

**THE IMPACT OF IDENTITY POLITICS ON
WOMEN RIGHTS: A COMPARATIVE STUDY OF
HINDU WOMEN IN BANGLADESH AND MUSLIM
WOMEN IN INDIA**

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DECLARATION

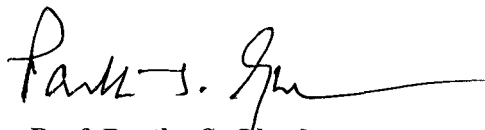
I declare that the dissertation entitled “**The Impact of identity Politics on women rights: A comparative study of Hindu women in Bangladesh and Muslim women in India**” submitted by me for the award of the degree of Master of Philosophy of Jawaharlal Nehru University, New Delhi, is an original work and has not been submitted so far in part or in full of any other degree or diploma of any other University.



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CERTIFICATE

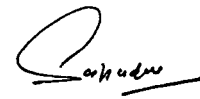
This dissertation may be placed before the examiners for the evaluation for the award of the degree of **Master of Philosophy**.



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CHAPTER 1

INTRODUCTION

The work proposes to attempt to look into the relationship developed between the two aspects of identity i.e. religion and gender. The reflection rests on the implications of community group rights of the minority in a polity on the articulation of the groups rights. The study is located in elocution of gender rights of the Muslim women in India and the Hindu women in Bangladesh. The attempt is registered in the discovering of the relationship constructed between the aspects of two suppressed identities. Does the identity of religious minority becomes the imperative identity of these women and restricts the structuring of the gender identity of these women as a source of rights. The relationship between the two aspects of identities is complementary or conflictual in nature will be explored and discussed .The realisation the relationship between the two is one the major aims of the study. The research will also endeavour to position the role of the state in upholding the balance between these aspects of rights that is gender and secularism. Whether the state is in capable of countering to such an sensitive matter , as any wrong policy formation may lead to discrimination and estrangement of the two. Does the state acts as a true guarantor and signifier of the representation of the interests of these two aspects identity rights, or acts as a mere manipulator of power will remain a point of reflection.

The category of gender, in the opposition with some other version of identity fails to register itself as a base of 'difference' which entails rights. Therefore the gender as category is not always accompanied by related formulation of rights. The first chapter persuades this assumption on the Muslim women in India and Hindu women in Bangladesh. The initiation of rights is subjective to the reception of identity formation and the recognition. The relegation of gender right of the minority women is a consequence of the imperfect recognition of identity. So whether gender can be, a sole category without any mediation of any other aspects of identity distinguished as beneficiary of a particular set of rights, becomes a major point of reflection .Basically this understanding is examined in the first chapter through considering the facets of law in relation with gender equality.

The first chapter reflects the limited scope of law in engendering the empowerment of minority women. The legal perspectives taken by the judicial system of India remained inadequate to usher the reforms in (personal) law of Muslim women in India. The limited measure of maintenance through section 125 Cr PC was superseded by the parliamentary enactment. This was the case of Shah Bano. This case was no ordinary as it reflected the tension or the contest between gender rights and group rights. The right of Shah Bano to claim maintenance was no more perceived as an individual right it was metamorphically communalized as group rights. The case mirrors the polarity between the two 'non secular' aspects of identity. Not only the community but also the state recognizes the group identity as the imperative identity which proved intrinsically hegemonic and oppressive to women rights. The politics of identity are entailed by politics of rights but in case of Muslim case of India the assumption is virtually falsified.

Whereas the Hindu women in Bangladesh are still out of purview any kind of governance. These women are subjected to immense torture and suppression. The Hindu women are struck in the orthodox socio religious quagmire. The patriarchal norms and values are replenished each time when ever those are followed. The archaic and anarchic Shastric laws are still prevalent which have subjugated women to the core and left the women estranged from any kind of liberty and equality. Unlike Muslim women in India the Bangladesh Hindu women are not politically mobilized and organized. These women are unaware of any kind of role which is outside of the domestic orbits. The situation of Hindu women is extremely low as there is no sense of gender based right amongst them. The gender identity among the Hindu women is still subverted and dormant. This reflects the eclipsing of gender identity by the religious aspect of identity. Here again despite constitutional legal provisions of equality in political, economic social sphere with men , the Hindu women remain major sufferers.

Another major concern was the split from the concept of universal feminism. This means that feminist movement in India would have to accommodate extra efforts for the empowerment of Muslim women without disturbing their religious identity. The Shah Bano case revealed this differentiated aspect of gender articulation to Indian feminist scholarship.

The extremely complex role of the state in the furtherance of the rights of Muslim women in India and Hindu women in Bangladesh is discussed in the second chapter. In both the countries, women or gender has never been a part of the core political agenda. The minority gender deliberations were generally the consequence of the constant flirting of political parties with the political power. Either in the name of legitimacy (in case BJP governments or Islamic fundamentalism in Bangladesh) or for strengthening secularism (in case of Congress governments the state follows those policy formation and the government enactments which are considerably against the women's emancipation. State surrenders its initiative or constructive role in realization of women rights and in the construction of gender just society. These issues of legitimacy and secularism are mere garbs to cover ulterior motives of electoral manoeuvring. Thus the legislation of Muslim women act of 1986 remained a quid pro quo to the Muslims. The state errs in upholding gender neutrality in the articulation of minority women rights.

The function of Islamic or Hindu fundamentalism is absolutely same on the women of minority community. The religious fundamentalism basically is a process by which the community ostensibly follow original laws and customs i.e. going back to the roots .This aspect of the process is generally extremely binding on women. By following the same women of the community follows all kinds of religious customs which are grossly anti-women and which re-affirms the patriarchal notions. That society is considered superior in which men control their women as much as possible, so in both the countries the women of majority community are following stricter religious identity roles. In India during late 80s and early 90s witnessed a mushrooming of different kinds of unknown *poojas* , *fasts*, *Jagran* and *katha*, etc. it was fast which became all pervasive specially in north India.

The effect of religious fundamentalism on minority community and subsequently in minority women is extremely negative. This process emanates communal distrust and insecurity among the minority community. This insecurity makes women subordinated as her socialization and mobility gets restricted. Under such condition with blotted secular image, if a state strives to improve or reform the personal laws of minority then this act is considered as anomaly in the implementation of secular credentials, it is perceived as renege promises of secularism and absolute invasion and encroachment of personal and cultural identity. The strengthening of secular

fabric in India and Bangladesh is a primary necessity for both the countries. The late 80s witnessed the growth of religious fundamentalism in India and Bangladesh. In India religious fundamentalism is not as blatant as that in Bangladesh, yet the episodes of Ayodhya and Gujarat remain a scar on the face of Indian secularism. After the terrorist crackdowns in Afghanistan and Pakistan, Bangladesh has become a favourite destination of Islamic militant groups. In the last decade of the 20th century Bangladesh has become the safest citadels for these international Islamic terrorist organizations. In order to improve the Muslim and Hindu women in India and Bangladesh respectively, it becomes necessary for the nations to develop secular ethos across in the country. The state requires to rebuild its secular image in order to obtain the faith of minorities in it, which earlier Nehru and Mujib had done quite impressively. The herculean task is not impossible as both the countries had secular inception and more over people in South Asia are secular and tolerant. This will suffice the state with required legitimacy and credibility to reform the personal laws in the described minority communities. Thus the enhancement and furtherance of gender articulation can be realized and burgeoned only through secular employment of laws and policies. The notion of secularism can only ensure the empowerment of Muslim women in India and Hindu women in Bangladesh. The theories related to feminism will be employed to understand the critical position of women .

The third chapter basically covers the international women covenants and the international initiatives. The chapter also looks into the formation of the mirror image of the communities in the two countries. It also attempts to compare the two community women on the basis of their social parameters, state formations and the nature of the polity, and the organisational potential in the described communities. The role international covenants act as torch bearer to the developing nations. These international covenants provide basic framework and set standards for the local societies to channelize their efforts in these directions. This doesn't mean that the absolute convergence of interests of women in India and Bangladesh of that with developed nations. These international initiatives provide the required support to achieve the set targets of focused areas and build an ambience which reflects gender equity and gender empowerment .Thus articulation of gender rights can be protected by adhering colonialism the international covenants.

The feminist theories generally discuss the subversion of women on the basis of sex or the socially termed as gender. The social, political and economic discrimination in the all spheres of life committed against the women is voiced under the feminist banner. The political project of changing 'women's, inequality, exploitation, or oppression was the main contention of the movement. The social movement of feminism upheld the the idea of shared oppression of women irrespective of their class, race, creed, region, religion , language culture and other The first wave feminism was considered with suffrage, with women's legal and civil rights, including their rights to education. The first wave of feminism coincided with the many nationalist movements and the anti colonialism. As the feminism consolidated into different streams like liberal, cultural ,socialist, and radical feminism.

The liberal feminist basically gave a thrust on equality in uniform representation in the working space. They developed the idea of women rights in the framework of human rights. The liberal feminism worked towards furtherance of women rights in all areas and alleviating the any sort of dependence on men. Whereas the cultural feminism ,unlike the liberal depended on the extending of the feminine values like of nurture and peace. On the other hand the socialist feminism delved on strengthening the idea that depreciation of the women's positioning in the society is directly linked with the growth of capitalism. The accumulation of property has strengthened the forces of patriarchy. The another extreme form and hard core functioning of the feminism was that of radical feminism. The radical feminism put forward the idea of structural and radical changes and the alterations in the formation of family. This form of feminism advocates the different orientations of sex and sexual relationship. They opposed the hegemony of heterosexual family institution. It argued that the women body is considered as a centre of torture and violence.

The recent transformation in areas of political and cultural theory has brought amendments in the process of acceptance and recognition of different spheres of life. these include what Jean –Francois Lyotard calls a scepticism towards metanarratives (that is the questioning of theories which make universal claims , such as Liberalism, Marxism,or radical feminism) and the fragmentation of liberal humanist notions of unified subjectivity. Post modernity is further characterized by the development of new technologies and the relativization of truth claims.(Weedon 1999:3)

Many people consider feminism as social movement by which women will gain equal status with that of men. This means that the feminism is structured on primarily on the centrality of men , i.e. is as equal to men . As men are not equally treated in their own society . The structural stratification of the society on bases of class, race ,ethnicity , religion have left many men deprived and dispensable. Since men are not equals in white supremacist , capitalist, patriarchal class structure, which men do women want to be equal to?(Hooks2000:19)This reflects the class and region from where the concept of feminism has originated. This can be understood this way also that the feminism is a process from the above .The women belonging to weaker sections of societies will not think be equal of their men as they are also subjected to deep injustices .‘An articulation committed to acknowledge difference sprang from a problem that second wave feminism , which emerged as a political force in the 60s , found itself confronting a decade or so on . Perception of an exclusionary white middle class bias movement led to a split .It has come to be a central feminist philosophical project to respect difference by treating the subject (or self) so that she is represented as socially situated in many dimensions of power and identity besides gender.’(Fricker and Hornsby2000 :6) To the question of women’s difference from men has been added the question of differences between women , and the recognition of difference has become important political question in its own right.(Weedon 1999:25)

Many essential political and theoretical enquiries have received attention during the second wave of feminism since 1960s . The varied liberal engagements of the feminists were domestic violence and sexual abuses , pornography, contraception, abortion, technical advancements in reproduction ,provision of child care and the rights of women to ‘define their own sexuality and lesbian rights’.(Weedon 1999:25)the second wave of feminism reflects on the issue of difference among the women . The related issue of difference in consideration of race, culture, region , religion, occupation , lesbianism, and other differences are recognised and accommodated in the mainstream. The second wave offers this distinction from the first wave of universal feminism.

The law mirrors the nature of the state and society. Thus the law of the state holds an important position in defining the rights of women . Nevedita Menon in her book

'*Recovering Subversion*' defines the limitation and the contradiction of the law. Four interlinked strands of argument can be discerned in this engagement:

- Most legal systems have feature which are actively discriminatory to women , denying them equal rights to property, to certain kinds of employment and so on.
- Even where is *de jure* equality, law in its actual functioning discriminates against women because legal agents interpret laws in patriarchal ways.
- Even la treats men women equally it is discriminatory to women because are located in an unequal and hierarchical manner in cultural , social and economic formations . In the other words , it is unjust to treat unequals equally.
- The law and state render invisible women's subjective experience of oppression since objectivity is installed as the norm. In this sense the law is essentially Male and can o only ever partially comprehend the harms done to women.

Thus the role of law becomes increasingly important to make law formulators and law interpreters gender sensitive. The law formulation does reflect the positioning of the women in the society. The role of law has been discussed in detail in the chapters of the dissertation. The laws of both the nations are discussed in detail to evaluate the legal perspective of gender of the these minorities women..

The other important issues are of the state .the role of the state in formation of gender just society. The state remains central in the understanding of the women emancipation and liberation. The role of the state as liberal welfare nation - state will always be appreciated. However there so many states which despite their liberal claims remain discriminatory in the formulation and the implementation of rights. The rights of a women of a minority group remains special to the state. It becomes easy for the society present in democratic framework asking for the rights as in comparison of the state with limited democracy.. The role of the state becomes more complex when the state is suffering from religious fundamentalism in the majority group in the state. In such situation state generally prioritises the identity of being a minority over that of gender.

The concepts of secularism becomes quite relevant in such studies. The word which generally stands for the divorce between the state and religion which means that it will not have an official religion of state, will maintain equal distance with all the religions present in state and will not discriminate before the law on the basis of religion. The gender issues of the minority works in absolute freedom when the

society it protected by secularism. Otherwise any step taken by the state or the society is considered as an aberration with the secularism.

In all the study remained highly interesting in considering the implications of the different variants of the study. Over all the study remains significant in understanding of rights of minority women in relation with the roles of the law, religion, and the , state.

CHAPTER 2

GENDER AS A CATEGORY

The relationship between the rights and the women of minority groups will be studied in the chapter. It will discuss the condition of Muslim women in India and Hindu women in Bangladesh. As these women suffer from double discrimination of being participant of two subverted form of identity that is of religious minority and of gender. The split identity of these women soon becomes the competing identities as both needs special recognition by the state and society. The role of law of the state is essential in understanding of the situation of these women, as law characterizes the spirit of the state and the society. The development of law and the politics of legislations, related to gender articulation of these women of Muslim communities in India and the Hindu communities in Bangladesh will be examined. The relevance of legal measures and the implementation of these laws in gender equality will be studied in detail. The chapter will also briefly discuss the national political developments within the scope of the study.

THE INTERNATIONAL DEVELOPMENTS

To analyze the domestic politics of a nation, the understanding of international politics of that period become essential. The determining international events and movements may redefine the political structure and discourse of a country. These two countries of South Asia India and Bangladesh are also subjected to the dynamic contours of international politics. The two international political processes which influenced the domestic politics of India and Bangladesh according to the scope and context of research were the rise of nationalism and religious fundamentalism.

After the World War II the first drive of self determination was based on western concept of nation-state. The corollary understanding could be that the state becomes a primary arbiter of identity; any other aspects of identity would become secondary. It was witnessed by the eighties that the understanding and conceptualization of nationalism as a progressive force has been changed and altered, it was no more perceived and considered as a panacea to problems of underdevelopment and social inequality. (Moghadam,1994: 3). The 'non-secular' variables evolved as major driving force behind this type of nationalism.

During this period of the twentieth century the non-state or secular aspects of identity got galvanized and gained momentum in their respective domestic and international politics. These aspects of identity became major determinant for the deliverance of special political and communitarian or group rights. The religious fundamentalism, especially in Islam obtained immense space, strength and solidarity. The Islamic fundamentalist declared Islam both as a religion and culture under perpetual danger, whether 'threatened by colonialism, imperialism, capitalism, socialism, foreign ideologies at other dominant religions. (Lucas and Aimee : 391). The ubiquitous Islamic fundamentalists had leitmotif call for going back to the roots. They aimed to create an invented identity of Muslims as monolithic and homogenous identity and strived to cover up all the internal differences and diversity pluralities.

The women of any religion are considered as a carrier of religious aesthetics and purity. Like in any other religious fundamentalism in Islamic fundamentalism, the women rights have been neglected and negated. These customs and laws which deal with marriages, maintenance, inheritance, adoption etc. are generally formulated as personal laws. Thus through the process of going back to the roots, the women have been denied of egalitarian and modern ways of living. In this process her rights are always being compromised. Consequently the patriarchal norms in the society are reaffirmed and reestablished. Here patriarchy employs religion to structuralize and legitimize itself. Henceforth, women remain subjugated under the feudal, primordial, highly patriarchal laws.

THE INDIAN SCENARIO:

This section discusses the implication of religious identity politics on the Muslim women in India, in their enhancement and realization of rights. Before discussing the above in detail, the section will briefly look in to the domestic politics of the state.

By the mid-60s, the process of national integration led by Nehru was impeded by the linguistic evolution of various regional states. Nehru's experiment of national integration was based on 'economic integration'¹ and which was precisely based on the maintaining of accurate balance between the values of religious freedom and secularism. Nehru's influence was dominant in the political field and his ideas formed the bedrock of the state policy during, the period, when he was prime

¹ For details see Satish Deshpande (2004) contemporary India.

minister of India from 1947 to 1964(Buultjens 1986 :100-101). The formation of linguistically framed states, legitimized the acceptance of 'non-secular' and non modern aspects of identity by the state. This precisely meant that the genesis of 'new' aspects of identity may or could compete with the holistic identity of being an 'Indian'. The implications of the above were serious and were made extremely complex by the furtherance of democratic competition by another set of aspect of identity, that is caste. The emergence of caste based politics gave a new perspective to the electoral politics of India. This whole political development culminated in the inauguration of regional politics of India. This political mobilization of the people of India invaded the whole public sphere and which deepened the discriminative issues of caste, class and region. The entangled mesh and mess of this kind cajoled the state to surrender its Nehruvian universalhood and embrace the new contours of identity. Whereas the Indian secularism 'conceived by the nationalist movement and practised by the post colonial state as a continuous search for a non antagonistic grounds between the religious communities, for toleration and respectful coexistence'(Hansen2000:257). Yet it was Nehru's 'twin ideals of secularism and socialism did the past half-century', only time will tell, but it is truer than ever that, in India, religion, economics, and politics move hand in hand(Dehejia,R,and Dehejia,V.1993:151).

Since independence the Muslims had reflected their allegiance the Congress system and Nehru, as he and his party correspondingly respected the minority community's articulations and their apprehensions. However, by mid 60s (after Nehru's death) 'various Muslim groups in different parts of the country began to question the wisdom of continuing their allegiance with and the dependence on the Congress'(Hasan M 1988 :823). The Muslim community was accusing the Congress of betraying them by being discriminatory in providing equal educational opportunities, jobs in government services of administration and defense and police. The uneven development whetted the rivalries and the hostilities between Hindus and Muslims, Congress and Muslims. These political developments have escorted to several religious Muslim political organizations, in order to break the political monopoly of congress in terms of representation of the interests of the Muslim community. The Muslim *Majlis-i Mushawarat*, established in 1964, 'was meant to articulate Muslim grievances and seek ways of alleviating them through the processes of party and electoral politics.

The *Majlis* was a loose confederation of diverse political interest groups, including former leaders of the Muslim League, the *Jamaat-i Islami*, and some Muslim Congressmen backed by the *Jamiyat al-ulema*'. It demanded some particular aims formulated in its manifesto ' the revision of textbooks with a Hindu bias, the introduction of proportional representation in elections, protection of the Muslim Personal Law, recognition of Urdu as a second official language in the north Indian states, and preservation of the 'minority character' of the Aligarh Muslim University'(Ibid: 823-824).

The state's (state's role will be discussed in, detail in the next chapter) failure in addressing the basic needs and requirements of people instigated a simmering discontent across the country. Influenced by the experience of European nations and Marxist thinking, Nehru believed that industrialization would erode the influence of religio(Malik and Vajpeyi1989:310). Nehru's efforts to modernize and equally redistribute the fruits of development in the society, could not match the set targets and standards. The endemic poverty, escalating illiteracy and unemployment compounded with rise in population, had added to scores of government and people. The phase of late 70s and early 80s were marked by 'regular molestation of Constitutional limits and balances'. The expanding arena of democratic politics and the accompanying erosion of the Congress's organizational and electoral bases of support had worked to the advantage of regional political parties and compounded the problem of concentrating political and economic power in the hands of the central state. (Jalal,1995:92) The accentuated centralizing trends in governmental politics, but also and simultaneously placed greater importance on election, making them as a form of populist endorsement. (Khilnani:114-115)The populist redefinition of Indian democracy had made the national politics extremely 'volatile and unstable. The growing discontent among the Indians recorded its highest water mark in the form of separatist movements in Kashmir and Punjab.

The unification of the civil code was received as the only way to integrate India without offending the religious minorities specially the Muslims. Nehru took the initiatives to realize the goal. Nehru took the initiatives to realize the goal. The constitution of India has placed the provision of uniform civil code in Art 44, under Directive Principles of State Policy Part IV, 'uniform law for all persons may be

desirable' (Bakshi, P.M., 2007, 88). The state shall endeavour to secure for the citizen a uniform civil code throughout the territory of India.(Ghosh 2007:72).

The first step towards the above prescribed goal was the codification of Hindu Law. This law not only covered Hindus covered but also 'Jain, Buddhists, and Sikhs, as well as some agnostics and atheists' (Baird, 2001, 151).The bill was enacted in three parts, namely, the Hindu Marriage Act, 1955, the Hindu Adoption and Maintenance Act, 1956, and the Hindu succession Act. Nehru argued in the favor of the Bill not from the point of Hindu religion but also from his sense of Hindu history-'an epoch'-a social revolution' (Ghosh 2007:88). The codification of Hindu law² brought equality across the caste, class, creed, sect in Hindu religion and provided limited measures against the patriarchal structures in the society, like absolute prohibition of polygamy. Unfortunately the women of Muslim, Christian, Parsi communities remained subjected to orthodox and gender insensitive personal laws and the vicissitude of electoral democratic politics. The way the Bills were proceeded and debated it appeared that it lacked the political will necessary either to crack the parliamentary whip or squash dissent with its own parliamentary ranks. (Lateef 1994:55)

But after Nehru, no one took initiatives to fulfill his dream. As the decades passed the state drifted from universalism of Nehru and by the time of Rajiv, it was increasingly converging and with the communal factions and employed those for political gains. If the state granted one concession to one communal group, to set balance right, it was compelled to grant another group. (Agnes, Flavia, 2000, 95). The Adoption Bill was directly subjected to this political jugglery. Thus Muslim personal law was left untouched.

Modern India has provided a setting for the contest between legal pluralism and legal universalism.(Rodolph S.and Rudolph.R 2001:36) 'The Indian judiciary faced extreme complexities regarding the resolving matters regarding religious issues, as the law maintains a plural relationship with different religions the Indian law permits application of different bodies of family laws on religious lines; permits public laws, like those of religious trusts, to be differentiated according to the religion; or permits

² The codification provided minimum reformation at the cost of obliteration of pluralities of Hindu law and positively elements of lower caste Hindus and matrilineal families system of inheritance like Nairs of Kerala, (for detail read Ghosh :2007:90) where Nivedita Menon argues that the laws were merely codified and not reformed. The bill was dropped on the eve of first general elections. (Menon 1998:244)

protective and compensatory discrimination in favor of disadvantaged groups , and these may sometimes be determined in part by religion'(Galanter 1971:468). Thus 'Muslim women's legal status tends to be more guided by the personal/family law than secular law in comparison to women of other religious communities.' (Hussain 2007: 65)

Another instance where law makers failed to avoid shades of majoritarianism in the secular formation of laws was Special Marriage Act 1976. The Act leaned towards Hindu upper caste'. (Agnes Flavia, 2000, 97). It prohibited marriage between first cousins and close relatives, such tradition is quite prevalent in Muslim, Christian, Parsi, communities and other lower castes of Hindu religion. Later it was amended, in order to accommodate the upper caste south Indian Hindus. Secondly, the Act allowed the Hindu couple to be entitled to Hindu Succession Act instead of the Indian succession Act. By the provision the Hindu male will be entitled to coparcenaries. This was very unconditionally an anti woman law as the Hindu Succession Act did not allow the women to share the equally as that of men in ancestral property. It also becomes a deterrent for a Hindu male to marry a woman from Christian, Muslim and Parsi communities. Thus the Special Marriage Act definitely registered the non-secular elements in its formulation which shifted the democratic fulcrum towards majority and alienated the minority communities at a higher magnitude. The Shah Bano case will be discussed separately in later part of this section of the chapter.

The alienation of the minorities and the consequent weakening of the secular elements amongst them, the newly acquired militancy of parochial and sectarian tendencies, the growing intrusion of religion into politics, and the widening gulf that separated Hindus and Muslims lent credence to the view that 'the secularism of India is an aspiration, not yet as a reality.(Smith1967:10)³ The dilemma between uniform and plural legal system had resulted immense political and legal confusion and complexities. Another reason other than political procrastination of the state for the immense delay in the formulation uniform civil code was the growth of Hindu Right fundamentalism and corollary to it the escalated communalism.

Many historians believe that communalism in India was a result of colonialism. This phase of communalism in India is significant, as its consolidation was compounded

³ As cited in Mushirul Hasan (1988): Indian Muslims since Independence : In Search of Integration and Identity in Third World Quarterly ,VOL.10, NO. 2, pp 820 -842.

with growth of religious fundamentalism in India. Communal tensions in earlier periods have not necessarily been accompanied by fundamentalist movements. (Ibid1989:569). By this juncture there was an evident change in Congress politics, departure from Muslim appeasement and to please Hindus in order to cash the Hindu vote for the upcoming elections.

The benefits of green revolution were employed by the upper caste Hindus in 'temple building and other elaborate rituals in order to get away from polluting West'. (Mahajan Sucheta, 244). Such strings were easily picked by Hindu organizations like *Vishwa Hindu Parishad*, VHP), *Rashtriya Swayamsewak Sangh* (R.S.S) and *Bhartiya Janata Party* (BJP, Political wing). 'The emergency in particularly contributed to the phenomenon' for the rise of RSS. 'The seeds of Hindutva politics of the following decades were sown down during the emergency'(Ghosh2007:110).Hindu nationalism brings together fundamentalists, traditionalists anti-modernists and right wing conservatives who covet a modernization process radically different from the one begun by secular humanist such as Jawaharlal Nehru.(Bhargav 2003:11)These organizations are highly authoritative and male dominated. They also promote a specific, invented and homogenous identity. The RSSs '*shakhas*' (branches) have ideological and combat training programmes on daily basis. This appears harmless enough ,but what is really taught in the *shakhas* is a mode of conflictual , even violent engagement (of self with the other) (Ibid :13).The hatred and envy heaped over the years is such that the very presence or existence of the "other" is perceived as intolerable humiliation .The sentiments of a self-glorification and another of being in perpetual danger due to the presence of other rival religions like, Islam and Christianity, are harbored and are protected by these organizations. A network of schools, leisure centers, cultural organization, welfare societies, tribal slum level educational projects, are employed to perform the above described task. They of course, rule over states (Sarkar, 2002, 2874).among such organizations the discourse of politics must obey the tacit rhetoric rules of generality and vagueness: to encourage morality in society at large, to criticize selfishness in public life, to deplore moral decay and decisive tendencies(Hansen 2000:259).

The *Sangh Parivar* , an illegitimate child of western colonialism but as direct progeny of semiticizing Hindu reform movements under colonialism (Nandy 2001:336). The *Sangh Parivar* had bequeathed the political field developed by Savarkar. They

endorse the ideology conceived by Savarkar, of *Pitrabhoomi*, (father land, where one is born) and *Punyabhoomi* (when one's pilgrimages are located) should coincide to be a true Hindu. Thus those who do not come under this category, was not a true Hindu and will have extra territorial loyalties. Muslims and Christians shared this category. According to this ideology Muslims and Christian could not be true nationalist as they follow extra territorial loyalties by which their loyalty towards nation will be shared by that of holy land.

The *Sangh Parivar* organizations have made a sustained effort to shift the terrain for the definition of patriotism from the economy to religious communal identity (Deshpande 2004:72). This means that what steel plants and dams meant for Nehru- 'temple of modernity' for contemporary India temples held same importance. The other innate values of Hindu nationalists are very well informed by Rajeev Bhargav (2003:11) below

- An abiding and pervasive anti liberalism.
- A repugnance for the socialist left.
- Exclusivist variant of nationalism that aims to reinstate a strong disciplined and united Hindu nation.
- Relentless antipathy towards Muslims and to a less extent to the Christians .

This articulates the strong communal character evident in their policies and actions. This means that a win of Hindutva was not completed without the defeat of Muslims, the sentiments of the minority should be bruised. The perquisite three 'spatial strategies' of Hindutva focused on places, areas and routes. These two strategies have been unequivocally articulated in the *Ayodhya-Ramjanambhomi* (place). *Id-gaaf* Maidan in Hubli (area) and elaborate *Rathyatra* (route). These activities were conducted with fanatic rhetoric and supplemented with ciphered literature articulating immense communal sentiments which ripped apart the state and the communal schism. Such communal sentiments categorically shaped and redefine the positioning of Muslim community in the [non] secular India.

The use of secularism as an ideology of state power had engendered a new monster on the political landscape, a Hindu nationalism remotely linked to religion, which merely used it instrumentally to capture state power (Khilani 1997:181). Hindutva is basically

a political ideology and has nothing to do with spiritual and moral or philosophical aspects of Hindu religion (Engineer2004:85).The Muslim community responded by following the strict models of identity representation and by reflecting organizing capabilities. All this pushed women of both the communities behind the domestic orbits and compelled them to stick to the traditional roles. This made gender anchored to the 'ebb of public and private circles'. Here it is essential to register that women themselves consented to follow the traditional rules without considering its affect on gender articulation. Thus women remained willing slaves and acted as an agency of men to accomplish their communal objectives. Fundamentalism not only rationalizes the sexual oppression of women, but mobilizes them in support of their own oppression. (Kumar, Radha.1994:89)Hence gender failed to be as a sole determinant of the deliverance of rights

The Case of Shah Bano and its Aftermath:

Under such communal and political predicaments, a Supreme Court judgment envisaged to bolster women rights and accommodate Nehru's secularism and modernity. Due to above described Hindu nationalism, the judgment was considered as a blow to the Indian secularism by the Muslim minorities. This was the verdict of Shah Bano case on April 23, 1985, a five member constitutional bench of Supreme Court ruled that a seventy five year old woman, Shah Bano, was entitled to maintenance by the husband under section 125, Criminal Procedure Code (Kumar Radha1994: 275). The verdict emphasized on its three prerequisite dimensions and perspectives.

- a) Right of Shah Bano to be maintained by her husband both under section 125 CrPC and Muslim Personal.
- b) All the women will be subjected to section 125 CrPC 'transcending' all the religions communities.
- c) The need of the formulation of uniform civil code.

The verdict was hailed by the feminists, liberals, social reformers and for taking measures which may curtail the chances of destitution⁴.

⁴ Can a Muslim case be dealt under section 125 CrPC is one of the major query, the section provides leverage against destitution which a divorced woman can be subjected too.

Even earlier many similar cases were legislated under section 125 CrPC . By the supreme Court, like Bai Tahira Vs Ali Hussain Fiissali, in 1979 and Fuzlunbi Vs Khader Vali, then why Shah Bano case instigated such communal anathema and protest. One of the reasons was the way earlier the Supreme Court judgments were drafted. These judgments used words like ‘masculine injustice’ and ‘women distress’ and no where the word ‘Muslim’ and ‘Shariat’ is used. Whereas the Shah Bano verdict consisted of this statement undoubtedly, ‘the Muslim husband enjoys the privilege of being able to discard his wife whenever he chooses to do so.’(Samiuddin, and Khannam., 2002,213) This unintended mistake added fuel to the fire. Almost the whole Muslim stood united and criticized the judgment as absolute intrusion and encroachment by the Hindu majority in the implementation of their personal laws. It was a considered and assault on the religious freedom, the fundamentalist element in the Muslim community came out with slogans like “Shariat Bacho and Islam ‘Bachao’ (i.e. ‘Save Islam’ and ‘Save Shariat’).

The considerably popular then M.P. and granddaughter of late Maula Abdul Kalam Azad, this Najma Heptullah commented on the verdict that the husband’s responsibility ends the moment the contract is terminated by divorce after the payment of Mahr (Ibid, 219). The opposition of the verdict was epitomized in the Bill forward in the parliament by G.M. Bantawala, by which section 125 will not be applicable on Muslim community.

The positioning of the Bill led to communal backlash at various places in India including Delhi, Shrinagar etc. The Hindu nationalists were on the other hand supported the verdict and formulation of uniform civil code. By October 1985, *Ramjanambhoomi* issue was brought into national politics. The Muslims started feeling doubly stabbed. The happening of 1984 Hindu-Sikh riots the Congress could not dare to initiate any anti minority measure. Congress cashed this political truth to improve its secular credentials which were depleted and questioned after Hindu Sikh riots. Under such volatile circumstances, the state fell into the hands of communalism and passed the Bill on 6th May 1986.

Despite claiming its modern and egalitarian orientation the act proved inadequate to address the grievances of Muslim women. The Act was retrogressive in nature and in certainly acted as an impediment towards Muslim women emancipation. The major drawings of the act are

- (i) The maintenance of a Muslim woman after the period of *iddat* will not be liable on the husband but the parents and her relatives.
- (ii) In case the parental relatives are not able to provide the maintenance of a divorced Muslim woman because of economic constraints, she can approach the Muslim Waqf Board.

The Act confirms with *Talaq-ul-biddat*⁵.

The act made the Indian law of section 125 CrPC , which curtailed the chances of destitution of the women and consequently provided the maintenance amount more than three months period of *iddat* (in case of a divorced Muslim woman), exclusive of Muslim women India. This proved to be tremendously discriminatory to the Muslim women. The act became an easy option for of divorce for the Muslim men, as it enabled them to ‘avoid the financial responsibility for a divorced wife’(Vatuk 2001;239).

The political consequences of the Act was firstly it kept the split wide open between Hindus and Muslim, Secondly Congress earned the label of being pseudo-secular and thirdly the gender articulation and identity articulation were no longer initially exclusive terrains. The overlapping and intervening nature of predominant aspect of identity (religion), vitiated the articulation of rights of a submissive aspect of identity (gender). Thus gender based rights were overshadowed in the contestation between the aspects of identity. Henceforth Muslim women were ‘recognized’ more as Muslim than being women.

The judgment and the whole debate ignited the controversy of uniform civil code. The controversy engendered higher levels of communalism which deepened the cleavages between Hindus as ‘nationalist’ and Muslim as ‘anti-nationals’. There was a creation of ‘self’ i.e. Hindu and Muslim as the ‘other’. Those who opposed the bill and supported the demand for a uniform civil code were projected as modern, secular and rational, while those in support of the bill and opposing the demand for a uniform civil code as fundamentalist, orthodox, male chauvinist, communal and obscurantist, (Agnes Flavia, 2000,103) . Any realm in personal law ‘took political colour in which perceptions of threats to minority autonomy took precedence over women’s rights. This

⁵ Talaq ul biddat is the only form of divorce in which idda period follows talaq . this form of talaq is forbidden by Prophet.for more details see Sammiuddin and Khannam (2002)

approached a disastrous psychological effect on internal democracy among Muslims.’ (Hussain 2007: 65)

‘Though’ the ‘Muslim leaders welcomed the Bill’, and expressed surprise at the speed with which it was brought in. A member of the All India Muslim Personal Law Board remarked ‘candidly’, that its ‘timing indicates that is not unconnected to the opening of the temple doors’ which they ‘suspect was a decision’. The Muslim leaders ‘remained silent on Babri Masjid’ because they do not want to jeopardize the Muslim Women Bill. Thus ‘a policy of appeasement of both communities being pursued by the government for electoral gains is a vicious cycle which will become difficult to break.’ (Noorani 2003: 222-224). Thus to minority rights came to be identified as ‘communalism’, while ‘secularism’ came to be defined in terms of majoritarian democracy. (Jayal 1998: 161), it was political redefinition endowed, by the response engendered from the Shah Bano case judgment and the formulation of Muslim Women Protection Act.

BANGLADESH

Bangladesh is a small country which has been subjected to thrice partition (1905, 1947 and 1971) and its negative fallouts. Bangladesh inception was secular but could not sustain it after 1988. The consistent rise in Islamic fundamentalism in Bangladesh has bypassed the limited fruits of modernity and development to the Hindu minorities especially. Bangladesh is a small, over populated, multi religious and extremely poor country. Its land area is about 144,000 sq.km. and a population of 141+ million(2004) with population density of 950(2004), at a population growth rate of 1.3%(2004). Its GDP growth rate of 5.8% (FY 2005) and a GDP per capita of 445 US\$ (FY2005). The religious stratification is Muslims 86.6% , Hindus 12.1%, Budhists 0.6%, Christians 0.4% and Others 0.3%.. This was brief introduction of Bangladesh.

In order to analyze the contemporary policies and sociological circumstances in Bangladesh of Hindu women it becomes essential to locate the historical developments as it was earlier a part of India earlier.

The Indian nationalism reflected the dichotomy prevalent in it, as the nationalist believed in superiority of East in its spiritualism and of west in its materialism. The material/spiritual dichotomy, to which the terms world and home corresponded, had

acquired, as we have noted before, a very special significance in the nationalist mind. The world was where the European power had challenged the non-European peoples and, by virtue of its superior material culture, had subjugated them. But, the nationalists asserted, it had failed to colonize the inner, essential, identity of the East which lay in its distinctive, and superior, spiritual culture(Chaterjee1989:624). This dichotomy later developed into home and world, material and spiritual and most interestingly man and woman. The dichotomy acted as retrogressive step as this development deprived the women of their limited autonomy provided by the pluralities and non rigidity of the Hindu law. The new colonial modernity acted against the women as it pushed back the gender issues to ebbs of the political and social agenda. 'In fact, the social order connecting the home and the world in which nationalists placed the new woman was contrasted not only with that of modern Western society; it was explicitly distinguished from the patriarchy of indigenous tradition, the same tradition that had been put on the dock by colonial interrogators. Sure enough, nationalism adopted several elements from tradition as marks of its native cultural identity, but this was now a "classicized" tradition-reformed, reconstructed, fortified against charges of barbarism and irrationality'(Ibid :627)

In the 19 century most of Hindu nationalist opposed to the Age of consent Bill on the ground that British had no right to interfere in the domestic and personal natures of the natives, Whereas, the Bill was a limited measure to avoid the increasing number of marital deaths. The issue of marital deaths got considerable attention after the 'Phulmonee case'. The debate never engaged with the point of consideration that whether a women can enjoy right to life on the basis of selfhood. (Sarkar, 2001:226-35). The Age of Consent Bill for the Indians remained anchored to the contention of imposition of foreign culture on the natives. Due to colonial encroachments the Hindu men have lost their political sovereignty and were not capable of any kind of endurance towards the cultures colonialism. The Hindu community followed higher degree of unity due the presence of an alien, dominant and hegemonic community. This engendered the sentiments by which Hindus started following a strict aspect of their identity and women were made to follow in a strict. Consequently Hindu women was perceived as pure and an entity of cultural and religious legitimacy. Under this context (interference of in personal laws) nationalist struggle of India attained momentum and the idea of Bharat Mata' was conceived. This process made the

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Hindu women (esp. in Bengal) to follow traditional roles and be denied to the contours of modernity and liberty.

THE DISCRIMINATORY LAWS

The precedence of communal riots during the partition of Indian subcontinent led to the hardening of communal hatred and distrust among the Hindu and Muslims. The persistence and continuity of communal hostility between the two communities i.e. Hindus and Muslim was very much reflected in the laws enacted by Pakistan. Almost the whole period when Bangladesh was politically under Pakistan, the Hindus suffered greatly due to this discriminatory approach. The creation of Elective Body disqualification order (EBDO) was the confirmation of the above. This body was instrumentalized to disqualify two top minority leaders (Mishra and Singh 2002:111). The continuity of communal discrimination deepened with democratic political crises in Pakistan, The Hindu minority were the worst sufferer of being Hindu and Bangla speaking (non-Urdu speaking). Such political developments made gender questions on the periphery. There some reform during Ayub's (1961) period were incorporated Muslim personal law but the policy offered nothing to the Hindus. Here again Hindus and especially Hindu women suffered at this hands off political favoritism and apathy.

The first half 1960s witnessed an absolute ebb in communal tolerance in the region. There many incidents communal riots in the subcontinent which became the cause and effect of each other. 'Since the Jabalpur riots were followed by a chain of riots in Ranchi, Jamshedpur, Aligarh and other towns, which took place in wake of anti-Hindu riots in East Pakistan and as all these riots were soon to be followed by the outbreak of the India Pakistan war of 1965, Muslim anxiety about their future in India heightened. The death of Nehru in the meantime (1964) was an additional cause of anxiety' (Ghosh 2007: 92). The climax of the above expressed communal stimuli and responses came in the form of Indo-Pak war of 1965. The war was not only the extension of communal rivalry and hatred but also of the cold war politics. By now India and Pakistan both were completely polarized to each other. The Act of East Pakistan Enemy Property Administration and Disposal order of 1966, was a byproduct of the war. The Enemy Property (Custody and Registration) Order of 1965 was based on three basic tenets

- a) Being at the state of war, India was declared enemy country by Pakistan

- b) All interests of the enemy the nationals of India, those residing in the territory occupied/ captured/ controlled by India, in the lands, buildings, firms and property situated in Pakistan would be taken over by the Custodian of Enemy Property Control and Management.
- c) The benefits of such lands, property and trade should not go to the enemy in the interest of security of Pakistan.’ (Bandopadhyay 2004:139)

Thus under such provisions the property of Hindu minorities were annexed under the pretext of security of the nation. This law was formulated during Emergency situations’ but not the law persisted even after the war was ended. The social, political and economic discrimination became systemic in East Pakistan.

The East Bengal was major earner of foreign exchange through world class jute production but income invested in East Bengal was negligible. The economic colonialization and expropriation of wealth of East Pakistan by the West Pakistan ruling elite began to export earning of which were used to finance the development of Karachi, the major commercial city of Pakistan (Joshi2003:104). ‘Pakistan set an example of a neo-colonist country, where one part of the previous colonial country, after achieving independence, turned the other part into a new colony for utilizing its export earnings and using it as an market for selling the finished products. This phenomenon aroused nationalism against neo-colonialism’. (Ahmad 2004: 305) The military regime refused to agree on the six point programme of Mujib. On 25 March 1971 Pakistani army of President Yahya Khan Ordered the initiation of a campaign of horror and violence. It was unprecedented in history that a genocide of co-nationalists under state’s instruction. The Pakistani army created a havoc which resulted in exodus of Hindu community crossing over to India. (Mishra and Singh 2002: 112) the Pakistani army majorly targeted Hindus in the religion. Possibly three million people, mostly Hindus were died; and ten million people Hindus and Muslims fled to India. (Ozman Neil 2002). The conception of Bangladesh based on democratic and secular values which were acknowledged by Hindu community with a relief. In the initial stage after the 1971 war, Mujib ur Rahman projected himself as the champion of the new nations Bengali identity. (Ghosh 1993 : 700). The Hindus amused themselves by thinking that now they were not a minority as basic determinant of identity was language and not the religion. The dream was short lived.

By 1973 Mujib started initiated those steps communally inclined. He declared general amnesty for all those being held as collaborators with the Pakistanis in the 1971 war. (Ibid). The Islamic Academy was revived and upgraded to foundation by March 1975.

The continuation of Enemy Property Act recorded the decline of secular and democratic fervour and reflected the breach between the words and action of Awami League party. The latent discrimination of the Hindus became explicit and uninhibited with the formation of the Vested and Non Resident Property Administrative Act in 1974. Only name was changed rest all the motive and aim were same. The discriminatory Act stripped Hindus of the land properties and territorial assets. Members of Hindu community have lost 26 lakhs acres of land from 1965-2006. People involved with BNP politics grabbed 17,49,500 acres, those involved with Awami League grabbed 3,61,400 acres, people involved with Jamaat-e-Islami grabbed 2,26,200 acres. (Trivedi, 2008 Asian Tribune Dhaka) The act grossly denied freedom equality and liberty to Hindus and Institutionalized of systemic socio-cultural, economic and political deprivation in Bangladesh.

The assassination of Mujib was followed by gross erosion in democratic and secular principles in the polity of Bangladesh. The fall of democracy shivered the hopes of Hindu in the impartial functioning of the state. It led to the political use of Islam, which was coordinated with escalation of religious fundamentalism. The nexus gained consolidation with crystallization of 8th amendment of Bangladesh's constitution by which secular Bangladesh was replaced by the words 'Absolute trust and faith in the Almighty Allah' (Ghosh 1993 and Singh & Mishra 2000). The scrapping of secular credentials from the constitution not only betrayed the Hindus but also flawed the ideological basis of the inception of Bangladesh. This stride towards Islamic fundamentalism bracketed the Hindus under system of extreme suppression in all aspects of life like education, employment and political representation. Thus the citizenship rights of Hindus were left subdued.

Under such precarious and non democratic context, one can assume the plight of women's right of the Hindu minority. The Muslim personal law has received some limited regulations regarding polygamy and unilateral divorce. But the Hindu personal laws are kept in touched till now. The Hindu women are subjected to follow the old traditional norms of living.

Hindu women of Bangladesh are major sufferers as they are discriminated twice one on the basis of religious and second on the basis of gender. These women lack the provision of 'divorce'. They still follow age old scriptures. Very often these women are subjected to mental and physical torture for dowry by their husbands, but cannot divorce them as there is no provision. The state political non-commitment towards gender equality has made the life of Hindu women exacerbated. The law has been proved extremely biased. There have been no efforts taken to alleviate the women's position. There has been no legal detailed provisions regarding divorce marriage, adoption, maintenance etc. corollary there is no equivalent of the special marriage act of India in Bangladesh as such, both partners retaining their respective faiths, which may be different is not possible. (Ghosh 2007, 191).

The Hindu women in Bangladesh are the worst hit as they do not have bare minimum legal protection with them. The nature of the polity has hindered the state & society to act in a manner pro-actively towards the emancipation of women. The double discrimination of Hindu women in Bangladesh, one on the basis of religious and the other on gender, have made them worst hit. The excessive control of Islamic fundamentalism has crystallized Hindu identity as predominant as part of the identity. This has led to higher attachments of the Hindu aspect of the identity. Thus the whole political and social structures do not provide any space for the gender articulation of these women.

CHAPTER 3

THE STATE AND THE CLASH OF LOYALTIES

The State acts as sole arbiter of identity. It recognizes one major determinant of the many aspects of the identity⁶. This recognition acts a basic foundation of the construction of identity. This specific form of identity accepted by the state becomes the main aspect of identity and a indispensable basis on which rights will be formulated and delivered. Under the above assumption the role of state in upholding the principles of equality while formulating the rights of minority women is critical. The chapter will discuss the same and the implications , of the polemic rise of religious fundamentalism in the state. The chapter strives two illustrate the above assumption and its relation with religious revivalism, in India of Muslim women and in Bangladesh regarding, Hindu women

THE INDIAN CASE

First we will discuss the case Indian Muslim women. The role of Indian state is extremely critical in the understanding of the gender articulation of Muslim. Before taking of the role of the state in detail it becomes necessary to look into the nature of the new political social and economic contours which had constantly redefined the role of the state and nature of the polity. The three major political developments of 90s were

- (e) Market: the inauguration of economic liberal reforms and structural adjustment programme in the Indian economy.
- (f) Mandal: the reemphasis of affirmative policies regarding upliftment of the backward classes.
- (g) Mandir: the rise of Hindutva forces accompanied with communal clashes on the issue of Babri Masjid and Ramjanam Bhummi.

The Market and the Mandal developments will be touched briefly while that of Mandir will be dealt later in detail.

⁶ For details sea Amartya Sen (2001) Identity and Violence: The Illusion of destiny new delhi penguin

MARKET

The initiation of economic reforms by the Congress government of Narsimbha Rao in 1991 was undoubtedly a response to an acute fiscal crisis and a crisis of external debt facing the state (Jayal, 2001:135). In 1990-91, total public debt accumulated to 76 percent of GDP. Interest payments reached as 4 percent of GDP. And 20 percent of the total expenditures of the Central government (Frankel 2006 : 590) It led to the inauguration of new economic era of globalization, liberalization and privatization. It entailed cut backs on social sector expenditure without effecting a substantial change in the regime of bureaucratic controls. This was also accompanied by cutting of tariff rates and disinvestment. Only those producers were valued who produced for the global market and bring in foreign exchange. Thus, it is not a producer's ability to satisfy the need of nation, but rather his or her ability to respond to the needs of an abstract global market. (Deshpande 2003:73) . The policy of liberalization robbed Indian government of its autonomy and sovereignty over to allocate the resources at different social sectors. 'It was wrong to say that internationalization of capital makes any autonomy in the economic policy making impossible but acts as constraint within which it has to chart out its course .' (Patanaik1998:66)

The policy of economic reforms did not concern with the priorities of the people such as employment and poverty, agriculture and rural sector, or physical and social infrastructure (Nayyar 2001: 388) In short the policy of globalization did not usher the desired standard results, instead it led to uneven development which marginalized and perpetuated the poverty of larger section of the Indian population. The state could not address to the demands of sustained development and equitable redistribution of benefits in the society. The late 90s experienced huge gaps in urban and rural divide. The policy left the Indians discontented and alienated, as at one hand the India was experiencing the highest level of consumerism and on the other hand Bharat was still struggling for two meals per day. The crux of new ideology is breathtaking simple: replacement of the state by the market. The capacity to combat poverty and destitution- and slow death- declines as these in fact become integral parts of the advance of the system, of science, of modern civilization (Kothari 2002:79)⁷

⁷ For details look Ghanshyam Shah (2002) (eds) Social Movements And The State, Sage publications . New Delhi.

'Globalization and marginalization are two counter images of the same phenomenon, marginalization being the necessary condition of globalization provides an existential framework in which millions are marginalized , felt unwanted and considered dispensable.'(Kothari 1995 ;1599)

MANDAL

Mandal Commission provided positive discrimination to the socially, historically and systemically suppressed sections of the society scheduled castes, scheduled tribe and other backward classes. The legislation provided positive reservation to backward castes in the areas of employment and education.) A mere right to vote and to equality of opportunity, it was widely recognized, insufficient to ensure meaningful, effective social and political equality (Bhargav 2000:36). This step definitely converged the Indian polity a closer to a caste sensitive and socially egalitarian society. Once a caste organisation (in this instance caste federation) acquires a position of strength through power and organizational cohesion, it can not only devise strategies with reference to political parties, but also bargain with a more powerful caste group which has been its age old rival and of which it had for a long time felt apprehensive (Kothari and Maru 1995:34) The political consciousness among Dalit erected to an unprecedented level by coming in close contact of competitive electoral politics. No political party functioning in parliamentary politics can afford to ignore their numerical strength (Shah 2001:221) This political development unleashed new political forces which started acting uninhibitedly in paradigm of the electoral democracy of India. The indirect effects of the constitutional provisions were probably more for reaching by designating them a scheduled caste, instituting a new political category; these provisions encouraged a political consolidation. (Kaviraj 2000: 115) Through the electoral politics these castes were politicized as new category of votes this led to culmination of caste identity politics, as many regional parties were formed on the basis of caste ideology. Democratic politics, by disseminating the idea of equality, has disturbed old placidity and produced a transforming clash of cultures (Khilnani 2000: 114). The Mandal Report and its fallout suggests that the community and caste idioms on which majoritarian politics is based increasingly appear to have exhausted their potential, and that their deployment in old fashion might prove politically impractical and inexpedient in the coming decades (Upadhyay 1992:820).

It was at this historical period when the Indian government was following an economic policy independent of the states politics. The politics of reservation was inclusive in nature where as economic liberalization tended to marginalize people at large. At present, however, it would seem that these forces are moving the economy and the polity, to the first time in independent India in opposite directions, without concerted attempt at reconciliation or a mediation. (Nayyar 2001:393)

Cotemporary politics is characterized by a preoccupation with community identities, religious traditions, cultural practices and chauvinist ideologies and movements that divide people into Hindus and Muslims, natural inhabitants and foreigners, infiltrators and refugees and so on.(Hasan1994:VII)The period of 90s witnessed the galvanization of different aspects of identity like caste ,class, region, sect and up to a certain extent gender. The state's policy has been drifted from Nehruvian universalism and moved towards identity politics. In this period the role of state in engendering minority women rights becomes crucial. It will be explain how state and religious organization inter into symbioses and reinforces communalism and patriarchal structure in the society. It highlights the mutual complementary nature of the government and religion identity and the effect of this mutualism on legal reform. (ibid : 59) During 90s the state machinery was explicitly used in provoking riots which was unprecedented in Indian democratic history.

THE MANDIR ISSUE

The *Mandir* movement was spear headed by the forces newly organized called as Hindutva forces. The political face of Hindu nationalist was BJP. In 1985 the issue of *Ram Janm Bhumi* and Babri Masjid were revised. And in innocuous local issue assumed proportions of national importance in which Hindu chauvinistic groups like the BJP, the BHP, the RSS and regional groups like Shiv Sena of Maharashtra emerged at centre stage. (Ghosh 2000: 93). In the wake of profolic rise of the issue the Muslim constituted the Babri Masjid Action Committee.

The Ramjanm Bhomi issue campaign was accompanied by general elections. Congress was facing charges of bofors scandal and was recently out of two complex problems (a) Hindu Sikh riots (b) Muslim Women Protection Law. "Together these two decision that is the introduction of Muslim Women's Bill and reopening Ayodhya

were part of a grand Congress strategy of using religious issues and sentiments to regain its hold over Hindu Muslim votes (Hasan Z 1994:67).

In the elections the BJP made a respectable increase in the votes. It made significant gains in Uttar Pradesh, once Congress stronghold, and Himachal Pradesh, Rajasthan and Madhya Pradesh. (Hasan,M 2001:300-301) In 1989 it won 85 seats with 11.5 percent of votes, unprecedented in its own history, (Ghosh2000:93-94) as in the last elections it managed only 7.5 percents of votes.

Advani's Rathayatra was also proceeding towards Ayodhya from Somnath, this procession whipped up the communal fault lines across the country. 'One of the political measures of the *yatra* was to overshadow the issue of Mandal Commission. Advani admitted as much when he declared his march to Ayodhya had 'taken away the cynicism that has been fostered by the Mandal Commission. before I started the *rath yatra* I knew I was right, now I am totally convinced' (Upadhyay1992:823). They have pledged themselves to reclaim thousands of sites where Muslims allegedly built mosques in past centuries over the ruins of desecrated Hindu temples (Bayly 1993:12). Advani was arrested before reaching UP but the fanatic *yatra* continued moving towards Ayodhya which was finally ceased by the police firing. It was to ensure that 'the ensuing elections would not be fought on the social economic issues raised by the Mandal Commission Report, but would be instead a national referendum on the question of Lord Rama's birthplace (Upadhyay1992:823).' The BJP withdrew its support from the government and the country had to be ready for another election. 'In the 1991 elections it also gained power in the most important of the country's provincial assemblies. These successes have been attributed largely to the uncertainties of India's newly prosperous entrepreneurs, substantial cash crop farmers, and urban professional people' (Bayly1993:14). It registered BJP's increase in vote up to 20% of the vote. (Ghosh Ibid 95) and registered 120 seats, making it the largest opposition party in the Lok Sabha. The BJP also swept state assembly election in Uttar Pradesh and won over 40 percent of the vote in strongholds of Madhya Pradesh and Himachal Pradesh (Frankel 2006: 712). This was an electoral response from the mass to the Ayodhya campaign accompanied by Hindutva ideology

State (Seats)	Pregious Assembly Election, 1990-1		Assembly Election. 1993			Constituencies where contested Both Elections 1990 -1 1993			
	Seats Won	Vote %	Seats won	Vote %	Total seats	Seats won	Vote %	Seats won	Vote %
Himachal Pradesh (68)	46	42.3	8	35.6	51	45	55.6	5	37.3
Rajasthan (200)	85	26.4	95	38.4	131	85	41.7	74	42.4
Madhya Pradesh (320)	218	38.4	174	38.7	265	214	45.9	100	39.8
Uttar Paradesh (425)	221	31.6	177	33.2	391	209	31.9	157	33.1
Delhi		40.2*	49	43.5					

*Lok Sabha election; Delhi did not have an assembly then.

Source: Data Unit, Centre for the Study of Developing Societies, Delhi. Calculated from result sheets released by chief Election officers of the respective states by Yogendra yadv. Electoral Prospects. Seminar, No. 417, May 1994, P.61. As cited in Ghosh (00) BJP and the evolution of Hindu Nationalism New Delhi Manohar

On 30 November 1992 Advani declared that he would to finish the last leap of the *rath yatra* which was left incomplete due to his arrest. The BJP president Murli Manohar Joshi also conducted a *yatra* from Mathura to Ayodhya. On December 6th 1992, Advani and Joshi were present on Ayodhya. With senior RSS and VHP leaders including the fiery woman. Uma Bharti and Sadhavi Rithambara when the Kar sevak broke through a police cordon and began the work of dismantling the mosque (Ibid : 713) By the orders of the BJP state government the police and other security arrangements remained dead till the demolition was completed within hours by using axes and shovels .The Babri Majid became the part of history and was dashed to the ground. The communal event became the historic rupture of Indian state's divorce or

mutual exclusiveness with religion. The demolition of the mosque plunged India into the worst out break of communal violence since partition, with 1,700 dead and 5,500 injured. There were serious doubts about the capacity of the political system to cope with the crises of confidence (Thakur. 1993: 645). Here the state machinery was overtly used to accomplish extreme violent communal goals which ripped Indian secularism from head to toe. The event left scars on the country's fragile polity and society. The Babri Masjid- Ram Janm Bhumi affair struck at the roots of the democratic, secular consensus envisaged by the founding fathers of the constitution. (Hasan, M.2001: 299).

BJP initial response to the destruction of Mosque was apologetic. (Basu 1997: 171) Uttar Pradesh was put under prudential rule and immense security. The act of yatra and the demolition provoked communal riots across the country specially the northern India the event reflected fickle attitude of center and state governments and the inability of state to protect disputed property, maintain communal harmony and initiate pro – active measures in order to avert unfortunate incident like riots. The sobering fact is that it was accomplished by mob rule of the worst sort, defiance of constitutional authority with the passive connivance of the police and the state government. (Thakur 1993: 645) The demolition of Babari Masjid registered confirmation of symbiotic relationship between religious fundamentalism and the state. In the ebb and flow of Hindu – Muslim relations, the vandalism at Ayodhya represented a regressive current, in which brazen intimidation was seen to triumph in full view of the state machinery. (Hasan M 2001 : 306) In an opinion poll conducted a fortnight after the demolition of the mosque 30.2% of the respondents blamed the central government for the demolition, 29.8% blamed the U.P. State government and 17.9% blamed both (India today : 1993:18) whereas rebuilding of mosque supported by 35.7%. Indians while Hindus disapproved of the decision by a margin of 59:30 (Ibid:20, as cited in Thakur (1993) Mr. Bal Thakre the leader of *Shivsena*, had explained that the mobs which 'carried out riots were under his control, that his party didn't mind extorting protecting many form civilian for political purpose.' (Sen 1993: 11) Similarly the record of Bombay police in preventing the riots is fairly dismal and the extent of communal fascist thought among the police has been exposed by the Indian press. (Ibid: 11).

The act of communal horror brought Muslims mobilized and united. The scenes of the mosque being demolished were telecasted often. The post partition generation had never witnessed this before. In response to the heightened Hindu communalism, there were several Muslim Leagues mushrooming in Aligarh, Meerut and Muzaffarnagar. (Ibid:308) Many mobile courts sprung up in the rural areas in which the cases were resolved by following Islamic Laws. One can easily identify with the feeling of insecurity prevalent among minorities, specially the Muslims. The 'leaders of Muslim organizations made little effort to enlist support of non Muslim in order to make it an issue of rule of law. They treated it as a Muslim issue.' The high activity level of All India Muslim Personal Law Board left ' little prospect of it consenting to the reform of Muslim personal law either, not even in order to make it accord with the Shariat.' (Noorani 1998 :137-138) **Muslim/ Hindu Disparities in Four States in India, 1990- 1993**

State	Literacy		Educ. to matric.		Edu. to Grad.		Prof. Qualification		Drop-out rate, schools		Labour force participation rate	
	M	H	M	H	M	H	M	H	M	H	M	H
National												
Capital												
<i>Sangham</i>	47.6	59.3	15.3	20.9	1.4	4.1	0.1 ^a	0.6 ^a	na	na	29.0	30.6
<i>Vihar</i>												
<i>Hauz Rani</i>	53.5	64.1	19.5	24.0	5.3	8.7	1.0 ^c	1.9 ^a	na	na	25.8	27.2
<i>Okhala</i>	66.0	62.1	14.9	16.2	10.4	7.9	6.9 ^a	4.1 ^a	19.4 ^b	30.9 ^b	26.2	29.9
Bihar												
<i>Kishanganj</i>	31.5	55.2	4.1 ^c	10.7 ^c	1.6	5.3	0.4	0.5	34.9	32.3	26.1	28.3
Uttar Pradesh												
<i>(urban)</i>												
<i>Sambal</i>	29.0	40.0	18.3	19.1	2.2	10.7	1.6	3.0	34.9 ^c	28.1 ^e	24.5	26.7
<i>Firozabad</i>	22.5	14.8	13.9	18.5	2.0	11.1	0.7	3.7	29.2 ^c	42.9 ^c	28.3	29.1

<i>Ghaziapur</i>	70.9	67.9	21.3	18.5	8.5	9.7	2.5	4.0	13.3 ^c	12.1 ^c	22.6	22.1
<i>Zamania</i>	54.2	51.3	16.3	19.3	2.7	1.4	1.1	1.4	39.1 ^c	45.2 ^c	21.1	23.7
Rajsthan												
<i>Didwana</i>	32.2	53.7	10.6 ^d	17.4 ^d	2.2	6.3	0.4	0.4	38.0	30.0	22.2	25.2

Source: Aijazuddin, Vols. I–IV, 1993; 1994; 1995; 1996.

M: Muslim; H: Hindu

Source: Derived from Table 3B (Political risk ratings by component). International Country Risk Guide, August 1998 ©. East Cyracuse, New York: PRS Group.

Source: Haq, Khadija (ed.), *The South Asian Challenge*, Oxford University Publication.

Rajini Kothari very sensitively describes the decade of 90s as ‘unprecedented convergence on the Right consisted of a) the liberalization- globalization nexus producing social disempowerment of the marginalized and the excluded strata .b)the new national chauvinism in the name of the religion having the same impact on these strata. c) the erosion of faith in the political process and its loss of credibility following a rapidly spreading culture of corruption in high places .d) the response of the state to the assertion of civil and political rights of these strata through the state repression.(Kothari 1998:30)

The banning of Salman Rushdie’s *Satanic Verses* represents ‘ the manifestation of a fear psychosis emanating from the danger of losing ones communal identity’ (Ghosh 2004 :188) The Indian government supported the cause . the baning of any kind of expression of art is an extreme form of state and cultural hegemony .*Satanic Verses* may have offended Muslims but none was there stopped from practicing faith . The Rushdie affair and the Ayodhya controversy demonstrated the difficulty of basing public rules in a plural religious society on religion.(Thakur 1993:652) incident which left deepened the anomalies of Indian secularism was of the Gujarat riots of 2002. The burning of 58 Ram sevaks, 38 women and children while returning back in the Faizabad-Ahmadabad Sabarmati express train from Ayodhya near Godhara, sparked

off the riots.⁸ Communal violence broke out once the charred bodies of the passengers, sent on a special train to Ahambad .(Frankel 2006:739)By now BJP had [modi]fied its Gujarat state government and Keshubhai Patel was replaced.

On 27th February 2002 VHP gave a call for the Gujarat Bandh in reponse to the Godhara killings, this was maneuvered for initiation the communal genocide.⁹The Muslim residential areas ,shops ,business establishments, Islamic study centers , mosques and community institutions were specially targeted. Over night roads were laid, and Hindu Temples were built where Muslim homes used to be (Sarkar 2002:2873) It started in Ahhmadabad, and spreaded over Rajkot, Vadodra and many cities and towns and spilled over rural areas. The official figures of those murdered were put at close to 1,000(unofficial up to 2,000) (Frankel 2006:740) It was estimated that across Gujarat, 1,100 Muslim hotels, homes of 100,000 families, 15000 business establishments, 3,000 hand carts and over 3,000 cars, truck, taxis and auto rickshaws were badly damaged or completely destroyed in an attempt to economically cripple the community. (Ibid:741)

The Gujaral riots became the ground. of extreme torture and violent against Muslim women. Women were Killed at very large members. At the mass grave that was dug on March 6 to provide burial to 96 bodies from Nawda Patiya 46 women were buried. (Sarkar 2002: 2875) A woman put finding report summed up the sexual oppression as rape, gang rape, mass rape, stripping, insertion of objects into their body, molestation, and most of rape victims were burnt alive.

Tanika Sarkar very gravely illustrates the nature of violence subjected against the women.

- (a) The woman's body was a site of almost inexhaustible violence, with definitely plural and innovative forms of torture.
- (b) Their sexual and reproductive organs were attacked with a special savagery.
- (c) Children born and unborn, shared the attacks and were, killed before their eyes.

⁸ Godhara incident as provocation for the initiation of riots is argued by the Hindutva forces. Many believe that even the Godhara incident was also manufactured by the Hind nationalists. A report cited that fire broke up in the compartment without any external input and was started accidentally.

⁹ The word genocide is used to expres greiveness of the matter as in riots generally both the communities suffer atrocities whereas in Gujarat only one section of the community was victimized.

It was absolutely shocking to explore the police reaction over the gross gender based violence. The response was that the mobs have no time to raping, and that 'Hindus more over do not rape'.

This seriously explains the symbiotic relationship between the communal forces and the state. The state and its organs surrender the ideology enshrined in secular and egalitarian values and perpetuates the patriarchal discrimination against the women. The State government of Gujarat acts closely as a another limb of Hindutva forces. The Gujarat riots registered unprecedented convergence of, nature and objectives of the state and communal organisations.

The Gujarat riots reflected the strength of RSS and its determination in the ideology. It defined the precision and detail work gone in architect ring the riots. Those government servants who tried to perform their duties responsibly were transferred on a short notice and replaced by communal pawns like Mr. K. G. Shah, who headed the judicial commission set to enquire into Gujarat riots, was well known for his Hindutva leaning. The Gujarat riots were the explicit form of state induced riots. Whereas BJP at the central and state level governments had tried at enough occasions to reflex its Hindutva muscles. BJP was in favor of legislation against cow- slaughter, compulsory singing of Bande Mataram in public schools, and the formation of TADA (Terrorist and Disruptive Activity Prevention Act.) All these tendencies for sure were against the Muslim interest. The success of the NDA in forming a government in 1999 was seen by many as the harbinger of a systemic onslaught on the status and dignity of India's minority. (Mitrans 2005: 77) Even congress was no better, it also flamed the communal politics according to its needs.

THE VIEW OF BANGLADESH

The chapter will study critical role played by state in bolstering the rights of women be studied. The Bangladesh government role in fostering the realisation of Hindu women's right will be discussed in this chapter. The consolidation of non secular forces and their effect on policy formation in the post Mujib period will be explored. Bangladesh's Islamic fundamentalist politics in the context of gender rights will be examined.

Secular democratic birth of Bangladesh raised many egalitarian hopes with the formation of the government and policy formation. Bangladesh found itself forced to a position of having to relegate. Islamic aspirations to the rear and forcefully assert democratic values, economic rights and cultural identity. Secular nationalism gained relative priority and urgency.(OSMANY 1992;120)

Mujib aimed to follow a public policy which was oriented towards the consolidation of liberal and secular values in the society. The Bengalis started finding faith, ideologies and ideals appeared merely secondary to the strategic and political priorities of states. The principal minority community is the Bengali Hindus, with whom the Bengali Muslim lived for centuries as neighbours seeking mutual harmony and peaceful co-existence.(Ahmed 2004;311) Mujib's Bangladesh was created on the basis of linguistic nationalism,so Hindus felt that they were no more a minority.

Mujib's secularism was recognized in the states constitution and got epitomized in the policy formation of education. The education commission submitting an Interim Report on May 1973 recommended the separation of religion from education.(OSMANY 1992;123) The Report recommended the syllabus which did not include any kind of religion text from class 1 to 8 instead prescribed religious education as elective course from classes 9 to 12.The kind of secular step was unprecedented in Bangladesh's history .Earlier the religious education was included in 1to 8 standards. The country was moving towards `Joy Bangla .The growing discontent for the new secularism was quite evidently mirrored in the public oppinion. The masses experienced uneasiness regarding the growing proximity¹⁰with India. The international community also reacted in a negative manner. Bangladesh could not garner recognition and support majorly from the Islamic countries. The dark picture of an Indian dominated Bangladesh painted by Pakistan and the presence of an Indian army in Bangladesh a secular state did not help matters.(Ibid,127)

The growing insecurity of Bangladesh and people's aversion towards the policy was recognized by Mujib during his last years. His policies and speeches were been coloured by non secular elements. He ended his speech with Khuda Hafiz replacing the regular `Joy Bengla .With these solemn words Bangladesh ripped off its secular garb and got engaged in reasserting its Islamic identy.Under Mujib the minority

¹⁰ A treaty signed in 1972 between the two countries of 25 years of friendship peace and cooperation.

Hindu were at a better position. They had some hope in Mujib's democratic approach despite the continuance of Vested Property Act and escalating migration to India. The women of Hindu communities were yet to be considered as political entity. This section was out of any kind of political development agenda in the country .

The political assassination of Mujib brought in military regime of Zia-ur-Rehman in power in 1975 .Zia took no time in obliterating the secular aspects of the constitution The proclamation of order No.2 of 1977 it was ordered by the President and Chief Martial Law Administrators at the beginning of the constitution to incorporate Islamic values and aspirations of the constitution above the preamble "Bismillah-ar-Rahman-ar-Rahim"(i.e.In the name of Allah,the Beneficient,the Merciful) was inserted.(Ibid,129) Consequently a course on Islamic Principles was reintroduced as compulsory paper from class 1 to 8. Zia left no stone unturned in harbouring Islamic fundamentalism and discriminating the Hindu minorities.Zia introduced two new far reaching changes.Repeal of the Act No.XLVI of 1974 by OrdinanceXLII of 1976 and amendment of the Act No.XLV of 1974 by Ordinance No.XLII of 1976.(Bandopadhyay 2004:141)By this enactment of law the Hindu's inheritance law was majorly adversely affected. General Zia frequently made the recitation of verses from Quran a regular practise during meetings of his newly formed Bangladesh National party in 1978 to enlarge his political base and held presidential elections in 1978. (Joshi 2003:3131)

The political assassination Mujib was followed by death of liberal and secular variants in the society .The advancement of military rule provided enough space for the strengthening and consolidation of Islamic fundamentalist forces.In consent with the state these practices were promoted & more and more Islamic culture was discriminated through the employment of states organs or channels.Thus during Zia period the Islamic fundamentalism was incubated and protected.

General Ershed came to power in 1982. After several military coup and counter coups. President Hussian Muhammad Ershad followed the footsteps of Zia, by allowing a free hand to Islamic fundamentalist elements in the political domain . Ershad bequeathed the empire of Zia very efficiently as he declared ,Islam is our ideal and it is the only way to our emancipation .The existence of country will be at stake if we fail to establish Islam in Bangladesh.(osmany,1992:130) Ershad instituted 'Zakat'

an Islamic principle by which poor and needy are helped . Bangladesh was now fully subjected to vicissitudes of Islamic fundamentalism and military regime .The combination of the two process had completed obliterated any scope of reform in the category of Hindu women . In fact the discrimination against Hindu and subsequently to the Hindu women had increased by many folds . Ershad was no different.He had released two circulars which somehow to a limited extent curtail the inequalities and discrimination done the Hindu community through Vested Property Act.These circulars were never followed and the dispossession of the property continued unabated during the years 1982-90.(Bandhopadhyay 2004:142)Thus the Hindu minorities were completely subjugated and oppressed. The programmes and objectives of the military regimes were framed to serve the there major objectives. Firstly, to suppress the fervour of Bengali nationalism and provoke a sense of insecurity and instability among the Hindu minority. Secondary. The regimes strived to consolidate their political power base on the local level of power hierarchy. Thirdly wanted to distract the atrendtion of the economically rising sections of the society. (Joshi 2003:133).

The growth of Islamic fundamentalism was more expecienced in the rural-vallage areas. ' It is also significant that religious bigotry and radicalism are spreading mainly in the country side . (Mukargi 2003:57) Being establishing the strength hold in rural areas, the Islamic fanatics remain out of the purview of national and international media and secondary the rural-uneducated and poor become easy scope goats. The 9/11 incident have brought Islamic forces of Bangladesh in line light despite continuous and repetitive denial of Begum Khalida Zia goveernmnet. These Islamic groups a knowledge their deep and strong dislike towards secular intellutuals and groups. Taslima Nasrin, for herbook 'Lajja' (shame) Proved to be their on of the main targets. Extremist groups offered a \$5,000 reward for her head. Ibid:59)

The divorce from democratic frame of polity resulted in the lifting of ban on political parties .Jamaat-e-Islamic during the military regimes had considerably gained strength & influence.

In 1968-69 the Jamaat had about 425 full members and 40,000 associated members in East Pakistan,which later crossed 15,000 and they were getting from different areas.(Osmany 1952;131-134) Jamaat-i-Islami conducted various Islamic

activities, they formed trust and opened schools like any other religious party or organisation had student wing (Islamic chatra shibir) and armed wings Al-badar and Al-shams (Ibid 133-136) Jamaat strived to gain popularity among the masses and build political by addressing the congregations in mosques and conducts elaborately Islamic gathering which shared different interpretations of Quran; Tafsirul Quran Mafil. The other religious extremist and militant organisation in Bangladesh are Harkat-ul-Jhad-al-Islami (HUJI) est. In 1992, Islami Oikya Jote (JOJ), Rohingya Solidarity Organisation (RSO), Jamiyatul Mujahedin (JM), Students of Madrass (SM) and AL-Qaeda.

The implications the rise of Islamic fundamentalism was witnessed in public sphere of life. The Hindu business men were discriminated by banks in 1993. the banks under political pressure hesitated in disbursement of bank loans. (Joshi. 2003 137) many films were banned by the Bangladesh's film censor banned like 'Matir Moine' (clay bird). Where as secular imminent Personalities were arrested or displaced. Shanriar Kabir –filmmaker and writer was arrested in 2001, when he returned from India under false charges of spying for India. (Ibid). Another extreme reflection of religious conservatism was witnessed when the west Bengal girls football team was sent back after two matches with Bangladesh girls after protest shown by a Islamic radical group called Tawhids Janata They threatened to stage a sit-in demonstration outside the ground and claiming the women playing football was degrading and obscene. (Mukarji: 2003: 61)

The historic polarization forced by Islamic fundamentalist faces hardened te fault lines. The anathema creped over the decades and crystallized the constructed identity of Hindu & the Muslim as minority and majority respectively. Muslims constructed a stereotyped image of Hindu who are fonder of India than Bangladesh, consider India as their motherland and Hindus dispatch money and valuable goods from Bangladesh to India (Goswami. & Nasren. 2003:90).

Table1

Stereotypical discourses on the minority	Attitude of the majority: disagree	Agree	Uncertain	Total
Hindues are fonder of india than Bangladesh	8(7)	110	9(8)	93(85)
Hindu are most selfish	6(5)	110	16(15)	88(80)
Hindu break promise easily	18(16)	110	35(32)	57(52)
Hindu are hypocrites	12(11)	110	5(4)	93(85)
Hindu consider India as their mother land and dispatch valuable goods from Bangladesh to India	3(3)	110	5(4)	02(93)
Hindu have no religion in real sense	8(7)	110	11(10)	91(83)
Real sense	3(3)	110	24(22)	83(75)

The rises of such religious political parties greatly affect the relationship between gender and space. The escalation of religious extremism is companied by pushing back the agenda of gender articulation to the periphery, of both the majority and minority communities. Despite some reforms in the personal laws of Muslim, the role of judiciary is negligible. The cases were mostly solved by the ullemas which follow Shariat laws.¹¹ This precipitated in extreme exploitation and suppression of Muslim women , for example there was a Muslim divorcee woman gets remarried And was later subjected to fatwa's declaring her marriage was illegal on the argument that there was no proper divorce. In rural areas of Bangladesh there is no system of registration of marriages so therefore there is no proper divorce system. The poor woman and her husband were subjected to inhumane punishments. Even the old parents of the woman were not spared. Later the woman committed suicide after

¹¹ For details see Elora Shehabuddin (1999) Contesting the illicit: Gender and Politics of Fatwas in Bangladesh. Sings Vol. 24 No. 4 (summer)1999 pp1011-1044

experiencing the extreme humiliation. The reaction of these Islamic forces on the above case will be as the very absence of Islam in the public sphere that has permitted “unqualified men” to abuse religion in this manner.(Shehabuddin 1999:1013). The crises of govern ability, which creates circumstances that are conducive to the growth of Islamic revivalism, persist.(Nasr 1995 :262) Their political party generally become an ally of BNP(Bangladesh National Party) started by Zia. During 1998 elections the seven party alliance led by BNP leader BegumKhaleda Zia and the *Jamaat-i- islami* had called for direct action campaigns against the Ershad government. (Ziring 1994:186) Jamaat’s role in government was majority restricted to the propoganda of Islamic principles. This political process has left no public sphere which is not influence by religion. The Islam has become an over arching element in the life of masses. The coalition of BNP and Jamaat generally instigate pre-election riots or commit extreme torture to Hindu residents. This was overtly waitresses during the 2001 general elections. Maulana Matir Rahman who was the foremost was criminal during the was of liberation for having led the infamous Al-Badr, was known as ‘Butcher of Mirpur’and now was made an important cabinet member in Begum Khleda Zia’s government. (Mukarji: 2003: 67).

Hindus remain political minority in Bangladesh. The Hindu women remain anchored to the low political participation.Jamaat acted a consolidating factor of Islam in Bangladesh. This rise of Islamic fundamentalism has chopped off any initiation or effort in the direction of the reformation of personal laws and evolve a more gender sensitive society.

This first organised protest conducted by Hindus was in the pretext of the 8 Amendment of the constitution i.e. declaration of Islam as state religion.(Guhathakurta 2002:83).The Hindu Boudha Christian Oikyo Parishad was formed to voice such discrimination . After the riots of 11990 and 1992 , the organisation marked its protest by tying black pieces of cloth to all pandals of the Durga Puja during Navratri. By now Hindus have been targeted by state in all form. The Hindus are frequently subjected to any kind of violence.Their property is grabbed,houses are burnt are beaten up. The Hindu women are suffering extreme sexual molestation; violence .Their actives are generally politically motivated. Many feminist group or NGO like Bangladesh Mahila Parishad(BMP) have demanded Uniform Family code,by which women’s position will be ameleoriated in atleast

democratic circles. Neither Muslim men nor Hindu men are consenting with leaders of the Hindu community who also happen to be the office bearers of the Hindu-Buddha Kristian Oikyo Parishad (Hindu, Buddhist, Christian Coordination Council), argue the Hindu personal law, having its base in the Hindu Shastric Tradition, is the most important marker of Hindu ethnicity in Bangladesh and if it surrenders that marker than nothing can prevent it from exit from the soil of Bangladesh.(Ghosh 2007: 186)

The rise of communalism has made both the communities act more closely to their identity. The state's incapacity to act pragmatically and uphold secular credentials have left Hindu women bereft of any kind of modernization and rights. In this process the state has rationalised the patriarchal oppression through religious fundamentalism. The state and these forces enter into symbioses and reproduce each other's identity and role. In the case of Bangladesh the state has taken no measure to uplift the women of Hindu community. Similarly the rise of communalism has made women to surrender her loyalty towards her most natural aspect of identity. Thus women get subjected to the clash of loyalties, that being of the spitted version of loyalties towards the two aspects of identities of religion and gender.

CHAPTER III

THE MIRROR IMAGE

The chapter looks into the comparative aspect of two minorities discussed in the last two chapters. The Muslim women in India and the Hindu women in Bangladesh are subjected to double discrimination as both, state and religion acts as instruments of patriarchy. Under the pretext of preserving the identity these communities keep following archaic rules and traditions which are extremely unequal laws. These laws not only keep women subordinated in social life but also make them alienated of any kind of opportunity through which they can improve their abysmal condition. The chapter will look into the international covenants and relate it with the condition present in two discussed communities. The chapter will not exactly to draw a comparison between the two the communities but a make an attempt to establish a link between the two communities. The situation can be perceived as of a mirror image between the two. The two communities form an mirror image as both subjected to similar discriminations and prejudices. Before discussing the mirror image, we will delve into realm of international covenants regarding gender equality and dignity.

THE INTERNATIONAL COVENANTS

One of the main international feminist organizations was founded in 1904, in Berlin, called the international Women Suffrage Alliance (IWASA). The major feminist ideas and news that it endorsed were:

1. That men and women are born equally free and independent members of the human race; equally endowed with intelligence and ability and equally entitled to the free exercised of their individual rights and liberty.
2. That the natural relation of the sexes is that of interdependence and cooperation, and that the repression of the rights and liberty of one sex inevitably works injury to the other ...
3. That in all lands, those laws, creeds, and customs which have tended to restrict women to a position of dependence; to discourage their education; to impede the development of their natural gifts, and to subordinate their individuality, have been based on false theories, and have produced an artificial and unjust relation of the sexes.....

4. That self-government in the home and the State is the inalienable right of every normal adult, and the refusal of this right to women has resulted in social, legal, and economic injustice to them, and has also intensified the existing economic disturbances throughout the world.
5. That governments which impose taxes and laws upon their women citizens without giving them the right of consent or dissent ... exercise a tyranny inconsistent with just government.
6. That the allot is the only legal and permanent means of defending the rights to the "life, liberty and pursuit of happiness" pronounced inalienable by American Declaration of Independence, and accepted as inalienable by all civilized nations. In any representative form of government, therefore, women should be vested with all political rights and privileges of electors...(Fraser 2003:37)

The formation of IWSA impaired a major force for feminism in the international arena. The new areas of women empowerment with anti-trafficking of women and regarding birth control and formally planning.

The inception of United Nation was marked by women involvement in public sphere. The women from Brazil, Mexico, and the Dominican Republic, with the help of Indian and north American NUOS, the successful link between women rights and human right was established. The equal rights of men and women clause in the U.N. capital led to the formation of commission on the status of women.

The CSW with the Economic and Social Council (ECOSOC) strived with the aim to elevate the equal rights and human rights status of women, irrespective of nationality, race language or religion, in order to archive equality with men in all fields of human enterprise and to eliminate all discrimination against women in statutorily law, legal maxims, or rules, in interpretation of customary law, (Ibid: 44)

The international women's year Conference of 1975 was attended by a large member of members. The conference recognized the difference between the developed of developing and developed nation's women. The conference incorporated world plan of Action. The plan called on the united. Nations to proclaim 1975-1985 the U.N. decade for women. Some of the few out of fourteen point list of five year minimum goals were.

- a) Marked increase in literacy and civic education of women....
- b) Encouragement of a greater participation of women in policy-making...
- c) Increased provision for... health education and services,
- d) Provision for parity in the exercise of civil, social and political rights such as those pertaining to marriage, citizenship and commerce;
- e) recognition of the economic value of women's work in the home in domestic food production an marketing and voluntary activities ...
- f) The promotion of women's organizations...'
- g) The development of modern rural technology ... to help reduce the heavy work load of women (and)
- h) The establishment of interdisciplinary and multisectoral machinery within the government for acceleration the achievement of equal opportunities for women and their full integration into national life."(Ibid:51)

. Some of the revelations of the study are, a relatively higher rate of Muslim fertility rate in both India and Bangladesh. The contraceptive use (any method of contraception) among currently married Muslim, (religious minority) women in India is 28 percent against 42/ of Muslim (religious majority) women in Bangladesh. Whereas Hindu using (any method of contraception) is 42 percent among Hindus (religious majority) women in India

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), formulated in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Its preamble consists of 30 articles, it explains what constitutes discrimination against women and incorporates an agenda for national action to fight against such discrimination and injustice. The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

By the acceptance of Convention, States have to commit themselves to undertake a series of measures and initiatives to end discrimination against women in all forms, including:

Article 1 : “for the purposes of the present convention ,the term ‘discrimination against women ‘ shall mean any distinction , exclusion or restriction made on a basis of sex which has the effect or purpose of impairing or nullifying the recognition enjoyment or exercise by women , of men and women of human rights and the fundamental freedoms in the political ,economic , social cultural , civil or any other field.” (Das,Dev,A.Dev,A. 1996:72)

Article 2: “state parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

To embody the principle of the equality of men and women in their national constitutions or other appropriate legislations if not yet incorporated therein and to ensure , though law and other appropriate means , the practical realization of this purpose;

To adopt appropriate legislative and other measures , including sanctions where appropriate , prohibiting all discrimination against women ;

To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination

To refrain from engaging in any act o practice of discrimination against women and to ensure that public authorities and intuitions shall act in conformity this obligation ;

To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

To take all appropriate measures , including legislations , to modify or abolish existing laws ,regulations , customs and practices which constitute discrimination against women

To repeal all national penal provisions which constitute discrimination against women;”(Ibid 72-73)

India ratified the CEDAW in 1993 but its policy formulation reflect many contradiction with the convention as the Muslim personal law is remained untouched in the name of democracy and secularism . During many communal riots the inactivity if state and its public institutions remained in active which intensified the violence and the torture, specially against the Muslim minority women .Although larger majority of Muslim women are silent due to the non political mobilisation, lack of self confidence and unawareness, and educational backwardness .The section of educated women in the community is found to be expressing views against the stand of the Islamists conservatives.’ In conformity with the provision of gender equality in the Indian Constitution, articles of CEDAW and commonly understood basic spirit of equality and justice for women in Islam they maintain that Muslim Personal Laws as practiced in India are against these provisions and have come forward in exploring the possibilities to bring about progressive changes in the customary practice of ‘Shariat.’

Similarly the Bangladesh constitution provides women the basic legal equality before the rule of law but in practice women are subjected to intense social , economic and political discrimination . The Muslim women are implied to draconic *fatwas* and Hindu women are still immune to any kind of personal liberty against the old laws.

In all assessment both in India and Bangladesh, the Muslim and Hindu women respectively are still not fully covered under the gender sensitive laws of CEDAW legislations. The women of these communities are regarded as more as minority, by which their group rights and the community rights are given preference than gender based equality. Thus despite legal provisions the conditions of these women remain abysmal and the question of their up liftment remains at periphery.

Another international legislation Women. was

Declaration on the Elimination of Violence against Women General Assembly resolution 48/104 of 20 December 1993

Recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings,

Noting that those rights and principles are enshrined in international instruments. including the Universal Declaration of Human Rights, 1 the International

Covenant on Civil and Political Rights, 2 the International Covenant on Economic, Social and **Convention on the Elimination of All Forms of Discrimination**

against Women Cultural Rights, 2 the Convention on the Elimination of All Forms of Discrimination against Women 3 and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recognizing that effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women would contribute to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women, set forth in the present resolution, will strengthen and complement that process.

Concerned that violence against women is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women, 5 in which a set of measures to combat violence against women was recommended, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

Affirming that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women,

Recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women,

The declaration also talked about the status of minority women , refugee and the destitute women . It laid special provisions for safeguarding the interests of such women as their social and physical security is much more bleak than the other women, just because of their political and social positioning.

The period of 20 years from 1975-1999 recorded the alleviation of women's position as victim to the status of self Sovereignty and self decision makers. The issue of violence against was strike a major issue of concern. It was the issue of domestic - violence against women received wide international consideration a human right, which bolstered the efforts towards women's emancipation

In 1995 UN World Conference in Beijing was held which resented its conformity with the aims and declaration of Vienna conference conducted in 1993. The Beijing conference concentrated on these areas: the burden of poverty on women; unequal own to education and training, health care, violence against women's the problem of armed conflict, economic inequalities, inequality of property and decision making, insufficient of women, lack of respect and resection of women's human rights, stereotyping of women and inequality in communications, especially the media, and the environment. (Frazer2003: 58) . The preparation for and follow-up to the UN Fourth World Conference on Women, in Beijing, provides significant opportunities for all those concerned with the universality of human rights to move beyond the rhetoric of rights to ensure that duties to respect, protect and enforce rights are discharged in ways that make important differences in the well-being of women in all corners of the world. International, regional and domestic protection of women's rights can make a difference if women are empowered to use their rights including knowing what they can do if their rights are violated.(Cock 1995:8)

The myths regarding fertility

The study conducted by Sahu, Hunter, Wissen and Alinda Basch, deals with cross county comparison to understand the differential in reproductive behaviour of Muslims in India and Hindus of Bangladesh.

Some of the revelations of the study are, a relatively higher rate of Muslim fertility rate in both India and Bangladesh. The contraceptive use (any method of contraception) among currently married Muslim, (religious minority) women in India is 28 percent against 42/ of Muslim (religious majority) women in Bangladesh. Whereas Hindu using (any method of contraception) is 42 percent among Hindus (religious majority) women in India against 54% among (Hindu religious minority) in Bangladesh. The use of modern method is 38% among Hindu women in India and 42% among Hindu women in Bangladesh. Where as use of modern method by Muslim women in India 6% against 27% among Muslim women in Bangladesh. Infant mortality rate (IMR) (as well as under five mortality) among Muslim is much lower than among Hindus in India.: respectively 54per 1,000 births (Muslims) against 77 per 1,000 births (Hindus)

The politics of fertility of above can be explained in the, light of socio religious formations and norms. According Borooah and Iyer, the fertility differentials between Hindu and Muslims can be attributed to me lower 'daughter aversion' among Muslims but almost same level of 'son preference) exercised a stronger hold on Hindu families than it did on Muslim and dalit families, (Borooah & Iyer 2005 419) Finally fertility depend on the interaction between on the interaction between the socio-economic levels of he religious groups and the local orientations of these groups to ward procreation and fertility control.

This reflects the absence of any influence of state towards family control. The factor of minority and majority in not applicable. The higher practice of female child aversion among Hindus than Muslims is one of the major explanation of the researched data. Where one can witness the significance of the role of religion played in reproductive behaviour.

It is reasonable to suppose that if Muslim parents are less averse to daughter than Hindus, then we would expect female infant mortality rates to be lower for Muslim than Hindu families. A demographic figure in India. That has drawn little comment is that infant mortality among Muslims, 59 per 1000, is much substantially lower than child mortality rate among Hindus at 77 per 1000. Similarly child mortality rate which is 83 per 1000 for Muslim is substantially lower than child mortality rates among Hindus at 107 per 1000 For both Hindu and Dalit women, male infant mortality rates considerably lower than female rates, for Muslims, however, almost identical. In addition to the influence literacy and community, the number of sons and daughters to women who had terminated their fertility , also depended on the region in which the women lived on the occupation in which they were employed. Living in south, the east and the west resulted in a smaller number of sons than living in the north (the default region) on the centered region. Women who worked as labourers as cultivators had, in equilibrium, a smaller number of sons, but a larger number of daughters, than women who worked in non-Manual occupation on women who did not work. (Borooah & Iyer.2005: 422)

Number of living children of currently Married Women Who Have Terminated Their Fertility

Children	Hindus	Muslims	Dalits
0	0.6	0.8	0.8
1	2.2	1.8	2.6
2	23.4	13.8	18.9
3	35.1	32.1	31.4
4	22.3	25.4	26.1
5+	16.4	26.1	20.2
Mean	3.3	3.8	3.5
Median	3	4	3

Source: NCAER Survey. As cited in economic and political weekly January 29.2005.

Sex Ratios of children of currently Married Women Who Have Terminated Their Fertility

	Hindu	Muslim	Dalit
Sex ration at birth	976	1026	993
Sex ration of currently living children	948	1047	963

Source: NCAER Survey. As cited in economic and political weekly January 29.2005

Infant Morality Rates to Currently Married Women Who Have Terminated Their Fertility

	Hindu	Muslim	Dalit
Infant mortality rate (IMR)	5.1	4.5	6.1
Male IMR	4.5	4.6	5.4
Female IMR	6.2	4.5	7.6

Source: NCAER Survey. As cited in economic and political weekly January 29.2005

This explains hegemonic role of religion overarching the every aspects of life and identity, by which the oppressive hands of patriarchy are strengthened.

The organizational capacity of both the communities is essential to analysis their position by which they can stir political mobilization and inaugurate a new struggle regarding special demands in order to achieve the larger goals of emancipation and gender based equality. Thus this determinant can be applied to compare both the communities. i.e. the Muslim women in India and Hindu women in Bangladesh.

Logistic Regression Estimates of the Relationship Between Religion and the Intention to Have Another Child

States	Two Living Children			Three or More Living Children		
	Total Sample (Muslim)	Model 1	Model 2	Total Sample (Muslim)	Model 1	Model 2
South India						
Tamil Nadu	755 (52)	2.68**	2.62**	907 (65)	2.57 [†]	3.83 [†]
Kerala	862 (210)	15.67**	7.48**	758 (334)	109.3**	43.8**
Andhra Pradesh	741 (51)	1.40	1.85	1,260 (133)	1.2	2.78**
Karnataka	802 (68)	3.85**	3.63**	1,393 (206)	1.82**	2.48**
West India						
Maharashtra	651 (63)	2.53**	1.40	1,301 (221)	2.69**	2.09**
Gujarat	717 (59)	2.96**	6.19**	1,122 (101)	1.96**	2.33**
North India						
Bihar	843 (108)	2.01**	1.60	1,951 (308)	2.41**	2.28**
Uttar Pradesh	1,673 (207)	1.57*	1.24	3,817 (633)	1.88**	2.00**
Madhya Pradesh	972 (43)	1.16	0.88	2,169 (174)	0.56*	0.99
Rajasthan	687 (31)	1.66	1.51	1,819 (108)	2.23**	2.39**
Jammu	460 (60)	2.13**	1.05	892 (173)	1.81*	1.96
East India						
West Bengal	777 (170)	4.29**	2.93**	1,279 (429)	2.06**	1.58*
Assam	460 (105)	2.48**	2.18**	1,095 (338)	2.66**	2.66**
All India	10,400(1,227)	2.26**	1.98**	19,763(3,223)	1.88**	1.95**

Notes: Standard errors are adjusted for intracluster correlation at the PSU level. Model 1 is a bivariate model with only one explanatory variable: religion. Model 2 includes control variables: women's age, education, occupation, exposure to mass media, and experience of an infant's death; husband's occupation; household economic status; place of residence; district-level economic status; district-level household structure; and proportion of Muslims at the district level.

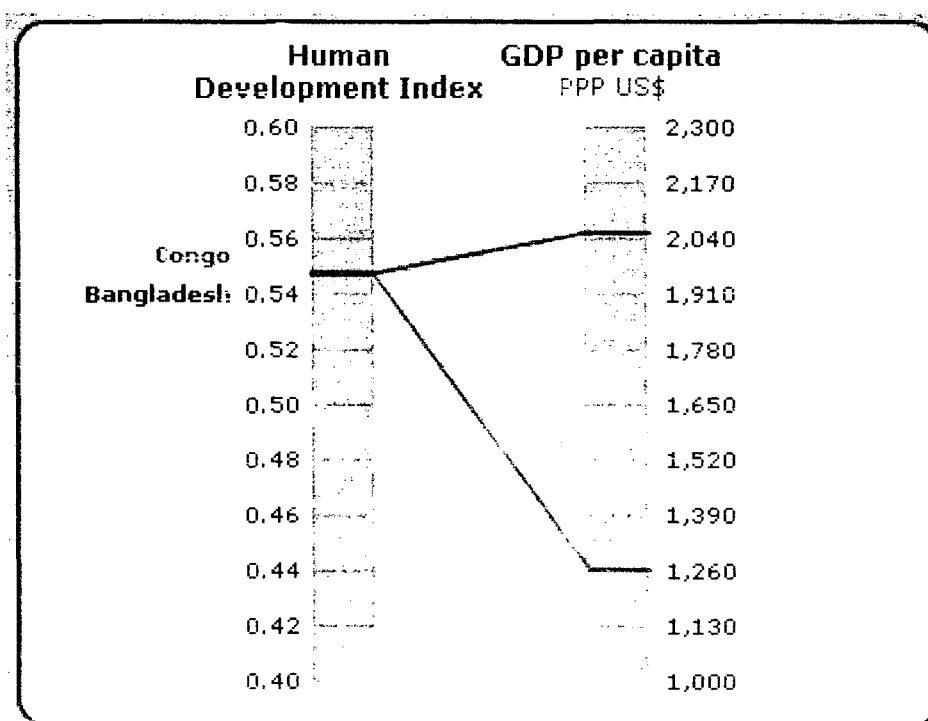
[†]p < .10; *p < .05; **p < .01

Source: A Dharmalingama and Morgan, Philip S (2004) Pervasive Muslim-Hindu Fertility Difference in India. *Demography* Vol 41, No.3 august

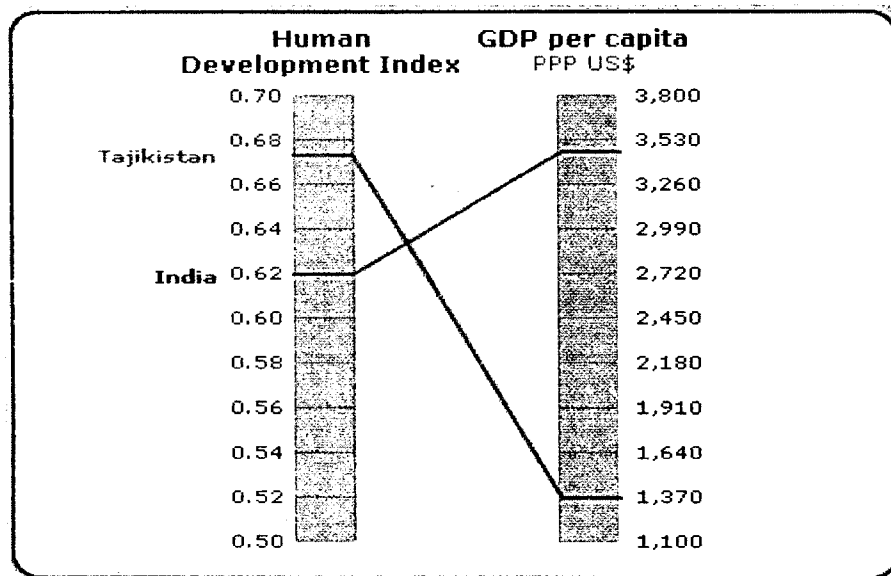
The above study reflex than Muslim with two living children are 2.68 times more likely than Hindu women to intend to have additional child this effects strong after the all the control variables are intrudes clear effects are absolvers form south west and east Indian states. The final row of the above given table provides an estimate for all states combined; Indian Muslims are twice as likely as Hindus to desire an additional child. The Study lead to the firm conclusion that the Muslim-Hindu effects are not masked affects of differences in region, education, or wealth.

The human development variable

The both the countries have failed to show any kind of Impression in the category of human development. Both Indian and Bangladesh are place at the lower scale of the list at 128th and 140th respectively out of 177 countries. The below given charts explain undoubtedly the relative concerns regarding economy and social parameters. It is surprising to notice that Bangladesh has better positioning than India in

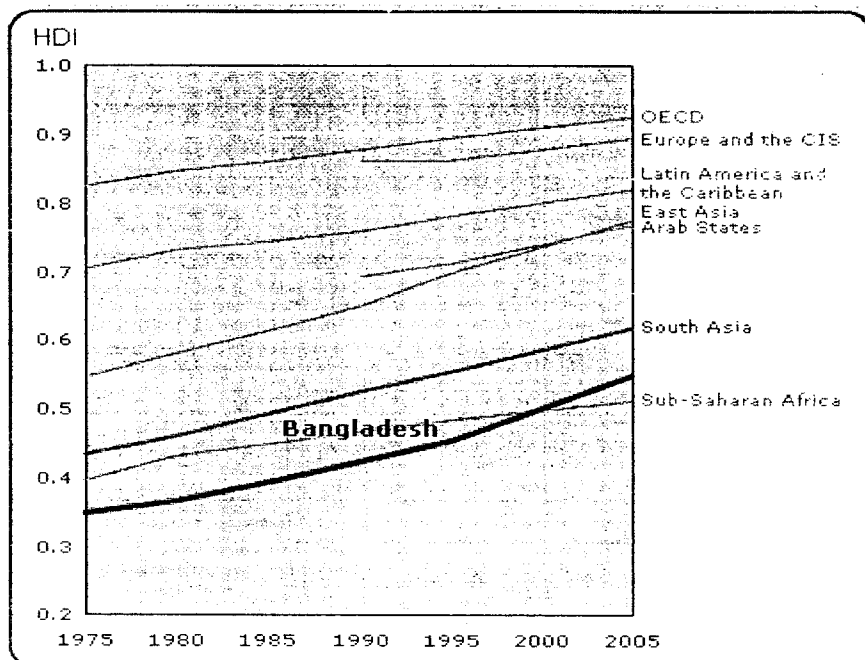


HDI and GDP data refers to 2005 as reported in the 2007/2008 Report.



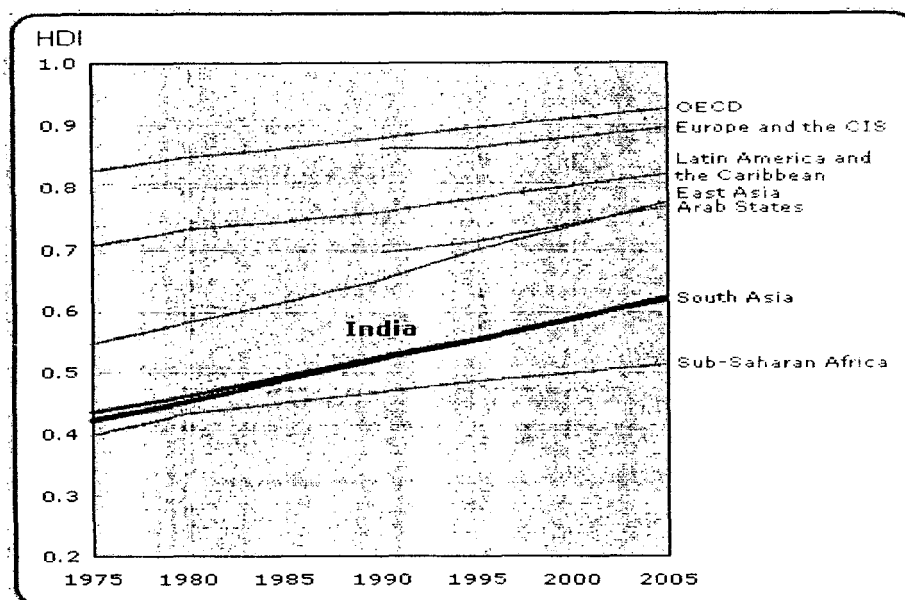
Source: UNDP Report of India 2006-2007

The report very clearly defines the positioning of the two countries. India is much below to Tajakistan and similarly Bangladesh is much lower than that of Congo. Any one can clearly represent his /her on such slothful growth



Source: UNDP Report of Bangladesh 2006-2007

The above table places Bangladesh just above Sub-Saharan African countries and much below the other South Asian countries



Source: UNDP Report of India 2006-2007

The Indian effort remains inadequate to address grievance of her citizens, the above chart explains the contradiction.

Selected indicators of human poverty for India

Human Poverty Index (HPI-1) 2004	Probability of not surviving past age 40 (%) 2004	Adult illiteracy rate (%ages 15 and older) 2004	People without access to an improved water source (%)2004	Children underweight for age (% ages 0-5) 2004
1. Chad (56.9)	1. Zimbabwe (57.4)	1. Burkina Faso (76.4)	1. Ethiopia (78)	1. Nepal (48)
45. Cameroon (31.8)	47. Senegal (17.1)	24. Burundi (40.7)	74. Paraguay (14)	2. Bangladesh (48)
46. Botswana (31.4)	48. Bhutan (16.8)	25. Sudan (39.1)	75. Comoros (14)	3. India (47)
47. India (31.3)	49. India (16.8)	26. India (39.0)	76. India (14)	4. Yemen (46)
48. Comoros (31.3)	50. Lao People's Democratic	27. Malawi (35.9)	77. Kazakhstan (14)	5. Timor-Leste (46)

	Republic (16.6)			
49. Kenya (30.8)	51. Guyana (16.6)	28. Rwanda (35.1)	78. Honduras (13)	6. Burundi (45)
108. Barbados (3.0)	173. Iceland (1.4)	164. Estonia (0.2)	125. Hungary (1)	134. Chile (1)

It can be observed that India has done as bad as that of Bangladesh, despite better infrastructures and other provisions.

The organizational strength

The extremely marginalized socially, educationally and economically. Muslim women in grass roots haven take strides in organizing the community The process of the 'empowerment began during and after the 1992-93 communal violence unleashed by state, post Babari Masjid demolition' The culmination of such public and political sphere activity through NGOs or political Parties in the formation of HUKOOK-e-NISWAN MAHILA SNAGHATANA (HNMS) in 2005.

'HNMS is a federation of 30 communities based women's groups in Mumbai. The federation has done pioneering work in providing legal aid and support to many Muslim women who hare faced the brunt of a discriminatory personal law' (www.wrag.com) The Bhartiya Muslim Mahila Andolan's (BMMA) formation is perceived on a 'natural corollary' to the movement taken up by HNMS. The organizations have taken steps regarding increase in education among Muslim women, producing female maulanas and one of the major steps taken was towards the drafting Muslim personal law with gender sensitivity and inclusiveness. They are also working towards the prospects of Uniform Civil Code.

The formation of All India Muslim Women Personal Board in February 2005 with Shaista Ambar as president, reflects the history of deep subordination of the community by different secular and religious institutions. The main focus of initiative is to assert gender laws 'while resolving the marital problems like divorce, maintenance and desertion of wives by husbands. The board seeks to promote ' employment generation for women, marriage of destitute girls, equal rights to the daughters in ancestral properties etc.

AIMWPLB refused to accept ' fatwa of Darul Uloom Deoband annulling the marriage of Imarana who was raped by her father-in-law. (Hammed, www.muslimwomenforum.com) the AIMWPLB has demanded separate Mosque for women and has provided a new gender inclusive Nikhahnama. The key points of the new Nikhahnama are.

Triple Talaq is aid in one go will not be acceptable.

Talaq to be spaced out over a period of 3 months.

Talaq not be allowed via phone or sms.

Talaq not be given under the influence of alcohol.

Insists on free will for the girl in case of nikah.

Talaq give to pregnant women should be considered illegal.

These organizational Leverages has provided India Muslim women some space to vent out their frustration and systemic subversion. These organizations are liberal in outlook, though not completely feminist ideologically. Still the efforts and initiative taken by these organization are extremely appreciable as it reflects a rupture from traditional Muslim society. These liberal organizations have replaced the old orthodox extremely patriarchal ulemma as their speakers. Thus now Muslim women in India can articulate their gender problems in a much authentic manner as these articulation will reflect the interests of Muslim women only.

Where as in Bangladesh, this role is performed by Bangladesh Mahila Parishad (B M P). B.M.P look upon itself the task of drafting Uniform Family code. (Ghosh 2007: 182) As the code reflected the gender justice it was averted by the conservative elements of both the communities Hindus and Muslims. Yet B.M.P conducted several programmes and workshops for the realization of the goal. The proposed draft was gender sensitive and liberal in nature as it held provisions like men women to be treated equally in matters of marriage, divorce, inheritance and custody of children; compulsory registration of marriage,; prohibiting child marriage polygamy, eradication of gender based discrimination in matters of inheritance and etc.

These organizations present in both the countries provide a limited space to the countries provide limited space to the women of minority community to articulate their gender based preferences and priorities. Thus both countries provide

organizational capacities to these communities. One can say that the Indian Muslim women are better positioned than the Hindu women in Bangladesh.

The democratic and secular institutions of the state also influence the articulation of gender rights of minorities. The democratic and secular framework of Indian government act as a fillip in bolstering the gender emancipation. Such framework provides suitable platform for any kind of gender deliberation regarding the Indian Muslim women. Any reform conducted in this area will be definitely within the Indian discourse will be secular and liberal in nature. Despite the consolidation of Hindu nationalists and the frequent aberrations of Indian secularism, the case of Indian Muslim women is positive and emancipated. The another reason is the presence of liberal Muslim intellectual class. Whereas Bangladesh due its recent inception could not develop the democratic secular institution as strong as in India. The Islamic fundamentalism embedded. So deep that the even liberal Muslim intellectuals are purged, or forced to leave the country.

CONCLUSION

The study purports to analyze two minority communities which reflect mirror images of their realities, one is the minority community of Indian and the other is the minority of Hindu community in Bangladesh.. Since their relative numerical strength vis –a-vis the overall national population is by and large equal in proportional terms it makes an interesting comparative analysis. Besides being the perspective of majority – minority dynamics in two over populated poor societies, the gender prospective has been used more effectively to analyze the status of Muslim women in India and that of Bangladeshi Hindu women on the other. In do so the political, social and legal right of the respective communities have been taken into consideration.

In the three theories have been used in order to, grapple with the subject in detail . The attempt is mainly based on courage and the three theories are of rights, of recognition and of third dimension of power.

If we look at the concept of rights, rights are generally considered in relationship with the duties and benefits. This means that many theorists perceive rights in the light of duties. In other words rights are recognised as mere 'reflexes of duties'. A person who enjoys some particular rights because some way or the other he /she is performing some kind of duties , for example when a person follows rule of law ,then he / she is entitled to some kind of citizenship rights. Similarly when we discuss about the minority women then in that case the above explained assumption is not completely verified .As when a woman of minority follows her duty the response is not rights, but it is subversion and oppression .Like, for example one a Muslim woman follows Shariat laws as her duty, in which she has full faith as a procedure and anticipates to be recognized as a right bearing entity. This recognition remains unfulfilled and consequently the woman remains under several unjustified norms and values. This structural inheritance makes the oppression frequent and later systemic. This dysfunctionality of the assumption remained functional in this case of women and specially women regarding the minority groups. The women of minority of group are twice subjected to the suppression inducted by patriarchal and other hegemonic structures. In this case the theory of rights remains insufficient to address the grievances of the gender related issues .One needs to imply the conceptualization of rights with inclusion of gender implications. But one may contend that when women

argue for rights, they are provided with those rights, on the identity of a being, which has been subjected to immense subordination and inequalities. Therefore it can be deduced that the subordination of women under the religious structures is perpetual. This may make sense if one says that despite following the religious duties the women are not subjected to rights, as there is no prerequisites by which women are considered as right bearing entities.

One can question why religion doesn't recognise the women as the right bearing subject. One can employ the theory provided by Charles Taylor, of the theory of recognition, to answer the above discussed enquiry. The theory asserts 'our moral salvation comes from recovering authentic moral contact with ourselves. Being true to myself means being true to my own originality, which is something only I can articulate and discover. In articulating it, I am also defining myself. I am realizing the potentiality that is properly my own.' (Taylor 1995:29-31) The major task of identity formation is discovering of the true self. Taylor explains that only the discovering of true self is not sufficient as it requires the cognisance of the 'significant' other. 'Thus my discovering my identity doesn't mean that I work it out in isolation, but that I negotiate it through dialogue, partly overt partly internal, with others. That is why the development of the ideal of inwardly generated identity gives a new importance to recognition. My own identity crucially depends on my dialogical relations with others.' (Taylor 1995:34) So if this explanation is applied to our case study, can one deduce that women of minority groups have not sufficiently conducted their 'dialogical dialogue' with their 'significant other'. In this case the 'significant other' can be either religion or state as per the situation. The imperfection, inefficiency and the unproductiveness of the 'dialogical dialogue' persisted and catalyzed the 'complex inequality', subversion of women and the subordination of woman in the all spheres of life.

The very corollary enquiry could be that why the women of minority groups have not been able to construct a sufficient or effective 'dialogical dialogue' with the 'significant other's. According to case study it could be expressed in this manner that why women are not able to achieve their desired and appropriate rights, and why women get disloyal to their own natural identity of womanhood and unequivocally reflect this contraindication, by supporting the Hindu right nationalism or rationalise the growth of religious (Islamic) fundamentalism. The theoretical understanding of the above discussed proposition can be made by employing the third dimension of

power of Steven Lukes .The theory critics 'behavioural' explanation of power and radically describes power functional in all covert forms . By which people (subject) are alienated from their true or their 'objective self' and they (subject) prescribes to the preferences and choices which are manoeuvred by the power .The conception of any idea , any thought ,any reality and any truth is constructed and contrived by power .'Decisions are choices and intentionally made by individuals between alternatives ,whereas the bias of the of system can be mobilised, recreated and reinforced in ways that are neither consciously chosen nor the intended result of particular ' individual' choices .(Lukes1988 :21)

The subject lives under the 'false consciousness' by which she /he¹² become a causality of power defined oppression and discrimination. The subject is unknown to any kind, of her/ his victimhood and of distinction between the 'objective' and constructed interests of the invisible and unrealised sustenance of systemic exploitation. Thus the subject remains the receptor of the oppression. In the Foucauldian sense the subject's thought process is 'institutionalised 'or becomes the participatory of 'institutionalised psychiatry'. The regular inheritance of this subjection consequently results in internalization of this affected self and manufactured identity.Corrolarly development results in ultimate subordination of the self with subdued and affected construction of self determination, structuring of character and the subsequent her/his hierarchy and obviously the conceptualisation of the related rights. Here one may say that 'power produces identity.'Another innate feature of this dimension of power is the absolute surrendering of the self as there is no realization of oppression therefore is no necessity of protest and resistance. Thus societies under this subjection are devoid of 'opposition'.Henceforth the right to resists against exploitation is also alienated.

If we apply the above discussed assumption on the studied communities one can argue that patriarchy works and functions under purview of Steven Lukes the third dimension of power. The 'subject' is here women and the women of the minority groups. These women are unequivocally are accustomed of the 'false consciousness' and 'institutionalizes psychiatry'. This may explain the women's non allegiance to her natural self that is gender. The height of oppression can be reflected in the internalization of oppression to a such an extent to support the gender biasness

¹² I wish to include those subjects also,who are above the bracket of she and he. I regret of making she and he as the basis of analysis as it creates hierarchy.

prevalent in the society. The construction of oppression as an ideal to be followed and achieved is the case of women who are supporting the religious fundamentalism. This can be termed as the 'reversal of the self'.

Although the understanding of the conceptualization of rights of the gender articulation of these minority women is limited by the researcher's own social construction, the attempt of discovering the relationship between the communities rights and the gender rights , and the gender rights and the role of the state a in multi religious polity is realised.

The relegation of women's rights of minority groups is a consequence of an imperfect and unfinished dialogue for the recognition of gender identity as a source of deliverance of their rights. It has been reflected that the role of the state and the group rights have affected gender articulation of Muslim women in India and Hindu women in Bangladesh

The first chapter reflects the limited scope of law in engendering the empowerment of minority women. The legal intuitive taken by the judicial system of India remained inadequate to usher in the reforms in (personal) law of Muslim women in India. The limited measure of maintenance through section 125 Cr PC was superseded by the parliamentary enactment. This was done in the aftermath the case of Shah Bano. This case was no ordinary case as it reflected the tension or the confliction relationship between gender rights and group rights. The right of Shah Bano to claim maintenance was no more perceived as an individual right it was metamorphic ally communalized as group rights. The case mirrors the contestation between the two non secular aspects of identity. Not only the community but also the state recognizes the group identity as the imperative identity which proved intrinsically hegemonic and oppressive to women's rights. The politics of identity are entailed by politics of rights but in case of the Muslim's case of India the assumption is virtually falsified.

Compared to the situation of Indian Muslim Women, the Hindu women, in Bangladesh are still out of purview of any civil legal system. As a result these women are subjected to torture and suppression. They are struck in orthodox socio religious quagmire. The patriarchal norms and values are upheld each time whenever those values are questioned. . The archaic and anarchic Shastric laws are still prevalent which have subjugated women to the core and left the women estranged from any kind of liberty and equality. Unlike Muslim women in India the Bangladesh Hindu

women are not politically mobilized and organized. In a lesser degree, most of these women are unaware of any kind of role which is outside of the domestic orbits. The situation of Hindu women is extremely low as there is no sense of gender based right amongst them. The gender identity among the Hindu women is still subverted and dormant. This reflects the eclipsing of gender identity by the religious aspect of identity. Here again despite constitutional legal provisions of equality in political, economic social sphere with men, the Hindu women remain major sufferers.

The major concern here is the rupture of Bangladeshi or Indian feminism from the concept of universal feminism. This means that feminist movement in India would have to take extra steps for the empowerment of Muslim women without disturbing their religious identity. The Shah Bano case exposed this aspect to Indian feminism. The same is true for Hindu women of Bangladesh

The role of state is extremely complex in the furtherance of the rights of Muslim women in India and Hindu women in Bangladesh. In both the countries women or gender is never on the core political agenda. The minority gender deliberations are generally the consequence of the constant flirting of political parties with the political power. Either for the protection of legitimacy (in case BJP governments in India or Islamic fundamentalism in Bangladesh) or for strengthening of secularism (in the case of Congress governments in India and the framing of the 1972 secular constitution of Bangladesh) The general issues have been given different takes from time to time. It has been seen that the state surrenders its imitative. Or constructive role in the realization of women's rights and in the construction of gender just society. These issues of legitimacy and secularism are mere garbs to cover ulterior motives of electoral maneuvering. Thus the legislation of Muslim Women's Act of 1986 remains a quid pro quo to the Muslims. The state errs in upholding gender neutrality in the articulation of minority women rights.

The function of Islamic or Hindu fundamentalism is absolutely same on the women of minority community. The religious fundamentalism basically is a process by which the community ostensibly follows the primordial law i.e. going back to the roots. This aspect of the process is generally extremely binding on women. By following the same women of the community follow all kinds of religious customs which are

grossly anti-women that re-affirms the patriarchal notions. In traditional sense that society is considered superior in which men control t(he)ir women as much as possible. In both the India and Bangladesh the women of the majority communities are made to follow stricter religious identity roles. In India during late 1980s and early 1990s there was a Suddin spurt of different kinds of unknown *poojas* , *fasts*, *Jagran and katha*, etc. It was fast which became all pervasive specially in north India.

The effect of religious fundamentalism on minority community and subsequently in minority women is extremely negative. This process emanates communal distrust and insecurity among minority. This insecurity result in making women subordinated as her socialization and mobility gets restricted. Under such condition with blotted secular image, if a state strives to improve or reform the personal laws of minority then this act is considered as anomaly in the implementation of secular, it is perceive as renege promises of secularism and absolute invasion and encroachment of personal and cultural identity.

The international covenants act as torch bearers to the developing nations. These international covenants provide basic framework and set standards for the local societies to channelize their efforts in these directions. This doesn't mean that there is an absolute convergence of interests of women in India and Bangladesh or that of the developed nations. These international initiatives provide the required support to achieve the set targets in focused areas and build an ambiance, which reflects gender equity and gender empowerment .Thus articulation of gender rights can be protected by adhering to the international covenants.

The strengthening of secular fabric in India and Bangladesh is a primary necessissity for both the countries. The late1980s witnessed the growth of religious fundamentalism in both India and Bangladesh. In India religious fundamentalism is not as blatant as that in Bangladesh, yet the episodes of Ayodhya and Gujarat remain as scars on the face of Indian secularism. Where as, Bangladesh has been converted into a hub of international Islamic fundamentalism and terrorism .After the terrorist crackdowns in Afghanistan and Pakistan, Bangladesh has become a favorite destination of Islamic militant groups. In order to improve the status of Muslim and Hindu women in India and Bangladesh respectively, It becomes necessary for the nations to develop secular ethos across the country. The state requires to rebuild its

secular image in order to obtain the faith of minorities in it, which earlier Nehru and Mujib (in the initial stage at least) had done quite impressively. The herculean task is not impossible as both the countries had secular inception and moreover people of South Asia are by and large secular and tolerant. This will suffice the state with the required legitimacy and credibility to reform the personal laws in of affected minority communities. Thus the enhancement and furtherance of gender articulation can be realized and burgeoned only through secular employment of laws and policies. The notion of secularism can only ensure the empowerment of Muslim women in India and Hindu women in Bangladesh.

Another aspect which needs attention is the issue of women joining the right wing Hindu nationalism. In India and its Muslim counterpart by Bangladeshi Muslim women. The "Rashtrasevika Samiti was founded in 1936, that provided physical-martial arts as well as ideological or 'boudhik' training. It remained a low key affair. Around 1989 -90 in a sudden and dramatic spurt of activities , the Sangh Parivar threw up a larger number of women's organization and women leaders into dazzling prominence – the BJP Mahila Morcha, the VHP ; Maitri Mandal and Durga Vahini with their different regional versions (Sarkar 1999 : 2161). A huge number of Kar-sevikas were present during the Ramjanambhoomi campaign. Sadhavi Rithambara and Uma Bharti were physically present at the venue during the Babri Masjid demolitoion. The women of right wing Hndutva actively participated in riots like of Bhagalpur and Gujarat. The "Mahila Aghadi" is the women wing of the Shiv Sena.

Its member participatet in the Mumbai riots of 1992-1993 and brought the activities of the Aghadi into the spotlight.. These violent actions gave women visibility, power and autonomy. The wing developed highly flexible, accessible, 'women- friendly' policies to attract young and old, mobile and restricted, affluent and impoverished women into it's fold. However worked out their strategies without directly challenging the patriarchal structures with in the party and the slums. (Sen 2007: 180-81). Such tendencies were noticeable in Bangladesh too when larger women female participation was recorder in the activities of the Tablighi Jamaat.

These developments seriously challenged and contested the feminist ideology of ' the release of women as pure domestically , their politicizations had always been assured to be an emancipatory possibility , and the relationship and communal violence and

women had been seen as one of male – inflicted violence and female victim hood,’ (Sarkar1999 :2162). The women leaders were ‘not daughters, wives and mothers of deceased male leaders. They are there in own right and seem to have carved out distinctive political roles and identities for themselves.’ (Tharu and Niranjana 2004:265).

These Hindu rights women criticized the role of left orientated feminists groups, with the allegation that their domestic inter-gender competition, ‘unhappiness, broken families, blighted children’, and so on. These Hindu rights women’s organizations feel proud to highlighting their contradiction with the feminists, Criticing the feminists, the Hindutva women activists say that ‘they teach women about rights , they tell them to fight their men about these rights. We teach women to sacrifice themselves to keep the family together. A good pure Hindu woman can achieve such respect, such happiness by being a mother how can they be good wives, good mothers if they think all the time of how to be the equal of men, of doing better than them, of competing with them , and fighting with them over rights? (Sarkar 1999 : 2156) ‘We are neutral.... *Hum ghar torne wale nahi hain*’ (we are not home breakers) (Tharu and Niranjana 2004 : 267),

The feminist scholar has responded differently to the above developments. There are some who argue that the right Hindu women’s upsurge amounts to ‘asserting of submissive and subaltern voices’. While other feminists like Tanika Sarkar, Radha Kumar, Uma Chakravarti and others consider it as extreme subversion of women identity Atreya Sen writes ‘if empowerment can be seen as a change in overt systems of systems of domination, then the Sena women have certainly accrued some in their familial and social environment. If empowerment entails an awareness of the advance capability of women, then the Sena women have empowered themselves through collective action however these women still remain under privileged and could not overtly battle patriarchal structure in the ghettos.,(Sen 2007 : 184 – 185)

Here one can analyze the detrimental role played by the community group rights in the enhancement of the rights of minority women .Whereas the attribution of state in upholding the secular ethos and inaugurating the programmes based on gender equity remains non satisfactory. The new introduction of women in the communal factions is incredibly perplexing for the feminist’s academicians. When women allow their

own subjugation and act as patriarchal pawns in such an overt manner the situation gets worse. A woman being a victim of another woman's oppression sounds very unfamiliar and unacceptable. In either case she will be defeated. (Tharu and Niranjana 2004).

REFERENCES

Adeney, Katharine and Lawrence Saez (ed.s), 2005, '*Coalition Politics and Hindu Nationalism*', Routledge, New York.

Agnes, Flavia, 1996, Economic Rights of Women in Islamic Law, *Economic and Political Weekly*, October 12- 19, Pp.2832- 2838.

Agnes, Flavia, 2000, *Law and Gender Inequality: Politics of Women's Rights in India*, Oxford University Press , New Delhi.

Ahmad, Annes, 2001, Reforming Muslim Personal Law, *EPW*, February 24.

Ahmad, Salahuddin, 2004, '*Bangladesh Past and Present: Changing Phases from Bengali Nationalism to Bengali Muslim Identity*', A.P.H. Publishing Corporation, New Delhi.

Baird, Robert D., 2001, Gender Implications for the Uniform Civil Code, in Jerald James Larson (ed.), '*Religion nad Personal Law in Secualr India: A Call to Judgement*', Social Science Press, Delhi.

Bandopadhyaya, P.K., 2004, '*The Bangladesh Dichotomy and Politicization of Culture*', B.R. Publishing Corporation, New Delhi.

Basu, Amrita, 2001, The Dialectics of Hindu Nationalism, in Atul Kohli(ed.), '*The Succes of India's Democracy*', CUP, (2004), New Delhi.

Basu, Srimati, 2001, The Personal and the Political: Indian Women and Inheritance Law, in Jerald James Larson (ed.), '*Religion nad Personal Law in Secualr India: A Call to Judgement*', Social Science Press, Delhi.

Bhargav, Rajeev, 2000, Democratic Vision of A New Republic: India, 1950 in Zoya Hasan (ed.), '*Transforming India*', Oxford University Press

Bhargav, Rajeev, 2003, The Cultural Nationalism of the New Hindu, *Dissent*, Fall, Pp. 11-17.

Bhavan, Rajeev, 2001, The Road to Zanadu: India's Quest for Secularism, in Jerald James Larson (ed.), '*Religion nad Personal Law in Secualr India: A Call to Judgement*', Social Science Press, Delhi.

- Bilgrami, Akeel, 1992, What Is a Muslim? Fundamental Commitment and Cultural Identity, *EPW*, May 16-23, Pp1071- 1078.
- Borooah, Vani K. and Sriya Iyer, 2005, Religion, Literacy and the Female to Male Ratio, *EPW*, January 29, Pp. 419- 427.
- Buultejens, Ralph, 1986, India Religion, Political Legitimacy and the Secular State, *Annals of the American Academy of Political and Social Science*, Vol.483, Religion and the State: The Struggle for Legitimacy and Power, January, Pp.93- 103.
- Chachhi, Amrita, 1994, Identity Politics, Secularism and Women: A South Asian Perspective in Zoya Hasan (ed.), 1994, '*Forging Identities: Gender, Communities and the State*', Kali for Women, New Delhi.
- Charles, Nikie, 2000, *Feminism, The State and Social Polity*, Macmillan, London.
- Chatterjee, Partha (ed.), 1998, '*Wages of Freedom: Fifty Years of Indian Nation-State*', Oxford Universities Press, Delhi.
- Chandra, Bipin 2004 Jan –Feb, "Gandhi Secularism and Communalism", *Social Scientist*, vol32/nos 1 2,
- Chatterjee, Partha, 1989, Colonialism, Nationalism and Colonized Women: The Contest in India, *American Ethnologist*, Vol.16, No.4, Pp. 622- 633.
- Chaudhari, Maitrayee, 2004, '*Feminism in India*', Kali for Women, New Delhi.
- Chowdhury, Najma, 1996, Women in Bangladesh Politics, in Abul Kalam (ed.), '*Bangladesh: Internal Dynamics and External Linkages*', University Press Ltd, Dhaka.
- Cook, Rebecca J., 1995, Enforcing Women's Rights through Law, *Gender and Development*, Vol.3, No.2, (Rights), June, Pp.8- 15.
- Dehejia, Rajiv H. and Vivek H. Dehijia, 1993, Religion and Economic Activity in India: An Historical Perspective, *American Journal of Economics and Sociology*, Vol.32, No.2, April, Pp.145- 153.
- Deshpande, Satish, 2003, '*Contemporary India A Sociological View*', Penguin, New Delhi.
- Dev Arjun et al (ed.), '*Human Rights A Source Book*', NCERT , 1996.

- Dreze, Jean and Sen, Amartya, 1997 *“India Economic Development and Social oppurtunity”*, Delhi Oxford University Press, Calcutta, Chennai, Mumbai.
- Dworkin, R., 1990, *‘Taking Rights Seriously’*, Rev. Eds., Duckworth, London
- Engineer, Asaghar Ali, 2004, *‘Islam: Challenging in Twenty-first Century’*, Gyan Publishing House, New Delhi.
- Francel, Francis, 2006, *India’s Political Economy, 1947- 2004 The Gradual Revolution*, OUP, New Delhi.
- Fraser, Arvonnes, 2003, *Becoming Human*, in Marjorie Agosin (ed.), *‘Women, Gender and Human Rights’*, Rawat Pub., Jaipur and New Delhi.
- Fricker, Miranda and Jennifer Hornsby, 2000, *‘Cambridge Companion to Feminism in Philosophy’*, Cambridge University Press.
- Galanter, Marc, 1971, *Hinduism, Secularism and the Indian Judiciary*, *Philosophy East and West*, Vol.21, No.1, Symposium on Laws Morality, October, Pp.467- 487.
- Ganguly, Sumit, 1997, *India in 1996 A Year of Upheaval*, *Asian Survey*, Vol.7, No.2, Part II, Pp.126 -135.
- Ghosh, Partha, 1993, *Bangladesh at Crossroads: Religion and Politics*, *Asian Survey*, Volume 33, No.7, Pp. 697- 710, University of Chicago Press.
- Ghosh, Partha, 2000, *‘BJP and the Evolution of Hindu Nationalism: From Periphery to Centre’*, Manohar, New Delhi.
- Ghosh, Partha, 2007, *‘The Politics of Personal Law in South Asia: Identity, Nationalism and the Uniform Civil Code’*, Routledge, New Delhi.
- Goswami, Haridhan and Zobaida Nasreen, 2003, *Discourses on Minority Representation: The Case of Hindu Minority in Bangladesh*, *Himalayan and Central Asian Studies*, Vol. 7, No.s 3-4, July- December, Pp. 81- 102.
- Guhathakurta, Meghana, 2002, *Communal Politics in South Asia and the Hindus of Bangladesh*, in Morirul Hussain and Lipi Ghosh (ed.s), *‘Religious Minorities in South Asia’*, Vol. 1, Manak, New Delhi.
- Gupta, Dipankar, 2000, *India’s Unmodern Modernity*, in Romila Thapar (ed), *‘India: Another Millennium?’*, Viking, New Delhi.

- Haider,Zaglul,1999, “Role of Military in the Politics of Bangladesh:Mujib, Zia and Ershad Regimes (1972-1990),*Journal of South Asian and Middle Eastern Studies*, vol xxii.no.3, Spring.
- Hansen, Thomas Blom, 2000, Predicament of Secularism: Muslim Identities and Politics in Mumbai, *The Journal of Royal Anthropological Institute*, Vol.6, No.2, Pp.255- 272.
- Haq, Khadija (ed.), , *The South Asian Challenge*, Oxford University Press.
- Hasan, Mushirul, 2001, ‘*Legacy of A Divided Nation: India’s Muslims Since Independence*’, Oxford University Press.
- Hasan, Mushirul (ed.), 1998, ‘*Islam, Communities and the Nation*’, Manohar, New Delhi.
- Hasan, Mushirul, 1988, Indian Muslims Since Independence, In Search of Integration and Identity, *Third World Quarterly*, Vol.10, No.2, Islam and Politics, April, Pp.818-842.
- Hasan, Zoya and Ritu Menon, 2005, ‘*In a Minority*’, OUP, New Delhi.
- Hasan, Zoya (ed), 2000, ‘*Politics and the State in India*’, Sage, New Delhi.
- Hasan, Zoya (ed.), 1994, ‘*Forging Identities: Gender, Communities and the State*’, Kali for Women, New Delhi.
- Hukes, Bell, 1984, ‘ *Feminist Theory from Margin to Centre* ’ , South End Press, Cambridge.
- Hussain, 2007, Reflections on Islamic Identity, Citizenship Rights and Women’s Struggle for Gender Justice: Illustrations from India, *Journal of International Women Studies*, Vol. 9, November.
- Jalal, Ayesha, 1995, ‘*Democracy and Authoritarianism in South Asia*’, CambridgeUniversity Press, New Delhi.
- Jalal, Ayesha, 2000, ‘*Self and Sovereignty Individual and Community in South Asian Islam since 1850*’, Routledge, New York.
- Jayal, Niraja Gopal, 1998, Secularism, Identities and Representative Democracy, in Mushirul Hasan (ed.), ‘*Islam, Communities and the Nation*’, Manohar, New Delhi.

- Jayal, Niraja Gopal and Sudha Pai (eds.), 2001, '*Democratic Governance in India: Challenges of Poverty, Development and Identity*', Sage, New Delhi.
- Joshi, Ruchira, 2003, Situations of Minorities in Bangladesh, *Himalayan and Central Asian Studies*, Vol. 7, Nos 3-4, July- December, Pp. 103- 145.
- Kaviraj, Sudipta, 2000, Democracy and Social Inequality, Zoya Hasan (ed.), '*Transforming India*', Oxford University Press.
- Khilnani, Sunil, 1997, '*The Idea of India*', Hamism Hamitton, Penguin Group, London.
- Khilnani, Sunil, 2000, The Balance of Democracy, in Romila Thapar (ed), '*India: Another Millennium?*', Viking, New Delhi.
- Kothari, Rajani and Rishikesh Maru, 1965, Caste and Secularism in India, *The Journal of Asian Studies*, Vol.25, No.1, November, Pp. 31- 50.
- Kothari, Rajani, 1995, Under Globalization: With Nation State Hold?, *Economic and Political Weekly*, July 1, Pp. 1593- 1603.
- Kothari, Rajani, 1998, Democratic Experiment, in Partha Chatterjee (ed.), '*Wages of Freedom: 50 Years of Indian Nation State*', OUP, Delhi.
- Kothari, Rajani, 2000, The Decline of the Moderate State, in Zoya Hasan (ed.), '*Politics and the State in India*', Sage, New Delhi.
- Kothari, Rajani, 2002, Masses, Classes and the State, in Ghanshyam Shah (ed), '*Social Movements and the State*', Sage, New Delhi.
- Kumar, Radha, 1994, Feminism Faces Fundamentalism in India, *Agenda*, No. 21. Pp. 81- 92.
- Lateef, Shahida, 1994, Ddefining Womem through Legislation, in Zoya Hasan (ed.), 1994, '*Forging Identities: Gender, Communities and the State*', Kali for Women, New Delhi.
- Lukes, Steven, 1974, '*Power: A Radical View*', Palgrave, New York.
- Malik, Yogendra K. and Dhirendra K. Vajpeyi, 1989, The Rise of Hindu Militancy, *Asian Survey*, Vol. XXIX, No.3, March, Pp.308- 325.

- Marie-Aimee-Helie-Lucas, The Preferential Symbol for Islamic Identity: Women in Muslim Personal Law, in Moghadam, Valentine M. (ed), *Identity Politics and Women*,
- Mazumdar, Sucheta, Moving Away from a Secular Vision? Women, Nation and the Cultural Construction of Hindu India, in (ed), *Identity Politics and Women*,
- Menon, Nivedita, 2007, '*Recovering Subversion: Feminist Politics Beyond the Law*', Permanent Black, New Delhi.
- Menon, Nivedita, 1998, Women and Citizenship, in in Partha Chatterjee (ed.), '*Wages of Freedom: 50 Years of Indian Nation State*', OUP, Delhi.
- Metcalf, Barbara D., 2004, '*Islamic Contestations Essays on Muslims in India and Pakistan*', OUP.
- Mines, Mattison, 1972, Muslim Social Stratification in India: The Basis of Variation, *Southwestern Journal of Anthropology*, Vol.28, No.4, Pp. 333- 349.
- Minault, Gail, 1998, Women, Legal Reform and Muslim Identity, in Mushirul Hasan (ed.), '*Islam, Communities and the Nation*', Manohar, New Delhi.
- Misra, Naveen and Sudhir Kumar Singh, 2002, '*Status of Minorities in South Asia*', Author Press, New Delhi.
- Mitra, Subrata, 2005, The NDA and the Politics of Minorities in India, in Adeney, Katharine and Lawrence Saez (ed.s), '*Coalition Politics and Hindu Nationalism*', Routledge, New York.
- Moghadam, Valentine M., Women and Identity Politics in Theoretical and Comparative Perspective, in (ed), *Identity Politics and Women*,
- Mukarji, Apratim, 2003, Rise of Religious Radicalism in Bangladesh, *Himalayan and Central Asian Studies*, Vol. 7, Nos 3-4, July- December, Pp. 57- 80.
- Nandy, Ashis, 1998, The Politics of Secularism and the Recovery of Religious Tolerance, in Rajeev Bhargav (ed.), '*Secularism and its Critics*', OUP.
- Nasra, S V R, 1995, Democracy and Islamic Revivalism, *Political Science Quarterly*, Vol. 110, No. 2, Summer, Pp. 265- 285.

- Nayyar, Deepak, 2001, Economic Development and Political Democracy Interaction of Economics and Politics in Independent India, in Neeraja Gopal Jayal (ed.) *'Democracy in India'* OUP, 2001.
- Noorani, A. G., 1998, Muslim Identity: Self Image and Political Aspirations, in Mushirul Hasan (ed.), *'Islam, Communities and the Nation'*, Manohar, New Delhi.
- Noorani, A.G. (ed.), 2003, *'The Muslims of India: A Documentary Record'*, Oxford University Press, New Delhi.
- Osmany, Shireen Hasan, 1992, *'Bangladeshi Nationalism: History of Dialectics and Dimensions'*, University Press Limited, Dhaka.
- Pal, Ruma, 2001, Religious Minorities and the Law, in Jerald James Larson (ed.), *'Religion and Personal Law in Secular India: A Call to Judgement'*, Social Science Press, Delhi.
- Pandey, Gyanendra, 2006, The Subaltern as Subaltern Citizen, EPW, November 18. Pp. 4735- 4741.
- Patanaik, Prabhat, 1998, Political Strategies of Economic Development, in Partha Chatterjee (ed.), *'Wages of Freedom: 50 Years of Indian Nation State'*, OUP, Delhi.
- Pereira, Faustina, 2002, *'The Fractured Scales The Search for a Uniform Personal Code'*, Stree, Calcutta.
- Samiuddin, Abida and R. Khanam, 2002, Muslim Feminism and Feminist Movement, Vol.1, Global Vision Pub., Delhi
- Sarkar, Tanika, 2001, *'Hindu Wife, Hindu Nation: Community, Religion and Cultural Nationalism'*, Permanent Black, New Delhi.
- Sarkar, Tanika, 2002, Semiotics of Terror: Muslim Children and Women in Hindu Rashtra, *Economic and Political Weekly*, July 13, Pp. 2872- 2876.
- Sen, Amartya, 1993, The Threats to Secular India, *Social Scientist*, Vol.21, No. 3/ 4, March April, Pp. 5- 23.
- Sen, Amartya, 1998, Secularism and its Discontents, in Rajeev Bhargav (ed.), *'Secularism and its Critics'*, OUP.
- Sen, Atreyee, 2007, *'Shiv Sena Women, Violence and Communalism in a Bombay Slum'*, Zubaan, New Delhi.

- Shah, Ghanshyam, *Dalit Politics: Has it Reached an Impasse?*, 2001, in Niraja Gopal Jayal and Sudha Pai (eds.), *Democratic Governance in India: Challenges of Poverty, Development and Identity*, Sage, New Delhi.
- Shahabuddin, Aelora, 1999, *Contesting the Elicit: Gender and Politics of Fatawas in Bangladesh*, *Science*, Vol. 24, No.4, Summer, Pp. 1011-1044.
- Singh, Kirti, 1994, *The Constitution and the Muslim Personal Law*, in Zoya Hasan (ed.), 1994, *Forging Identities: Gender, Communities and the State*, Kali for Women, New Delhi.
- Sobhain, Salma, 1994, *National Identity, fundamentalism and the women's movement in Bangladesh*, in Valentine M Moghadam (ed.), *Gender and National Identity*, Zed Books, London and New Jersey and OUP, Karachi.
- Srimanjari, 1990, *Seminar on Communalism in India: A Report*, *Social Scientist*, Vol.18, No. 6/7, June- July, Pp. 49—72.
- Taylor, Charles, 1995, *The Politics of Recognition*, in Amy Gutman (ed.), *Multiculturalism*, Princeton University Press.
- Thakur, Ramesh, 1993, *Ayodhya Politics of India's Secularism*, *Asian Survey*, Vol. 33, No.7.
- Upadhyay, Prakash Chandra, 1992, *The Politics of Indian Secularism*, *Modern Asian Studies*, Vol.26, No.4, October, Pp.815- 853.
- Varshney, Ashutosh, 2002, *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, Yale University Press, New Haven and London.
- Vatuk, Sylvia, 2001, "Where Will She Go? What Will She Do?" *Patternalism Towards Women in the Administration of Muslim Personal Law in Contemporary India*, in Jerald James Larson (ed.), *Religion nad Personal Law in Secualr India: A Call to Judgement*, Social Science Press, Delhi.
- Veer, Peter Van Der, 2002, *'God Must Be Liberated!': A Hindu Liberation Movement in Ayodhya*, in Ghanshyam Shah (ed), *Social Movements and the State*, Sage, New Delhi.
- Weedon, Chris, 1999, *Feminism, Theory and the Politics of Difference*, Blackwell, Oxford.

Wood, Geoffrey D, 1994, '*Bangladesh Whose Ideas, Whose Interests?*', University Press Limited, Dhaka.

Ziring, Lawrence, 1994, '*Bangladesh From Mujib to Ershad: An Interpretive Study*', University Press Limited, Dhaka.

Appendix I

The Muslim Women (Protection of Rights on Divorce) Act, 1986

This Act has been formulated to protect the rights of Muslim women who have been divorced by , or have obtained divorce from their husbands and to provide for matters connected therewith or identical thereto.]

S 1. Short Title and Extent

This Act may be called the Muslim Women (Protection of Rights on Divorce) Act, 1986.

It extends to the whole of India except the state of jammu and Kashmir.

S 2. Definitions

In this Act, unless the context otherwise requires,

- b) “divorced woman “ means a Muslim woman who has married according to Muslim law and has been divorced by or has been divorced by or has obtained divorce from her husband in accordance with Muslim law.
 - c) “iddat period” means, in the case of a divorced woman,
 -) Three menstrual courses after the date of divorce, if she is subject to menstruation; and
 -) Three lunar months after her divorce, if she is not subject to menstruation; and
 -) If she is enceinte at the time of her divorce the period between the divorce and the delivery and the delivery of her child or the termination of her pregnancy, whichever is earlier.
 - c). “Magistrate” means a Magistrate of the first class exercising jurisdiction under the code of Criminal Procedure 1973 in the area where the divorced woman resides.
 - d). “Prescribed” means prescribed by rules made under this Act.
- S 3 Mehr or Other Properties of Muslim Woman to be Given to Her at the Time of Divorce.

14. Notwithstanding anything contained in any other law for the time being in force, a divorced woman shall be entitled to:
- a) A reasonable and fair provision and maintenance to be made and paid to her within the iddat period by her former husband;
 - b) Where she herself maintains the children born to her before or after her divorce, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children;
 - c) An amount equal to [the] sum of mehr or dower agreed to be paid her at the time of her marriage or at any time thereafter according to Muslim law; and
 - d) All the properties given to her before or at the time of marriage or after her marriage by her relatives or her friends or the husband or any relatives of the husband or his friends.
15. Where a reasonable and fair provision and maintenance or the amount of her mehr or dower due has not been made or paid or the properties referred to in clause (d) of sub-section (1) have not been delivered to a divorced woman on her divorce, she or anyone duly authorized by her may, on her behalf, make an application to a Magistrate for an order for payment of such provision and maintenance, mehr, or dower or the delivery of properties as the case may be.
16. Where an application has been made under sub-section (2) by a divorced woman, the Magistrate may if he is satisfied that –
- Her husband having sufficient means, has failed or neglected to make or pay her within the iddat period a reasonable and fair provision and maintenance for her and the children; or,
- The amount equal to the sum of mehr or dower has not been paid or that the properties referred to in clause (d) of sub-section (1) have not been delivered to her, make an order, within one month of the date of the filling of the application directing her former husband to pay such reasonable and fair provision and maintenance to the divorced woman as he may determine as fit and proper having regard to the needs of the Divorced woman, the standard of life enjoyed by her during her marriage and the means of her former husband or as the case may be, for payment

of such mehr or dower or the delivery of such properties referred to in clause (d) of sub-section (1) to the divorced woman.

Provided that if the Magistrate finds it impracticable to dispose of the application within the said period, he may, for reasons to be recorded by him, dispose of the application after the said period.

17. If any person against whom an order has been made under sub-section (3) fails without sufficient cause to comply with the order, the Magistrate may issue a warrant for levying the amount of the maintenance or mehr or dower due in the manner provided for levying fines under the Code of Criminal Procedure, 1973 (2 of 1974), and may sentence such person, for the whole or part of any amount remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one year or until payment if sooner made, subject to such person being heard in defence and the said sentence being imposed according to the provision of the said Code.

S. 4. Order for payment of maintenance

0. Notwithstanding anything contained in the foregoing provisions of this Act or in any other law for the time being in force, where a magistrate is satisfied that a divorced woman has not re-married and is not able to maintain herself after the iddat period, he may make an order directing such of her relatives as would be entitled to inherit her property on her death according to Muslim law, to pay such reasonable and fair maintenance as he may determine fit and proper, having regard to the needs of the divorced woman, the standard of life enjoyed by her during her marriage and the means of such relatives and maintenance shall be payable by such relatives in the proportion in which they would inherit her property and at such periods as he may specify in his order .

Provided that where such divorced woman has children, the Magistrate shall order only such children to pay maintenance to her and in the event of any such children being unable to pay such maintenance, the Magistrate shall order the parents of such divorced woman to pay maintenance to her .

Provided further that if any of the parents is unable to pay his or her share of the maintenance ordered by the Magistrate on the ground of his or her not having the means to pay the same, the Magistrate may, on proof of such inability being furnished to him, order that the share of such relatives in the maintenance ordered by him be paid by such of the other relatives as may appear to the Magistrate to have the means of paying the same in such proportions as the Magistrate may think fit to order.

Where a divorced woman is unable to maintain herself and she has no relatives as mentioned in sub-section (1) or such relatives or any one of them have not enough means to pay the maintenance ordered by the Magistrate or the other relatives have not the means to pay the shares of those relatives whose shares have been ordered by the Magistrate to be paid by such relatives under the second provision to sub-section 9 of the Wakf Act, 1954 or under any other law for the time being in force in a State, functioning in the area in which the woman resides, to pay such maintenance as determined by him under sub-section (1) or, as the case may be, to pay the shares of such of the relatives who are unable to pay, at such periods as he may specify in his order.

S. 5 Option to be Governed by the Provisions of Section 125 To 128
of Act 2 of 1974

If on the date of the first hearing of the application under sub-section (2) of Section 3 a divorced woman and her former husband declare, by affidavit or any other declaration in writing in such form as may be prescribed either jointly or separately, that they would prefer to be governed by affidavit or any other declaration in writing in such form as be prescribed either jointly or separately, that they would prefer to be governed by the provisions of Section 125 to 128 of the Code of Criminal Procedure, 1973 and file such affidavit shall dispose of such application the magistrate shall dispose of such application.

Explanation: for the purpose of this section, "date of the first hearing of the application" means the date fixed in the summons for the attendance of the respondent to the application.

S. 6 Power to Make Rules

4. The Central Government may, by notification in the official gazette,
Make rules for carrying out the purpose of this Act.
5. In particular and without prejudice to the foregoing power, such rules may provide for – the form of the affidavit or other declaration in writing to be filed under section 5, the procedure to be followed by the magistrate is disposing of application under this Act, including the serving of notices to the parties to such application, dates of hearing if such applications and other matters, any matter which is required to be or may be prescribed.

APPENDIX 2

Possible Construction for a Uniform Personal Law of Bangladesh

MODEL UNIFORM CODE OP PERSONAL LAW

Part I

Marriage and Divorce Registration

WHEREAS it is expedient to make provision for marriage and divorce registration laws for all citizens of Bangladesh

1. The Short Title of this law shall be 'Uniform Marriage and Divorce Registration Act.'

2. APPLICATION AND EXTENT

(b) This law shall apply upon every citizen of the Peoples' Republic of Bangladesh.

(c) This law shall be applicable to all citizens of Bangladesh wherever they may reside notwithstanding any other law on registration of marriage and divorce in force.

3. DEFINITIONS

Unless there is anything repugnant in the subject or context, in this law:

(a) 'Inspector General of Registration' and 'Registrar' will respectively mean the officers so designated and appointed under the Registration Act 1908 (Act 16 of 1908).

(b) 'Prescribed' means prescribed by rules needed and made under this law.

(f) 'Notice' means a notification under this law.

(d) 'Arbitration Council' means an arbitration council formed under this law.

QUALIFICATIONS AND DISQUALIFICATIONS OF MARRIAGE Any citizen who is 18 years of age or more, who marries a person who is not directly related to him or her by reason of affinity or consanguinity, shall freely and independently register the marriage under Section 4 and 5 of this Act within the stipulated time and before their respective competent witnesses by appearing before the Marriage Registrar's office. in their local jurisdiction.

1. REGISTRATION OF ALL MARRIAGES COMPULSORY

Notwithstanding anything contained in any law, custom, usage or practice, registration of marriage shall be compulsory.

2. REGISTRATION WITHIN PRESCRIBED TIME

Any marriage performed under any law, custom, usage or social practice shall be registered :

(a) Within 15 days in the Metropolitan areas.

(b) Within 30 days for other areas.

(p) The husband and wife shall, within the prescribed time and within their local jurisdiction, appear in person before the Registrar to register the marriage.

7. PROCEDURE FOR REGISTRATION OF MARRIAGE

(t) Every Registrar licensed by the Government shall register every marriage in the presence of the parties and by their application within their respective jurisdictions and shall provide them with a certificate of registration of marriage.

(u) If any Registrar, for any lawful reason refuses to register any marriage, the aggrieved person or persons shall, within 30 days of such refusal appeal to the District Registrar and in such case the

decision of the District Registrar shall be final.

(v) Every Registrar shall register every marriage under this law in the prescribed form provided below under Schedule 1 as Form A and shall enter a serial number of the registration in the form.

8. Under this law every divorce must be registered in the prescribed manner provided below under Schedule 2 as Form B and shall enter a serial number of the registration in the form.

POLYGAMY PROHIBITED, ILLEGAL AND PUNISHABLE

(a) No person who, during the subsistence of a valid marriage, enters into a second marriage shall be permitted to register the second marriage in accordance with this law.

(a) Under this law polygamy is prohibited, illegal, invalid and a punishable offence.

(b) When any person conceals or fails to inform the fact of his or her subsisting first marriage, the second marriage will not be registered under this law.

(c) Under this law, any person guilty under Sub-section a, b or c of this Section shall be punishable under Sections 493, 494, 495 and 496 of the Penal Code, as the case may be.

12 If, for any lawful reason a husband or wife, either individually or mutually wishes to terminate the marriage, either one or both parties may bring about such a termination, provided that it is approved finally by the Arbitration Council as defined under Section 3 (d).

13. GROUNDS FOR DIVORCE

(a) Any person, after recording his or her reasons for seeking divorce shall, with 30 days' notice, make a written application to the Arbitration Council of his or her local jurisdiction, after which the Arbitration Council shall send notices to both parties of the

marriage and shall, in the presence of both parties within 1.5 days after the parties receive the notice or if one Party is absent twice consecutively before the Arbitration Council, the Arbitration Council will, either after hearing both parties or after making an *ex parte* decision, make an order for divorce or cancel the application for divorce, as the case may be, and send the matter to the Family Court for approval.

(b) Grounds for Which a Person May Claim Divorce

- (i) If the whereabouts of the applicant's spouse is not known for two years or
- (iv) If the husband fails to provide maintenance for two years,
- (v) If the spouse has been convicted of an offence and has been punished with imprisonment for a period of 5 or more years.
- (iv) If the spouse was impotent or sexually debilitated at the time of the marriage and continues to be so.
- (v) If the spouse is addicted to drugs of any kind, or he or she is an alcoholic.
- (vi) If the spouse is insane or is suffering from virulent or venereal diseases for one year.
- (iv) If the spouse is adulterous.
- (viii) If the spouse compels the applicant to lead an immoral life.
- (ix) If the spouse directly or indirectly claims dowry from the applicant or his or her parents or guardians and tortures the applicant physically or mentally for the purpose. (x) For any other reason for which marital life becomes impossible to subsist,
- (c) During the interim period of divorce the husband and wife shall live separately. The Family Court shall, seven days after receiving the decision of the Arbitration Council, send a notice to the parties and after assessing the

statements and opinions of both parties shall, and within 30 days after the date of the notice, finally dispose of the matter.

1. DIVORCE DURING PREGNANCY OF WIFE PROHIBITED

Under this law, neither party to the marriage may make an application

to the Arbitration Council to terminate the marriage if the wife is

pregnant. No measures whatsoever to effectuate a divorce shall be taken

during the pregnancy of the wife, including registration of divorce.

2. REGISTRATION OF DIVORCE COMPULSORY

All divorces, notwithstanding any provision in any other law, must be registered under this law.

16- REGISTRATION OF DIVORCE

Every Registrar licensed under nomination or appointment by the Government shall register every divorce in the presence of the parties and by application within their local jurisdiction.

17. REGISTRAR OF DIVORCE

For the purpose of registration of marriage, and for the purpose of registration of divorce the Government shall appoint such a number of Registrars as may be deemed necessary. In case of marriages and divorces respectively they shall be known as 'Registrar of Marriage' and 'Registrar of Divorce' and shall perform their duties as Registrar of Marriage and Registrar of Divorce under this law. The secretaries of the Union Council, Municipal Board and City Corporation may, upon Executive orders, serve as Registrars of Divorce.

1. Under this Law, registration of marriage and divorce shall be recognized

and treated as a bilateral document under Section 16 of the Registration Act of 1908.

2. PAYMENT OF FEES, PROVISION OF SEPARATE RECEIPTS AND CERTIFIED COPIES

(a) After examining the parties and the witnesses to the marriage and personally filling out the form in the Marriage Register Book and obtaining the signature of both parties, the Registrar of Marriage shall register the marriage.

(b) After receiving the prescribed fees for the registration of marriage the Registrar of Marriage shall provide the parties with a receipt for the amount, after which the Registrar shall provide the parties with a copy of the certificate of marriage bearing the same serial number, which will be recorded by the Registrar and shall have his or her signature and seal.

20. REGISTRATION BOOKS

Every Registrar shall maintain and serially number the prescribed marriage and divorce registration forms in separate Register Books. The Registrar shall also maintain a Registry, containing a record of all marriage and divorce registrations.

21. After the registration of marriage the Registrar will provide the parties with a copy certifying that the registration has been copied, entered and attested from the separate Register Book into the Registry,

22. MAINTENANCE OF REGISTER BOOKS

Every Registrar shall maintain the Register Book until it is completed, or, if the Registrar leaves or is transferred from the local jurisdiction, the Register Book shall be handed over to the appropriate authority.

23. INSPECTION OF THE REGISTER BOOK

Any person may on payment of a fee (if applicable, or if prescribed by Government) inspect the Register Books in the Office of Registrations and may make a copy of the document inspected in the Registration Book.

24. CANCELLATION OF NOMINATION, APPOINTMENT, LICENSING OR SUSPENSION OF THE REGISTRAR

If the Government is satisfied that a Registrar is guilty of any misconduct in the discharge of his or her duties or due to physical illness is unable to so discharge his or her duties, the Government may, by order in writing revoke the Registrar's license or appointment, or it may suspend the license for two years.

25. ALREADY FUNCTIONING REGISTRARS

Before the commencement of this law, all Registrars recognized by the laws of Muslim marriage and dissolution and by any prescribed law for the registration of Christian marriage or for other special marriages, shall be deemed to be licensed as Registrars and shall register marriages and divorces.

26. CANCELLATION OF ENTRIES IN REGISTER BOOK

If the parties to the registration of marriage or divorce fail to sign or provide their thumb impressions in the Register Book, all entries in the Register Book relating to such marriage or divorce shall be cancelled by the Registrar who shall sign a statement providing the reasons for cancellation and any fees paid by the parties shall be refunded.

26. RULE MAKING POWER

The Government may by notification in the official Gazette, frame rules with a view to materializing the object of the law and without prejudice to the powers mentioned above, the following may be included in the rules:

- . Qualification of persons to whom the license may be granted
- . Publication and preservation of forms, the Register Book, the Registry and other document.
- . Fees payable to a Registrar of marriage or divorce. (iv) Any other matter for which rules are required to be made.

27. The procedure for registration and rules of entries, and maintenance prescribed under Sections 19 to 27 shall apply in the same manner for registration of divorces.

Scheduled 1

FORM A

Marriage Register Book according to Section 5 of the Marriage and Divorce Registration Law of 200,..

Marriage Registration Form I.

1. Office of the Marriage Registrar.

1. Full address where marriage has been performed, Including village and police station, where applicable

2. Date and time of marriage

3. Name of the Groom's father and mother, his date of birth, age, profession, educational qualification {if applicable), religion (optional), nationality, permanent and present address:

4. Whether the Groom is already in a subsisting marriage/is a widower/ or divorced:

(d) If a widower, the date and place of first wife's death, including cause of death.

(e) If divorced, the particulars of the registration of divorce, including date and serial number of the registration form, and the place where it was issued,

(f) If there exist a child or children from a previous marriage or marriages, the name/s, age/s and place/s of residence of each.

2. Name of the Bride, her father's and mother's names, her date of birth, age, profession, educational qualification (if applicable), religion (optional), nationality, permanent and present address.

3. Whether the Bride is already in a subsisting marriage/is a widow/ or divorced:
 - . If a widow, date and place of death of first husband, including cause of death.
 - . If divorced, particulars of the registration of divorce, including the date and serial number of the registration form and the place where it was issued.
 - . If the Bride has a child or children from a previous marriage or marriages, the name/s, age/s and place/s of residence of each child.

8. Name of the Identifier for the Groom
 - (b) Present and permanent address of Identifier
 - (c) Relationship between Groom and Identifier.

9. Name of the Identifier for the Bride
 - (g) Present and Permanent address of the Identifier.
 - (c) Relationship between Bride and Identifier

Parties marrying.

1. Whether prescribed fees of registration have been paid in full
2. Full name and signature or thumb imprint of the husband
17. Full name and signature or thumb imprint of the wife
- Signature of the Identifier
23. Signature of the Witnesses
1. Date and time of registration of marriage

Declaration of Marriage Registrar

Iempowered under the Uniform Marriage and Divorce

Registration Law of 200..., do hereby certify and declare on this

(date),at.. (place) at..... (time), after having in my presence the said

bride and groom and their respective witnesses, and after being satisfied with the descriptions and records of the parties and having witnessed their signatures/thumb imprints to the marriage contract, solemnly record this

marriage registration bearing serial number in book of the Marriage

Registration Record.

Signature and Official Seal of the Registrar: Schedule 2 FORMB

Serial No. __of the Divorce Registration Book according to Sections 13

and 14 of the Uniform Marriage and Divorce Registration Law. of 200...

Divorce Registration Form

1. Office of the Registrar of Divorce.
2. Detailed address of where the marriage was registered, including registration number of marriage certificate.
4. Name of the husband, his father's name, mother's name, his date of birth and age, profession, educational qualification, religion, nationality,

4. Name of the wife, her father's name, mother's name, her date of birth and age, profession, educational qualification, religion, nationality, permanent and present address.
5. Parry bringing the application for divorce and date upon which the other party was provided a notice of the divorce application.
6. Description of the Arbitration Council approving the divorce:
 - (a) The Chairperson
 - (b) Representative of the husband
 - (c) Representative of the wife
 - (d) Representative from local legal society
 - (c) Representative from a women's organization.
7. Primary Reason for Divorce.
8. Description of 'he earned, acquired, saved property, whether moveable or immovable by the husband and wife, individually or mutually, during the subsistence of the marriage:
 - (a) Monetary value of the husband's immovable properties and assets
 - (b) Monetary value of the husband's moveable properties and assets
 - (c) Monetary value of the wife's immovable properties and assets
 - (d) Monetary value of the wife's move-able properties and assets
9. Whether Distribution of properties and assists between the spouses after the divorce has been carried out according to Section 10 of this law.
10. Name, age and present and permanent address of child or children at the of divorce.
11. Decision of arbitration Council regarding guardianship, custody and maintenance.
12. Whether the Arbitration Council has found either party eligible for maintenance after divorce by the other party. If so the weekly or monthly

or annual sum determined.

- 0 Date of final approval of divorce by the Arbitration Council.
- 0 Signature of the husband.
- 0 Signature of the wife.
- 0 Signature of the verifiers.
- 0 Signature of the witnesses.
- 0 Date of registration of divorce.

Declaration of Registration of Divorce

I, empowered under the Uniform Marriage and Divorce Registration Law, 200... do hereby certify and declare that on (date) at (time), at (place), in the presence of (husband), (wife), and their respective witnesses, having witnessed their signatures to this registration form and having satisfied myself with the particulars and descriptions presented to me by the respective parties, I record this divorce registration bearing serial number in book in the Divorce Registration Record.

UNIFORM CIVIL LAW ON MARRIAGE RECOMMENDED

BY AIN-O- SALISH KENDRO (ASK)

The Marriage Act of 200...

ACT No. of 200...

An Act to Provide a Form of Marriage for the Citizens of Bangladesh. Preamble.

- WHEREAS it is expedient to provide a form of marriage for citizens of Bangladesh, it is hereby enacted as follows:-

1. Short title:

This Act may be called the Marriage Act, 200... (Act no... of 200...). It extends to the whole of Bangladesh.

2. Definitions:

Unless there is anything repugnant in the subject or context,

(d) 'Citizens of Bangladesh' means any person who is a citizen of Bangladesh under the provisions of Bangladesh Citizenship (Temporary Provisions) Order, 1972.

(e) 'Marriage' means a union between two adult persons in compliance with the provisions of this Act.

(f) 'Registrar' means a registrar of marriage appointed under this Act.

(g) 'Consent' means the expression of willingness, whether in writing or oral, by a person to do or to abstain from doing something, while in a sound mind and having sufficient understanding, being free from any undue influence, coercion, fraudulent misrepresentation or other like reasons.

3. Conditions upon which marriages to be officiated under the Act: Every marriage shall be officiated between two persons, upon the fulfillment of the following conditions:

(4) At least one of the parties to a marriage must be a citizen of Bangladesh.

(5) Neither of the persons must, at the time of the marriage under this Act, have a spouse living, whether married under this Act or under any other law or custom having the force of law for the time being, provided that the marriage under this Act is not contracted between the same spouses.

Both the persons must have completed the age of eighteen years. Both the parties must express their consent to the marriage.

4. Appointment of Marriage Registrars:

The Government may appoint one or more Registrars of Marriage under this Act, either by name or as holding any office for the time being, in every district.

5. Notice of Marriage

- (4) When a marriage is intended to be officiated under this Act, one of the parties must give notice in writing to the Registrar before whom it is to be officiated.
- (5) Such notice may be in the form given in the first schedule to this Act.
- (6) The Registrar shall file all such notices and keep them with the records of his or her office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished as a marriage Notice Book, to be called the Marriage Notice Book under Act I of 200... and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same,
- (7) No court other than the court of a 1st Class Magistrate shall be competent to take cognizance of the offence under subsection (1).

16. Dissolution of Marriage

- (1) Any party to a marriage shall be entitled to obtain a decree for the dissolution of marriage on any one or more of the following grounds, namely:
 - (d) that the whereabouts of the applicant's spouse have not been known for a period of four years;
 - (e) that the applicant's spouse has been sentenced to imprisonment for a period of seven years or upwards;
 - (f) that the applicant's spouse has failed to perform, without reasonable cause his or her marital obligations for a continuous period of three years;that the applicant's spouse has been insane for a period of two years or is suffering from a virulent venereal disease; that the behavior or treatment of the applicant's spouse is so irreconcilable that it is desirable to part with the spouse.
- (4) The wife may seek for a decree for the dissolution of her marriage

on the ground that the husband has been impotent at the time of the marriage and continues to be so.

(5) Nothing contained in sub-sections (1) and (2) shall prejudice the right of either party to a marriage to have their marriage dissolved by mutual consent.

(6) No Court or authority other than the Family Courts constituted under the Family Courts Ordinance, 1985 shall have the jurisdiction to pass a decree for the dissolution of marriage under the preceding sub-sections.

! 7. Saving of marriages solemnized otherwise than under Act

Nothing contained in this Act shall affect validity of any marriage not officiated under its provisions: nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage: but, if the validity of any such, mode shall hereafter come into question before any Court, such question shall be decided as if this Act had not been, passed.

18. Penalty for signing declarations of certificates containing false statements

Every person making, signing or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he/she either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in Section 199 of the Penal Code.

19. The application of the Succession Act, 1925 Persons contracting marriage under this Act shall be subject to the provisions of the Succession Act, 1925 concerning their mutual rights and obligations, and the succession to each of them by their issues shall also be governed by the said Act, provided that no such person shall be debarred from succeeding to any other right accrued to him/ her by virtue of any other law to which such person is otherwise subject.

20. Application of the Guardians and Wards Act, 1890 Children born to or adopted by persons contracting marriage under this Act shall be subject to the provisions of the Guardians and Wards Act. 1890, concerning the guardianship and custody of the children, in all cases of which the welfare of the children in question will be the paramount consideration.

Source: Faustina Pereira: (2002), *The Fractured Scales: The search Uniform*
Personal Code Pereira: Stree-Pub Culculta

Appendix 3

Declaration Adopted at the Conference on Genuine Problems of Women and their Solution in the light of Shariah` Organized by the All India Muslim Personal Law Board on 7 and 8 April 2001

We, the participants of the Conference, solemnly affirm our faith in the Islamic Shariah and express our conviction that the Shariah provides judicious solution of all the problems of human life including those related to women. We are of the opinion that the distressing problems that Muslim women are facing today are themselves due to the lack of faithful observance of the provisions of the principles of Shari`ah. We therefore feel that the solution of these problems lies in the society's endeavor to bring its practices into conformity with the norms and principles of Shari`ah. It requires to more vigorously pursue the campaign for educating the people of their rights and duties so as to reach a maximum number of people in a short period of time, inculcation in them the right consciousness and attitudes.

In this direction the Conference Resolves to take the following measures:

4. To hold small workshops in various parts of the country with the help of ulema, imams of the mosques and other opinion makers for increasing awareness of rights and duties among the people at the local level.
5. To speed up the process of establishment of Islamic courts (Darul Qaza) as much as possible, and to make them increasingly acceptable among the people so that they take recourse to these courts for the resolution of the disputes.
6. As the mosques could serve as the forum for educating people on the mutual rights and duties of the husband and wife we appeal to the imams of the mosques to undertake this mission.
7. As frequent and irresponsible exercise of the rights to divorce seriously undermines the objectives of the Shari`ah and as it brings in its wake distress to wives children and other relatives, a concerted endeavour is required for the eradication of this evil.
8. Apart from educating people on the issue and inculcating in them right attitudes, there is a need for some social restraint on divorce. For example, it may be

- impressed upon the people to seek the advice and intervention of ulema, imams and the community panchayats in case there is any genuine need for divorce.
9. Taking note of the increasing practice of the social evils of dowry and tilak, this Conference would like to remind the Muslims in India that such practices have been unanimously decreed as un-Islamic by ulema. It is, therefore incumbent on them to try to eradicate these evils.
 10. This Conference appeals to all ulema imams, and social organizations, especially women organizations to Endeavour their utmost to wipe out this evil.
 3. Similarly, issues like the non-payment of mehr and taking another wife, while doing injustice to the first wife, including desertion, needs to be addressed by the society through a process of mobilization of opinion and consciousness raising.
 12. This Conference appeals to the president of Personal Law Board to take all such measures that are required for the eradication of the social evils through intensification of on-going efforts with the cooperation of ulema, organizations and intellectuals. The Conference assures our full cooperation assures to him in this regard.

This Conference also appeals to the Government of India to accord legal sanction to Darul Qaza (Islamic judicial panchayats) which will be helpful to women in securing their right. We also appeal to the Government of India to constitute a Shari`ah bench within the Family Court system.

Source : Ghosh, partha (2007 *The Politics of Personal Law in South Asia, Identity, Nationalism and Uniform Civil Code*, Rutledge, New Delhi,,2007