it restrict movements outside the house and curtail social participation or does it only impose certain restrictions on behaviour patterns alone? Citing instances from her

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25 Leela Dube, Matriliney and Islam : Religion and Society in the Laccadives (Delhi, 1969), p.24

26 N.Hansa, "Impact of Regional Tradition on Muslim women - with special reference to South India, "Islam and the Modern Age, Vol. 14, No. 1, February 1963, p.54.

study in Bhopal, Jacobsson concludes that "practising purdah does not completely prevent women from engaging in economic activities outside the home."<sup>27</sup> Siddiqui also finds from his very informative survey of two districts in Uttar Pradesh, that the majority of the women - 90% of rural and 81% of urban - reported not facing any major difficulty on account of purdah; it did not even appear to be important in preventing formal education.<sup>28</sup>

The positive association of education with non-observance of purdah<sup>29</sup>, and the location of education itself largely within the higher socio-economic brackets, reflects changes in the strata where previously the sequestering of women had been rigidly institutionalized as part of its "status package." In fact this association of purdah with the upper classes has led to its being imitated by the newly prosperous or mobility seeking groups as indicative of their status ranking. It is thus becoming more of a middle class phenomena and a status symbol amongst the working classes to indicate a rise in their social status (The process

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28 Siddiqui, 1987, op. cit., p.25

29 Ibid., p.37  
Also Jain, 1986, op. cit.,, p.225.

of Ashrafization)<sup>30</sup> Jacobson corroborates on the basis of her observations in Bhopal where she found that "as the burqa is increasing in popularity among the less prestigious socio-economic groups, for high status Muslims (who are moving towards westernized lifestyles) it is gradually taking on a slightly negative connotation.<sup>31</sup> Bhatti also confirms this trend on the basis of her study in Kasauli.<sup>32</sup> \ Even where purdah is not abandoned, it is important to note the changes in its practice, particularly in the urban areas where it has become context determined, there being an ambivalence in its observance.<sup>33</sup> Without a correlation with class gradations the implications of cultural practices like purdah for women's status cannot be grasped clearly. The higher rate of non-observance of purdah in the lower socio-economic groupings can thus be explained not in the language of irreligiosity but as following from the compulsions of their existential reality. As Bhatti notes - "Non-Ashraf women by comparison are freer. To begin with, they do not as a rule observe purdah .... while they play the role

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30 Towards Equality, 1974, op.cit., p.44.

31 Jacobson, 1976, op. cit., 201

32 Zarina Bhatti, "Muslim woman in Uttar Pradesh : Social Mobility and Directions of Change" in Alfred De Souza, ed. Women in Contemporary India and South Asia (New Delhi, 1980) pp. 205, 208.

33 M. Rallia Ram, "Purdah and Social Stratification of Muslim Society", Mainstream vol. 14, No. 19, January 10, 1976, p.21 Also Siddiqui, 1987, op. cit., p.37

of wives and mother, they are also partners in the daily struggle for earning a livelihood, and the harder this struggle, the greater is the importance of women as partners in work.<sup>34</sup>

It is only when research moves beyond the confining parameters of the belief that "among the Muslims, religion regulates the sacred as well as the secular practices ... (and they) accept their religion as unalterable ... under these circumstances the man-woman relationship and the authority structure continues to be rooted in traditional sanctions as written in the sacred texts",<sup>35</sup> is it possible to appreciate the relative constraints of class and gender within which Muslim women operate; and even to understand the influences and leeways for manipulation available to her even within the patriarchal units of the household.

Retention of the religious discourse often leads to forcing of interpretations as when Roy<sup>36</sup> and Jain<sup>37</sup> try to explain

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34 Bhatti, 1980, op. cit., p. 203

35 Roy, 1979, op. cit., p.2

36 Ibid., pp. 70-71

37 Jain, 1986, op. cit., p. 159

the popularity of the teaching profession amongst their respondents (more than 50% of the total employed women in the sample were teachers in schools and colleges) in terms of the demands of segregation of the sexes as supported by Muslim religion and traditions. They myopically disregard the evidence that the situation is not uniquely 'Muslim' and that the profession is popular with other communities too, infact with Indian women in general.<sup>38</sup>

If the orthodoxy of the Muslim community is an explanatory variable, there often occurs a neglect of the forces of change to which they are exposed. The crises of an inflation ridden economy have often made women's participation in the urban paid work force a survival imperative, and the education and employment of women from the middle and upper classes is a reality. The fact that the change is still in the nature of a trickle has less to do with religious proclivities than with the fact that it is the poverty of the community and the absence of a viable and large middle class<sup>39</sup> which lies at

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38 Promilla Kalhan, "Teaching Job Popular with Married Women", The Hindustan Times, August 18, 1970.

39 For the historical reasons behind this state of affairs, see, Zafar Imam "Some Aspects of the Social structure of the Muslim Community in India" in Zafar Imam ed. Muslims in India (N. Delhi, 1975)



the root of the phenomena. But even in the households where women have little or no education and skill, both in the rural and urban areas, women have been brought into employment through the putting out system where they work on a piece-rate basis at home.<sup>40</sup> To explain this work at home as following from male dominance and religious conservatism as Jain does<sup>41</sup> is to be guilty of not seeing that their status and educational equipment would not provide these women out of home employment at a level which they would otherwise enjoy by working at home. The subjective gains in 'respectability' for these households because of their women not venturing out, must be discovered and validated through empirical evidences and not assumed apriori. The latter position would only obscure both the scale of exploitation that is involved for womens' labour in this system and the very substantial (and not just supplementary) contribution that these women made to the family household. The women in Zarina Bhatti's sample from Allahabad spent on an average about 11 hours a day in beedi making and domestic work, of which the former took 6.9 hours and the latter 4.2 hours. Their income

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40 Two of the very well known studies on the putting out system in India involving women are-Zarina Bhatti, The Economic Role and Status of Women in the Beedi Industry in Allahabad, India (Fort Lauderdale, 1981).  
Maria, Mies, The Lacemakers of Narsapur; Indian Housewives Produce for the World Market (London, 1982).

41 Jain, 1986, op. cit., p. 158.

comprised 46% of the total household income. Their greater economic role had definitely improved their status within the family and they had acquired a greater importance in household decision making process ... (and) an increased say in spending money.<sup>42</sup> The broad congruity between Bhatti's findings and the conclusions of Mies from her study in Narsapur, show that for most components of status, Muslim women cannot be treated as an alien category, different from Indian women in general and changes in their status, especially, cannot be adequately gleaned if a static scriptural framework informs studies focussed on them.

#### WOMEN'S RIGHTS : NORM & REALITY

If Muslim women's position is seen to be grounded in Islam and if the handicaps of their submerged status seem to be following from an iniquitous bias in their religion that supports male dominance, there is a possibility of getting embroiled in theological debates on what Islam actually provides for women and empirical knowledge would be the first casualty in this approach.

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42 Bhatti, 1981, op. cit., p. 45.

For only an understanding of empirical reality can provide insights into the options and constraints that Muslim women in India actually face and to what extent these are determined by Islamic laws. With sociological investigations of the community being so scarce, the analysis undertaken here will be necessarily tentative and indicative only.

The Shariat rights of a Muslim to give her consent in marriage is rarely realized in practice, in as much as parents take this consent for granted in arranging a spouse for their daughters. While systematic studies are lacking, a general trend can be pieced together. Rajwade finds from his sample of Muslim women in Indore city that in 96.5% of the cases no consent was taken<sup>43</sup>, while Jain reports a lesser incidence of such non-consultation (65%) and reports that 35% of the respondents had been consulted before the choice was made, although the initiative rested with the parents<sup>44</sup>. The bypassing of this Islamic injunction is true not only for patrilineal households, but amongst the matrilineal Moplals too, as noted by D'Souza.<sup>45</sup>

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43 K. Rajwade, The Status of Muslim Women in Indore City Unpublished Doctoral Thesis (Indore, 1979) p. 384.

44 Jain, 1986, op. cit., p. 76

45 Victor S. D'Souza, "Kinship Organisation and Marriage Customs among the Moplals on the South-West Coast of India" in Imtiaz Ahmed ed., 1976, op. cit., p. 166

The practice of polygyny, which is permitted by Shariat laws subject to certain provisions, has often been the cause of indignant outrage by writers who have seen it as a barbaric practice providing no legal protection to the woman against the exercise of this male privilege<sup>46</sup>. There are two ways of approaching the problem - the legalistic and the sociological. Vide the former it can be pointed out that the legal recourses available to women are not so meagre as they are made out to be. According to the law that is applied by the Indian courts to Muslim citizens of India today in matters of polygyny (a) Muslim law recognizes the validity of stipulations in Muslim marriage contracts; a common stipulation is one restraining the husband from taking another wife, sanctioned either by delegating the rights of talaq to the first wife should the sanction be violated, or by allowing her to live apart from her husband and still be maintained by him, or by incorporating both sanctions and giving the wife the option to choose the remedy according to the circumstances<sup>47</sup>. (b) A woman may also contract for a large mehr

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46 Zarina, Bhatti, "Status of Muslim Women and Social Change", in B.R. Nanda ed. Indian Women: From Purdah to Modernity (New Delhi, 1976), p.102.

47 The Courts of South Asia have upheld contracts of this nature for more than a century. See Luch, Carroll, "Talaq-i-Tajrid and stipulations in a Muslim Marriage Contract: Important Means of Protecting the Position of the South Asian Muslim Wife", Modern Asian Studies, vol. 16, pp. 227-309.

as prompt dower to be payable on demand;(c) since 1939, the Indian muslim woman has had the right to judicial divorce on grounds that her husband having more than one wife, does not treat his first wife equitably in accordance with the injunctions of the Quran (d) In 1960, the Allahabad High Court held that in the social circumstances of modern India, marrying of a second wife constitutes legal cruelty to the first wife and dismissed the polygynous husband's suit for restitution of conjugal rights against his first wife. This decision raises the probability that the husband's remarriage would entitle the first wife to a divorce on grounds of cruelty as provided in the Act of 1939.<sup>48</sup>

The formal existence of legal remedies does not always mean that women have access to them and this is where a sociological perspective comes in useful. Although as a "vestigial survival of a feudal order",<sup>49</sup> some cases of polygyny are

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48 The details of the legal provisions have been taken from Lucy Carroll, "The Muslim Family in India: Law, Custom and Empirical Research", Contribution to Indian Sociology (New Series), vol. 17, no. 2, 1983, pp. 205-222.

49 Ahmad, 1976, op. cit., p. xxvi.

found among both Muslims and non-Muslims in India, with the former seeking justification for the act in the letters of the Quran<sup>50</sup>.

The evidence from empirical studies do not support the idea that it is widespread among Muslims<sup>51</sup> or even that it is socially approved. The Muslim women's helplessness in the face of her husband taking a second wife is also not a self evident reality. Lambat's observation in this regard bears it out - "usually as soon as a man takes a second wife, or even contemplates a second marriage, his first wife will ask for a divorce".<sup>52</sup>

However, what can put stereotypes to rest are census figures which indicate that polygyny is infact higher among Hindus than among Muslims in India - "The census study indicated that the incidence of polygyny among Muslims is not as high as it is believed to be (for the year 1931-40, 1941-50 and 1951-60, the incidence of polygynous marriages among Hindus was 6.79%, 7.15%,

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50 It must however be noted that the specific Quranic verses generally cited in support of polygyny - Sura 4: 127-129, Sura 4: 2-3, have been provided very specifically in the context of orphans and their guardians to prevent mishandling of the former's property.

51 Almost all the contributors to Intiaz Ahmad, ed. 1976 op. cit., who have written about this have commented on the rarity of plural marriages in the communities they studied.

52 Ismail A. Lambat, "Marriage among the Sunni Surati Vohras of South Gujarat", in Intiaz Ahmad ed., 1976, op. cit., p. 54

and 5.06% and for the Muslims 7.29%, 7.06% and 4.39% respectively".<sup>53</sup>

Mehr (dower) is an integral component of any Muslim marriage contract, High Mehr amounts are often fixed as deterrents against easy divorce and sometimes, indirectly, to discourage non-consanguineous suitors and thus avoid partitions of family property.<sup>54</sup>

But in so far as the realization of the mehr amount is concerned, the practice does not support the rights of women.<sup>55</sup> The fact of the matter is that more than mehr, dowry seems to have acquired significance in Muslim marriage transactions, although it finds no sanction in Islam and is more in the nature of an accretion of a Hindu custom. It prevails both in the patrilineal and the matrilineal ambience.

Divorce is portrayed as the bane of the Muslim women's existence, suspended like Damocle's sword and capable of severing the marital tie through the husband's unilateral application of the triple repudiation formula.<sup>56</sup> On the other hand, the more cumbersome procedure through which the wife can seek separation

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53 Towards Equality, 1976, op. cit., p.69.

54 Shibani Roy, "Concept of Zar, Zar and Zamin - A cultural Analysis of Indian Islamic Tradition of Inheritance and Kinship" Man in India, vol. 64, no. 4, December, 1984, pp.388-96.

55 See for instance Jamila Brijbhushan, Muslim Women : In Purdah and Out of It. (New Delhi, 1980), p. 75.

56 K.M. Kapadia, Marriage and Family in India (London, 1958) p.192.

by foregoing her dower is seen as an inherent inequality, built into the laws - "Clearly the law aims at making it as easy as possible for men to give divorce and as difficult as possible for women to secure it."<sup>57</sup> Such a contention ignores two things - First - The right to judicial divorce granted to a Muslim wife on any of the following grounds under the Dissolution of Muslim Marriage Act, 1939 - a) the whereabouts of the husband have not been known for a period of four years; b) that the husband has neglected or failed to provide for her maintenance for a period of two years; c) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years; d) that the husband treats her with cruelty; e) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran. Second - The empirical evidence which contradicts popular impressions of extreme fragility of the marital bond among Muslims. Divorce is strongly disapproved by the community and leads to a severe loss of prestige not only for the parties involved but for their families as well. It is thus to be found only in very rare cases. It is notable, for instance, that both Roy and Jain found only three cases of divorce in their total sample and even this included separation from senile, mentally<sup>58</sup> unstable husbands, rather than men bent upon remarriage or extra-

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57. Bhatti, 1976, op.cit., p.102.

58. Jain, 1986, op.cit., p. 37.



marital liasons. Customary practices, in addition often admit certain established channels whereby a woman can force a divorce upon her husband. Thus Khatana observes that "elopement is often resorted to by Gujar Bakarwal Women to force a divorce so that they can be free to marry someone else"<sup>59</sup> Besides, without taking into account the class and caste linkages of the phenomena, and the consequent differentials in commitment to ideologies of 'izzat', prestige and honour, a clear picture cannot be aimed at and the significance of observations such as Bhattya's cannot be grasped - "in Kasauli ... divorce, remarriage after divorce and marriage of widows were more frequent among the non-Ashraf than among Ashrafs"<sup>60</sup>

That the normative legal position alone cannot always explain reality, without regional social and cultural patterns being considered, is given amplification in the matrilinear Lakshadweep Island society studied by Leela Dube where she noticed, "the persistence of all the significant structural features of the (matrilineal) social

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59. R.P. Khatana, "Marriage and Kinship among the Gujar Bakarwals of Jammu and Kashmir" in Imtiaz Ahmad ed. 1976, op.cit., p. 102.

60. Bhattya, 1980, op.cit., p. 204.

system in spite of its envelopment by Islam"<sup>61</sup> The high incidence of divorce in the Island could be given a simplistic explanation in terms of Islamic provisions<sup>62</sup>, but anthropological analysis seeks the reasons for fragile marriage in the working of the structural units - "The operation of matrilineal principles in rules of descent, inheritance and succession, coupled with the predominantly duolocal residence pattern, makes the structural stability of the social system independent of the stability of marriage .... The manner in which the Islamic procedure of divorce is used indicates that the instability of marriage<sup>63</sup> is rooted in factors other than the concession given by Muslim law"

The detailed specification of the legal position as has been made above should not suggest that all Muslim women in India are well informed about their legal rights and are willing to obtain judicial relief through elaborate legal procedures. In fact the opposite is more often than not true when the majority in the community lives in

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61. Dube, 1969, op.cit., p. 78.

62. It needs to be mentioned here that Lakshadweep Muslims follow the Shafiite school of Islamic law, unlike the large majority of Muslims in the country who subscribe to the Hanafiite religious persuasion. Shafi law gives relatively greater permission to the wife in seeking a dissolution of her marriage.

63. Dube, 1969, op.cit., p.87.

ignorance and drudgerous poverty. Often even family and social pressures may severely curtail access to the available legal options, apart ofcourse from the fact that laws may be inadequate and there may be scope for a lot of change. However, a correct understanding of the legal position must supplement the sociologists work if polemics are to be avoided.

Closely bound up with the question of marriage and divorce is the issue of inheritance. Women are granted the right of inheritance as mothers, daughters and wives according to shariat law, though their right is not equal to men. Debates on the fairness or otherwise of the Quranic prescriptions tend to assume a close correspondence between the Quranic injuctions and actual social practices<sup>64</sup>. But what needs greater sociological attention is the extent to which laws are translated into practice. As a matter of fact, Muslims in India have studiously ignored this Shariat law and have invariably opted for pre-Islamic<sup>65</sup> and to a great extent Hindu customs of denying property rights to women despite legal provisions (Hindu Succession Act, 1956). As Kozlowski puts it - "local conditions always have a way of limiting compliance with scriptural injuctions. 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

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64. Ahmad, 1976, op.cit., p.xxviii.

65. Towards Equality, 1974, op.cit., para 3.41.

their Quranic privileges. In a few others, women are able to enjoy<sup>66</sup> somewhat more than what the standards of the faith grant them .

Where a flat denial of property rights is found to be difficult, subtle and apparently religiously sanctioned customs operate towards the same end. The system of preferential marriage with father's brother's daughter is one of the very widely practised methods of subverting women's property rights and avoiding transfer and breakups of the ancestral property.

In most Muslim families the daughter's shares are assumed<sup>67</sup> to have been made over to their brothers and on the pretext that money had been spent on their wedding and dowry, their rights in the patrimony are subverted. At best they may receive a share of moveable property only. As Khatana observes, among the Gujar Ekarwal, "(women) are given animals when they are married and this is supposed<sup>68</sup> to terminate their rights in the estate of their fathers". Women also generally avoid pressing their claims for their shares primarily to avoid family tensions and unpleasantness in their relations with their brothers<sup>69</sup> and to bank upon these harmonious relations if future

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66. Gregoy. C. Kozlowski, "Muslim women and the Control of property in North India", The Indian Economic and Social History Review, vol. 24, No.2, 1987, p.164.
67. Roy, 1984, op.cit., p. 391.
68. Khatana, 1976, op.cit., p. 110.
69. Jain, 1986, op.cit., p. 162.

adversities should find them thrown back upon their natal families for support. In a situation where even amongst urban respondents Siddiqui<sup>70</sup> found only a partial awareness of their property rights under Islam, women's non-access to their formally granted rights should not come as a surprise.

The above sketchy account reveals, thus, that among Muslims in India Islamic laws governing women's position are heavily over- ridden by traditional usages. As Levy notes "where family life is concerned, in marriage, divorce, and the distribution of inheritance,<sup>71</sup> the provisions of the shar would appear to be very widely neglected". Norms emanating from religious texts do not exist in isolation but co-exist, instead, with local, traditional and other cultural values representing a response to existential conditions and it is the complex conjunction of these that, together have implication for Muslim women's status in India.

The paucity of adequate empirical studies on which to base generalizations has necessarily made the above analysis of Muslim women's status tentative and skeletal; many more empirically rigorous investigations are called for before the details can be filled out and generalizations approached. But one common theme has run through

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70. Siddiqui, 1987, op.cit., p. 44.

71. Reuben Levy, The Social Structure of Islam, (Cambridge, 1962), p. 244.

the analysis. It is the fact that a prior assumptions of Muslim backwardness, following from the perception of a community claustrophobically guided by an unchanging religion which militates against women's advancement, cannot be sustained even on the basis of the very limited empirical informations that is available. Against the dismal pictures normally painted there are numerous studies which affirm the strength and relative modernity of Muslim women, even when they belong to the lowest socio economic strata. Archana Chaturvedi documents from her very intensive study of eleven women that "on summated scales of modernity, eight ranked high and three medium"<sup>72</sup>. Setting aside questions about the generalizing capacity of such microstudies, what should be noted is the different story recounted, compared to the cliched pictures of orthodoxy created underdevelopment that are so common in relation to Muslim women in India. Haniff's study of lower class Muslim women in Okhla again found that these women are articulate, self efficacious and carry a more positive image of themselves than popular (and even scholarly) stereotypes would seem to allow and this, Haniff noted, was related to the fact of employment of these women. Through employment they gained in status in relation to the men and their roles took on a more complementary sort of equality rather than that of lord and subject<sup>73</sup>.

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72. Archana, Chaturvedi, "Muslim Women: A Political Profile", in Shusheela Kaushik ed. Women's Oppression ; Patterns and Perspectives (New Delhi, 1985), p.52.

73. Niesha, Z. Haniff, "Muslim Women and the Minority Mentality", in Imtiaz Ahmad ed. 1983, op.cit., pp.185-206.

So far most available studies have treated Muslim women as an alien category, as being somehow so different that they could be perceived as a distinct group only on the basis of their 'burqa' or 'chadar'. But what is required is for researchers and reformers to take into account the problems of Muslim women qua women and relate them to their socio-economic position and not to the religion they profess. Taking a sociological, instead of a normative perspective, will reveal that they more or less face the same handicaps and have the same strengths as Hindu women, indeed Indian Women. Had the iniquities facing Muslim women been the direct expression of their religious laws, change would have been logically impossible without changing the religious code itself. But even those who reiterate the idea of a changeless, static and orthodox Indian Muslim Community must temper their polemics when confronted by empirical evidences. They must accede that "the broad crust of static attitudes dominating the Muslim society has cracked... and stirrings of progress are clearly visible in response to certain general social forces"<sup>74</sup>. Qurratulain Hyder tries to look beyond orthodox Islam in discussions of their positions and concludes that "Muslim women are as modern and as backward as their counterparts in the various income groups in the other communities. The various economic and sociological problems of the Muslim community cannot be isolated from the problem of the general backwardness and poverty of Indian masses"<sup>75</sup>.

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74. Bhatti, 1976, op.cit., p.111.

75. Qurratulain, Hyder, "Muslim Women in India" in Devaki Jain, ed.; Indian Women, (New Delhi, 1975), p.201.

A NOTE ON THE CONTROVERSY OVER THE MUSLIM PERSONAL  
PERSONAL LAW IN INDIA :

Muslim Personal Law appears to have become one of the most primary strands of Muslim politics in India with the cacophany of debate between pro-reformists and anti changers occupying centrestage. The general resistance of the community to change has only strengthened those commonsense understandings of everyday discourse that Indian Muslims and orthodoxy go hand in hand and that Muslims are averse to changes. Without entering into the twists and turns of the theological arguments which are put forth by both sides, a few points need to be mentioned briefly.

Those who hold the inequities in the Personal Law to be the necessary cause underlying Muslim women's backward and submerged condition and make strident calls for a uniform civil code to remedy the situation, are giving in to that very formalistic and legalistic approach against which we have argued above, for their perspective neglects the very vital issue of the actual application of the religious codes in concrete reality, and its relevance in a situation where the burdens of a deprived socio-economic status make subsistence the issue of primary, crucial urgency. Infact, the traditional Muslim leadership stands discredited precisely on this count - it appears to have acquired a vested interest in the issue of personal Law, remaining completely



oblivious to more urgent and real issues of the economic and educational backwardness of Indian Muslims in comparison with others sections of the population.

The presence or absence of tendencies and advocacies for reform cannot, however, be divorced from the wider sociological realities of the community. The minority character of the community is one such reality and it is this "minority panic (which) has prevented Indian Muslims from accepting even those reforms which have been legislated in several Muslims majority states, including Pakistan." Minorities, religious, linguistic or racial as a rule, tend to be obsessive about preserving their separate identity and if perceptions, real or supposed, of discrimination and persecution along with an acutely impoverished status are added to the picture, the clinging to symbols of identity such as Personal Laws, becomes even more tenacious. As one writer puts "The near unanimity among Muslims of the country against a uniform code is more a reflection of this urge (for identity) than a recognition of any merit in their present law." This element can be negatively illustrated by pointing to the phenomenal furore and resistance from traditionalist sections amongst the Hindus, a majority community, when

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76. A.R. Saiyed, "Orthodoxy", Seminar No. 240, August 1979, p.22.

77. Balraj Puri, "Personal Law and Muslim Identity", in Engineer ed. 1987, op.cit., p.112.

the Hindu Code Bill was under consideration. The reactions of an anxiety ridden, oversensitive and economically backward minority community should not, thus, come as a surprise.

In fact, it is the backwardness of Muslims and the lack of the strong middle class to campaign for reforms which provides the most potent support for opponents of change. In the stark words of Engineer: "( For the overwhelming majority of Muslims living in dire poverty) except the awareness of being Muslims, they have hardly any knowledge of Islam, not to talk of casuistic or theological controversies..... In the villages they are poor marginal farmers or those selling their labour power; and in towns and cities they are petty artisans, colliers or rickshawpullars or hawkers and others of similar categories.... The plight of these people is so hopeless that no law, much less any reform thereof, makes any sense to them."<sup>79</sup>

Historically, the middle class provides the strata wherein most moves for reforms are generated. However, the unprecedented migration of the urban, educated intelligentsia and professional classes to Pakistan

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78. See Latika Sarkar, " Jawaharlal Nehru and the Hindu Code Bill", in B.R. Nanda (ed.) 1976, op.cit., pp. 87-89.

79. Engineer, 1985, op.cit., p. 318.

left the remaining urban Muslim population in India economically and politically weakened, disrupting the social structure of the Muslim as a whole. The cumulative effect of these developments was the creation of a 'social vacuum' in the Indian Muslim community with one of its consequences being the emergence of an inward looking and religious oriented leadership.<sup>80</sup> Thus, reforms today are difficult to come by when the present Muslim middle class constitutes only a microscopic minority and the state continues to address the 'ulema', - the theologians generally drawn from the rural areas, lower socio-economic stratas and lacking the intellectual sophistication required for critical thought and bold innovations -<sup>81</sup> as the most significant leadership category amongst Indian Muslims, ignoring all the modernizing influences present in the community,<sup>82</sup> although in non-strident forms.

Thus, when scholars continuing to espouse the same debates that theologians engage in regarding reforms in the Personal Laws,

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80. Zafar Inam, 1975, op.cit., pp.81-90.

81. Saiyed, 1979, op.cit., p.24.

82. Zoya Hasan, "Minority Identity, Muslim Women's Bill Campaign and the Political Process", Economic and Political Weekly, vol. 34, no.1, January 7, 1989, pp. 44-50.  
Also Ziya-ul Hasan Faruqi, "Indian Muslims and the Ideology of Secular State" in Smith, D.E. (ed.), 1966, op.cit., p.148.

the more important and urgent priorities related to the general indices of socio - economic development tend to be given short shrift and the issues before the community continue to be lopsided. If more emphasis is given to pressing priorities of economic enhancement, educational advancement etc. instead of raising the bogey of uniform civil code (Article 44 of the Indian Constitution), a more congenial ambience can be fostered in which reforms and progressive changes can be followed through easily. The fact that even very limited and narrow studies show a positive correlation of education with liberal ethos in family life, non observance of purdah, status mobility etc. <sup>83</sup> lends credence to this view. Thus, it can be said, in conclusion that "the fate of Indian Muslims is tied up with the fate of modernization of the total Indian society. <sup>84</sup>

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83. For example Jain, 1986, op.cit., pp.23-32  
Siddiqui, 1987, op.cit., pp.71-75.

84. Saiyed, 1979, op.cit. p. 26.

## C O N C L U S I O N

In order to be valid, any sociological analysis of status must attempt to move beyond religio-normative and formal - legal definitions and grasp the substantive complexities of reality. This has remained the central idea around which the present work has been constructed; the necessity of this position having been dictated by both the need to question common stereotypes about Muslim women, and the desire to understand the extent to which Islam and its scriptural principles enter into the structuring of her status. Secondary data sources have been employed for this purpose. What was immediately apparent in this context, was the extreme shortage of empirically sound studies on Muslim women in India. The few that were available seemed more intent on forcing interpretations and reinforcing stereotypes of orthodoxy and conservatism, than on maintaining empirical rigour. By contrast, Pakistani Muslim women have been studied much more extensively, although the Islamic framework which is so central to political and cultural debates in that country, has not always been avoided.

Proceeding by a strictly formalistic approach, it appears that Muslim in Pakistan have been exposed to much more progressive legislation, in the form of the Muslim Family Laws Ordinance of 1961, for safeguarding their rights in the personal and familial realms than her counterparts in India who still continue to be governed by the Shariat Act of 1937.

The cautiously modernising stance of successive Pakistani governments until the coming of the Zia regime, finds little similarity with the Indian governments position of not imposing reforms until the Muslim community itself demands it. The fact that calls for such reforms have been drowned in the vocal opposition of 'ulemas' and other traditional leaders in India, while a moderate package of reforms in the Personal Law could be carried through inspite of fundamentalist and right wing opposition in Pakistan, testifies less to the innate orthodoxy of Indian Muslims than to general sociologically significant factors which have so far been neglected in polemical discussions. The framework to be adopted for analysis at this level is beyond the scope of the present work, although indicative hints are suggested in terms of factors such as the relative size of the upper and middle class, a generally secularizing and modernizing strata, in which demands for reforms tend to be located; the intervening factors of political expediency and problems of legitimacy which impel state support for fundamentalist ideologies; the socio-economic backwardness of the community and the failure of traditional leaders to address such issues with any immediacy; the minority or majority character of the community and its implications for identity consciousness. Roots can be historically traced to the massive migratory stream towards Pakistan which denuded the Indian Muslim community of its modernizing elite, its intelligentsia and urban,

educated, professional classes, leaving it economically backward and politically weak. The anxieties and consequent fear complexes of an insecure and poverty stricken minority community naturally goes against modernising influences, especially in the absence of a viable middle class. Infact, reformist and progressive legislation effected in Pakistan, owe their initiation and support to the presence precisely of a strong and active middle class in that country, educated and enlightened and powerful enough to push through changes even in the face of opposition by traditional theologians and right wing sections.

The level on which the presentwork has concentrated is the strictly empirical, and the failure to address this level has been largely responsible for the emotional and polemical debates raging around the very controversial issue of reforms in the Muslim Personal Law and the demands for a uniform civil code in India. Only empirical studies can demonstrate whether these are crucial issues for the majority of illiterate, impoverished Muslims or whether they are bogeys raised to rally the poor, ignorant and ill-informed in the moves of political power games. Again, it is only through an empirical approach that the extent of applicability of the Quranic and Shariat injunctions in the lives of the people can be judged, so that it can be determined whether the backwardness of Muslim women's position is a function of these religious codes..

In examining the available literature about Muslim women in India and Pakistan, what emerges clearly is the extreme variability in their position according to local and regional customs and usages, rather than broad similarities on account of their belonging to a common community of believers. Differences also proceed according to the socio-economic category they belong to, their place of residence whether urban or rural, and the consequent westernizing and modernizing forces that they are exposed to. Thus, what they ultimately share is the fact of not being a monolithic category within the boundaries of their respective countries.

By almost all indicators of development, the Pakistani women ranks lowest, with poverty, illiteracy, malnutrition, ill health and the drudgery of numerous childbirths being her lot in life. Belonging as she does to an economically impoverished community, the Muslim woman in India fares no better; although a precise evaluation of her exact levels of underdevelopment must await further studies. The lack of adequate statistical and sociological information on Muslims in India makes any generalization necessarily tentative and imperfect.

If legally safeguarded rights are an index of status ranking, the Pakistani Muslim woman has a more extensive repertoire of rights available to her than her Indian counterpart. But the realisation of the rights that Islam grants women, remains a moot point in both countries with denial of rights being more the norm than exception. This is true across a wide spectrum of social organisations stretching from the tribal



through rural to urban. In almost every case, the privileges bestowed on Muslim women in the area of marriage and property rights are systematically subverted through the following of pre-Islamic, tribal and Hindu customs. With regard to divorce, many scholars have found much that is offensive in an Muslim male's unilateral right of divorce. But even without detailed studies, the fallacies of this formalistic approach is apparent, since social disapproval has tended to make divorce an eventuality of extreme rarity. Thus, any harping on the framework of Shariat as being immensely consequential for Muslim women's status will only prove counterproductive for comprehension and very supportive of biased assumptions the empirical evidence from both the countries supports this view.

It is the biased assumptions again which underlie the view that it is the "imprisonment" of Muslim women behind the folds of their "burqa" or "chadar" which keeps them deprived of the benefits of modernizing influences. Empirical studies, however, demonstrate that such categorical statements cannot be supported by hard facts since the ideologies of a "purdah society" have differential impact according to the class and regional affiliations of Muslim women, being irrelevant and inapplicable for the majority of poor Muslims who can ill-afford the luxuries of seclusion. Infact, purdah is gradually acquiring middle and lower middle class connotations in both countries. While the number of Muslim women

discarding purdah while entering into education and employment is higher in Pakistan than in India, this is a consequence of the greater economic immiseration of the latter and the absence of a felt need for education. Regional variations are important because as the non observance of purdah by the matrilineal Lakshadweep Islanders shows, the norms of a patriarchal and patrilineal organizations cannot be used to generalize for all Muslims women. Another point we have tried to emphasize related to Muslim women's perception about purdah which may be quite different from those of investigators imposing alien categories of 'emancipation' and 'liberation' on them. For the former burqa often is an aid to greater mobility as a "transportable seclusion" and, in the ultimate analysis, not perceived to be a handicapped in the acquisition of modern roles. Empirical studies substantiate this.

Where Muslim women in India and Pakistan differ is in the presence of a fledgling women's movement amongst the latter, which gained in strength in response to General Zia-ul-Haw's drive for Islamization and the attempt to legally devalue women. Educated, professional women from the middle and upper classes have led the movement. Any such sustained mobilization of Muslim women on issues of reform etc. is absent in India, not due to the stagnation of the community but the absence of a viable middle class and large enough number of conscious and educated men and women to initiate any such mobilization. The fact

that issues of gender discrimination and legal reforms have no immediacy for the vast majority struggling to subsist must also be kept in mind before the community is dismissed as orthodox, conservative and backward.

Thus, we return to a reiteration of the need for greater empirical back up when generalizing about Muslims in India and elsewhere. As even the very sketchy presentation in the present work indicates, there are many varieties of perception possible when Muslim women are studied, and sensitivity to these is essential if academic efforts in this area are not to be reduced to reinforcement of stereotypes. So vast are the variations in their social and cultural ambience, that facile generalizations which treat Muslim women within India and Pakistan as undifferentiated wholes cannot stand the test of evidence. A comparative approach, not only between women of Muslim communities in different countries and areas but even between Muslims and non-Muslims must be adopted if we are to discover what are the specificities of the case and what the generalities, what Muslim women face qua women and what implications for their status, if any, derive from their faith in Islam and how the supralocal Great Tradition of Islam are shaped by the operation of the Little Tradition with implications for women.

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