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LEADER

WOMEN EMPOWERMENT

Issues and Perspectives

Edited by
Dr. Kavitha G. N.



WOMEN EMPOWERMENT

The concept of 'Empowerment' has its own scope and form in society today. The process of empowering women in rural and urban areas can be seen. Women belonging to the category of marginalized and oppressed are currently under the jurisdiction of empowerment and are seeking to be subject. The process of empowerment is evidenced by the awareness of these areas, especially in the areas of social, economic, cultural, political, health, educational, literary, legal and technological. We see changes in family, occupational and personal lives. Empowerment is a process that every woman desperately needs. While women in the Western countries are fully involved in the empowerment process but women in the developing and underdeveloped countries are undergoing a little. Women's empowerment is essential for the development of society. Socio-cultural factors in the patriarchal system have gained control over her, which is why women in our society today are not fully empowered. Women can come out of such a system of restraint, oppression, violence, inequality and be empowered to have the power to exercise equality, rights and liberty as well as to be conscious, independent and questioning. In this regard, Dr. Kavitha G.N. has collected and cited many excellent articles on 'Women Empowerment: Issues and Perspectives'. This edited book is a valuable contribution to Women's Studies and other related Social Sciences. I congratulate and wish her for this academic achievement.

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Women Empowerment : Issues and Perspectives

Edited by

DR. KAVITHA G. N.

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India), Hyderabad, India and Former Associate Professor at Eritrea. Former Senior Planning Officer, Govt. of Assam, India. He has always youngest in educational activities, expressess his estimation about the book. My heartfelt thanks to them also.

Prof. M.V. Ushadevi, is my favourite teacher, who has influenced throughtout my eduactional Career, Professor of History Bangaluru University. She has worked on subaltern studies and participated in various International, National, State level Conferences, Published articles on gender issues. She has always pro-women concerns. I would like to extend my heartfelt thanks to her, sincerely encouraged the young researcher like me.

In Preparing this Edited book, the role of authors is immense. My sincere thanks to all the authors, who have devoted their valuable time to write articles analytically.

My thanks to Dr. Channaveeregowda, proprietor of CVG Publications, and Leader Press Staff.

- Dr. Kavitha G.N.

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WOMEN EMPOWERMENT: CAUSE, CONSEQUENCE AND CLASSIFICATION

M. Riswan

Introduction:

The power of particular series is the power of its feeblest chain. By this way, in a community women are considered as the feeblest part or link. Therefore they should be strengthened in order to strengthen the whole society and that can be possible only by giving them the empowerment. In this way, empowerment of women can be identified as a new phenomenon. So far the second part of the twentieth century the problem of empowering women have attained the prominent amongst the researchers of institution of higher education and in nation-wide and world wide stages.

History indicates that all our disadvantaged collections in the domain women have been suffered the supreme. Their sufferings distinguished no limits grounded on region, religion, culture and race.

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DR. B.R. AMBEDKAR'S THOUGHTS ON THE EMPOWERMENT OF MUSLIM WOMEN

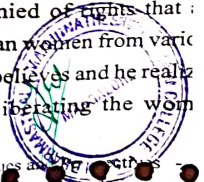
Dr. Shaheema

*"I MEASURE THE PROGRESS OF A COMMUNITY BY THE
DEGREE OF PROGRESS WHICH WOMEN HAVE ACHIEVED"*

DR. B.R. AMBEDKAR

INTRODUCTION

Dr. B.R Ambedkar's thoughts on indian women shows his deep concern and feelings for all round development of women. he always believed that women empowerment is based on their own security and happiness. He broadly studied the position of indian women and he got to know that indian women are denied of rights that are available to them. So, he Decided to free Indian women from various inhumane customs, rituals and superstitious beliefs and he realized that this could not be achieved without liberating the women.



hemselves so he directed to fight for eradication of social evils and mark their presence in the struggle. Dr. B.R Ambedkar was impressed seeing the large gathering of women at the women's conference held at Nagpur on 20th July, 1942. In the said conference he said, "*Women to be progressive and abolish traditionalism, ritualism and customary habits, which were detrimental to their progress*". He had made the honest exertions in laying down the robust bases for codifying the common Civil Code for Hindus and other sections of the Indian society. He developed a sense of consciousness among deprived and uneducated women and fortified them to combat against discrimination and injustice. He had a particular humanitarianism towards every woman of the country irrespective of her religion, caste and class so only he often used to raise his voice against all sorts of injustice that were happening towards women. Beside fighting to prohibit certain bad practices like untouchability, devadasi system, prostitution and child marriages, he also made efforts in changing social status of Muslim women. He opined that Muslim women are stifled under various religious traditions. In his famous book "Pakistan or the Partition of India" he has expressed his views about legal rights of Muslim women and their religious traditions, such as wearing purdah (veil), their system of marriages, divorce, religious conversions etc. He has made a priceless contribution by introducing many women welfare provisions in the Indian Constitution and by doing this he has conferred upon them equal rights and freedom.

In this chapter the author has justified positively the thoughts of Dr. B.R Ambedkar on Muslim women which he has discussed in his famous book "Pakistan or the Partition of India". In the said book he has discussed some of the problems faced by Muslim women. The

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author has highlighted only those problems that have been discussed by him showing concern directly or indirectly towards Muslim women and other problems have been ignored as the subject of study is limited to Muslim women only. The views expressed by the author in this chapter are only to justify the facts by referring to some of the relevant chapters and verses of holy book Quran and the related provisions of legislations enforced in India on Muslim women.

POSITION OF WOMEN IN ISLAM

'Islam' is one of the well recognize and well observed religion of the world. Islam is the religious faith of Muslims founded by the 'Prophet Muhammad' (Peace be upon him (PBUH)), taught by the holy book 'Quran' and stands for the absolute submission to the will of 'Allah'. The term 'Islam' is originated from an Arabic word 'Salema' which literally means peace, purity, submission and obedience. In the religious context the term Islam stand for "submission to the will of God (Allah)". There are number of laws and code of conduct in Islam and the observers of Islam are hoped to abide by these laws. The summation of Islamic teachings is to promote human dignity and honour. It relieves mankind from dishonor and offers sophisticated and honourable place in human society.

Before the evolution of Islam, the world had dishonored the woman and had almost outcast her. She was thrown in such a deep gorge that there seemed no hope of her recovery. Islam confidently objected against this injustice and emphasised that life needed both man and woman. Woman is not created to be ridiculed and cast aside. Like man, woman also has her determination and right to exist. And the nature is achieving its aim with the help of man and woman both. Islam lifted woman from the gorge of dishonor and granted her rights and facilities. Since it is acknowledged that the revolutions in the

civilization of the world are brought about by both, man and woman, no rational arguments can degrade one and upgrade the other. In addition, it will be foolish to eliminate either of them from the civilization and march forward. No person can play any role in life after having paralyzed one half of the body. In this regard the holy book Quran says:

"The believing men and women are associates of one another; they enjoin the right and forbids the wrong, and they establish the prayer and give charity, and they obey Allah and His Messenger, for them Allah will have mercy. Allah is elevated in Might and Wise". (Surah At-Tawbah, 9:71)

Al-Mirat ul Muslima is a book written by Farid Wajahid Afandi and the same was translated by Maulana Azad into Urdu. The author writes about the sensitive construction of the female body resembling that of a child and states that *"women are sensitive like a child who are easily carried away by all sorts of sentiments"*. But compared to men, women are generally hardworking and self-contained. No doubt the laborious and hardworking nature of a woman can be judge at the time of difficulty that she herself or her family faces.

In Islam the wellbeing of mankind must be depending upon right thinking and right practice. Islam believes that it is an absolute ignorance to degrade a woman merely because she happens to be a woman, and at the same time a man is considered a heavenly person simply because he happens to be a man. Islam has explained it in very clear words that human dignity rests upon pioussness and virtue. Hence, there is a need to decide, who is more honourable, man or woman? This question is well answered by the holy book Quran:

"whosoever doeth right whether male or female, and is a believer, him verily we shall quicken with good life and we shall pay them

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recompense in proportions to the best of what they used to do". (Surah An-Nahi, 16:97)

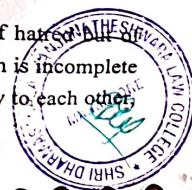
At another place, the pious wives of the Prophet Muhammad (PBUH) have been directed to develop such qualities in them without which they would not be able to remain in his marriage. And the Prophet Muhammad (PBUH) would easily find such wives who would hold such righteous qualities. On this point the holy book Quran says:

"It may happen that his Lord, if he divorces you, will give him in your stand wives better than you, submissive (to Allah) believing, pious, penitent, inclined to fasting, widows and maids". (Surah At-Tahrim, 66:5)

The holy book Quran mention that man and woman both have assisted and collaborated with each other in the development of human life. Both have equally shared the burden of life. Their unification has brought the civilisation into existence. No country or movement of the world can disregard either of them. If man and woman are responsible for the establishment of the authority of truth and its application, they are equally responsible for the spread of evils in the world. The holy book Quran says :

"The hypocrites both men and women are one and the same. They enjoin the evil, and forbids the right; and they withhold their hands from spending in the cause of Allah. They have forgotten Allah and so He hath forgotten them. Indeed, the hypocrites, are the transgressors". (Surah At-Tawbah, 9:67)

The relation between man and woman is not of hate and love. Man is incomplete without woman and woman is incomplete without man. They are source of peace and harmony to each other, as the holy Quran says :



"They are raiment for you and ye are raiment for them". (Surah Al-Baqarah, 2:187)

We have witnessed in India that other religions deprived woman of right even to live for example female infanticide, sati system and female feticide but Islam granted woman rights almost on par with man. It also warned that all those who strive to snatch her rights away, will surely be, accountable to Allah on the day of judgement.

The Prophet Muhammad (P.B.U.H) said:

"A man who has a daughter and he neither despises her nor buries her alive nor prefers son to daughters, Allah will admit him in Heaven". (Abu Dawood Tirmizi)

"And when the girl-child that was buried alive, is asked for what sin she was slain?" (Surah At-Takwir, 81:8-9).

The Prophet Muhammad (P.B.U.H) said: *"whoever brought up three daughters and treated them well, the Heaven is for him."* (Abu Dawood Tirmizi)

Prophet Muhammad (PBUH) had issued numerous instructions in favour of woman, the favour which she could not receive even from the so-called modern upholders of the women's rights. The Prophet Muhammad (PBUH) said:

"Allah has forbidden you, disobedience unto your mothers, refusal to sanctioned rights, accumulations of wealth from all sides and burial of living daughters". (Sòahòihò Al-Bukhari, 5630 and Sòahòihò Muslim, 593).

The world condemned woman, but Islam honoured her. Prophet Muhammad (PBUH) raised the status of woman and assigned her respectable place in the human society. According to Islam, society is responsible for the protection of human rights and maintenance of law and order.

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The law of shariah awards death penalty to murdered whether he has murdered a man or a woman, because the life of woman is as sacred as that of man. The laws given to the individuals of Yemen (is a country at the southern end of the Arabian Peninsula in Western Asia) by the Prophet Muhammad (PBUH) comprised the death penalty to the murderer of woman also.

"Undoubtedly (men) murderer of a woman shall be sentenced to death".

It is stated that a Jew crushed the head of a girl and killed her. The Prophet Muhammad (PBUH) ordered him to be put to death in the same manner. (Sòahòihò Al-Bukhari, 5630 and Sòahòihò Muslim, 593).

Islam permits woman, within the limits of Shariah, to participate in the financial affairs derive benefits. No man can interfere in this matter. Even her husband has no right to make use of her personal wealth. Likewise, woman has no right to enforce her will for the use of the wealth of her husband. The ancient religions were not prepared to give equal status to man and woman. Therefore, they formulated separate laws for them. But Islam does not make this distinction. In Islam, man and woman both are equal before law. Islam has granted equal rights to both, man and woman, it provides equal opportunity to both of them for the progress and prosperity of life. It guarantees the protection of their lives, property and honour. The spouses are equally interdependent. Therefore, there is no questions of honour for man and dishonour for woman. In Islam both are equally honourable. There is no distinction on the basis of sex, in fact they are created for each other to live in harmony and coexistence.

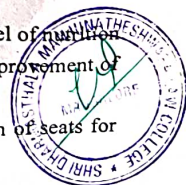
EMPOWERMENT OF MUSLIM WOMEN AND INDIAN CONSTITUTION

Dr. B. R. Ambedkar aimed at elimination of sexual discrimination from the society. He had a stiff determination towards welfare of women and believed in social fabrication of society so only he demanded gender equality. He had a generous opinion towards all the women, irrespective of their religion, caste, sex and class. His views on women and gender equality clearly shows that equality should be made available to every persons and in their socio-economic life and the same can be achieved through the means of reservation of seats in educational institutions and public employment with State's intervention and he made this into reality by bringing the same under the ambit of Indian Constitution. No doubt, the Preamble of our Constitution guarantees social and economic justice to women and because of Ambedkar's contribution our Constitution is firmly grounded on the principles of liberty, fraternity, equality and justice.

The Constitution of India contains a number of provisions for the empowerment of women by emphasising the importance of greater freedoms for all. Women's right to equality and non-discrimination are defined as justiciable fundamental rights under the Indian Constitution. Few articles of Indian Constitution guarantee particularly to all Indian women certain fundamental rights to improve their position and to compete with their male counterparts, they are:

1. Article 14 provides that all are equal in the eyes of law and equally protected by the law. It means equal rights and opportunities in political, economic and social spheres to all men and women of India.
2. Article 15(1) prohibits discrimination on the ground only of religion, race, caste, sex, place of birth or any of these.

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3. Article 15(3) enables the State to make a special provision in favour of Women and Children. This article enables positive discrimination in favour of women.
 4. Article 16 mentions there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office without any discrimination on the basis of religion, caste, creed and sex.
 5. Article 24 prohibits the employment of children (both male and female) below the age of 14 years in factories, mines or in any other hazardous employment.
 6. Article 39 (a) provides for equal means of livelihood for men and women.
 7. Article 39(d) provides for equal pay for equal work for both men and women.
 8. Article 41 directs the State to guarantee within its economic limits to all the citizens, the right to work, to education and public assistance in certain cases.
 9. Article 42 directs the State to make provision for just and humane conditions of work and maternity relief.
 10. Article 44 provides for the uniform Civil Code to all the citizens throughout the territory of India.
 11. Article 46 provides for the state to promote with special care, the educational and economic interests of weaker section of people and to protect them from social injustice and all forms of exploitation.
 12. Article 47 provides for the state to raise the level of nutrition and standard of living of its people and the improvement of public health.
 13. Article 243D and 243T provides for allocation of seats for women in the Panchayati Raj System.



Empowerment of women through education irrespective of her religion is necessary for building capacities of individuals and communities to make them part of the main stream of society. Dr. B.R Ambedkar has stated that, "We shall see better days soon and our progress will be greatly accelerated if male education is persuaded side by side with female education...". Consequently, he believed that education is the only weapon through which the society could grow out of domination to democratic participation and involvement. Therefore, in the Indian Constitution he has put all his efforts to guarantee the educational opportunities without any discrimination to all the citizens of India by providing equal opportunity to both men and women.

DR. B.R. AMBEDKAR'S THOUGHTS ON MUSLIM WOMEN: AN OVERVIEW

Dr. B.R Ambedkar by referring Muslim Personal Law (Shariat) Application Act, 1937 and the holy book Quran has discussed some of the problems faced by Muslim women at different stages of their life. He explains the positions they get and the situations they come across in the matters such as child marriage, divorce, dower, polygamy, slavery, concubinage, purdah system and apostasy in the book 'Pakistan or the Partition of India' third edition under Part-IV, chapter X titled 'Social Stagnation' Pages, 225-248. He considered the problems faced by Muslim women under Muslim Law in these matters in their life as social evils and accordingly in the beginning of the chapter X of the book while making the comparison with Hindu social evils he questioned that "Is there any social evil that is found in Hindus and not found among the Muslim Society"? For this question he proceeded in finding the problems faced by Muslim women which he called as social evils and expressed his thoughts

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on how Muslim women were suffering with social evils which are discussed as under:

THOUGHTS ON MUSLIM WOMEN AND CHILD MARRIAGE

The first concern of Dr. B.R Ambedkar towards Muslim women in the said chapter is 'Child Marriage'. By providing the 50 years (1881-1931) census report on the practice of child marriage (between the age 0-15 per 1000 females) by different communities in the country, he wanted to highlight that the child marriage was existing even among the Muslim community as compared to other communities such as Hindus, Jains, Sikhs and Christians. While considering the position of Muslim women relating to age of marriage, he states that, "Muslim Law does not fix any age of marriage and recognize the Muslim girl to marry at any age". He further states that, "while if at all the Muslim girl marriage is celebrated by her father or grandfather in her childhood, she has the authority to repudiate her marriage on attaining the age of puberty", while discussing the position of Muslim women with regard to child marriage he questions that "Can the position among the Muslims so far as child-marriage goes, be considered better than the position among the Hindus?"

In view of the child marriage of Muslim girl the author feels necessary to discuss Muslim Personal Law (Shariat) Application Act, 1937. According to Shariat Act the Indian Muslim women attains the age of majority at the age of fifteen years. It has been expressly provided that the Muslims would be governed by their own laws in the matters of marriage, divorce, dower, maintenance, guardianship, gifts, trusts and wakfs. To be very clear relating to child marriage under Muslim Law there are two legal concepts they are 'Bulugh'

means puberty and 'Rushd' meaning majority. The former may be decisive for matrimonial matters the latter may be required for legal capacity in all other matters. In India as a matter of fact the age of majority is regulated by virtue of Majority Act, 1875 and the same has been amended in the year 1999. Section 3 of the Majority Act provides that the age of majority is 18 years and it is the uniform for all the communities. Section 2(a) of the Majority Act provides that "the Act does not affect the capacity of any person to act in the matters of marriage, divorce, dower and adoption". It means the Act has provided the opportunity and protection that a Muslim girl who attains the age of puberty is competent to enter into her marriage. Section 2 (b) provides that "the Act does not apply to the religion and religious rituals and usage of any class of India". Through this clause the Act provides that as per Muslim law, the completion of fifteen years or the attainment of puberty is the age of majority and the Muslim girl's marriage can be contracted as soon as she attains the age of puberty. Section 2 (c) of the Act provides that "the capacity of any person who before this Act comes into force has attained majority under the law applicable to him". All these exemption clauses of the Act thus remain unaffected under its amended Act of 1999. Hence, the Majority Act leaves unaffected the rule of puberty under Muslim Law.

THOUGHTS ON MUSLIM WOMEN AND DIVORCE

Dr. B.R Ambedkar's next topic of concern on Muslim women is 'Marriage'. He has highlighted in his discussion that, "the marriage among Musalmans is a contract and husband has a right to divorce his wife and the Muslim Law has provided sufficient safeguards for the Muslim wife which, if taken advantage, would place her on the same footing as her husband in the matter of divorce. For, it is claimed

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that the wife under the Muslim Law can, at the time of the marriage, or even thereafter in some cases, enter into a contract by which she may under certain circumstances obtain a divorce".

He feels about the Muslim girl that she has no courage to repudiate her marriage although may be clear for her on the ground that she was a child and her marriage was brought by persons other than her parents. He blames that no Muslim wife will think of reserving her the right to divorce and he feels sorry for her fate by saying that, "once married and always married". According to him, "a Muslim woman has no right to repudiate her marriage but to her husband has full right without showing any cause. The husband by uttering the word "Tallak" and observe continence for three weeks and the women is castaway. The husband only restraint on him is to pay dower and if the same is already paid his right to divorce is wife is a matter of sweet will for him". He points that, "this kind of liberty to husband in the matter of divorce destroy the sense of security which is so fundamental for a full, free and happy life for a woman". He further says that "the insecurity of life, to which a Muslim woman is exposed, is greatly augmented by the right of polygamy and concubinage, which the Muslim Law gives to the husband".

While discussing the rights of Muslim women under Indian Law she has stated that, "the legal rights given to Muslim women, ensure them a greater measure of independence than allowed to other Eastern women". Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 mention about dissolution of marriage including talaq, ila, zihar, lian, khula and mubaraat. A divorce under Muslim Law takes place in two modes, firstly non-judicial divorce and secondly Judicial divorce.



A. Non-judicial divorce: A Non-judicial divorce is a divorce which takes place outside the court of law such divorce can be done by three ways :

I. Divorce by Husband : A Muslim husband can divorce his wife by following ways :

1. Talaq : By pronouncing the word Talaq a Muslim husband can divorce wife without stating any reason and the presence of his wife at the time of divorce is not necessary but divorce will be effective only when his wife come to know about the pronouncement of Talaq by his husband. Talaq can be expressed or implied. Talaq is further classified into two types:

(a) Talaq-ul-Sunnat: it is one of the most approved forms of Talaq as it confirms the traditions of Prophet. It is of two types:

(i) Talaq-e-ahsan: This type of talaq is pronounced single time during 'tuhr' meaning purity. It is followed by the self-restraint from any sexual association during the period of tuhr and whole of the Iddat period. Iddat is the period during which a wife is prohibited from re-marrying after the dissolution of the first marriage. Talaq-e-Ahsan being one of the most approved form of Talaq and same is revocable during the period of Iddat. The husband may revoke the Talaq by express words or by conduct including the resumption of sexual intercourse.

(ii) Talaq-e-hasan: this type of talaq consists of three successive pronouncements of the word 'talaq' which are made by the husband during three consecutive periods of Tuhr (purity). During each Tuhr period, no sexual intercourse must have taken place else the pronouncement made during that period shall not be considered as valid. In a case where the wife has crossed the age of menstruation, the three pronouncements have to be made at successive intervals of

30 days. When the last pronouncement has been made, the talaq becomes final and irrevocable.

(b) Talaq-e-biddat: In this type of talaq the pronouncement is done by saying 'talaq' three times in a row it is also called as "Triple Talaq". After the announcement of triple talaq the only way to reunite the divorce couple is through the practice of nikah halala, which requires the divorced wife to get married to a person other than her husband and consummate the second marriage, get divorced from second husband, observe the three-month Iddat period and return to her first husband.

The announcement of triple talaq has been struck down as unconstitutional in India in the case of *Shayara Bano v. Union of India & Others* (Writ Petition No. 118 of 2016). The Supreme Court has stated that mere utterance of 'talaq' thrice does not result in the dissolution of marriage. Further the SC provides that any pronouncement of 'talaq' by a Muslim husband to his wife in any manner, spoken or written, will be void and illegal. It was a five judges' bench of Supreme Court which stated that :

- * Instant Triple Talaq is unconstitutional and arbitrary.
- * Triple Talaq was held to be violative of Article 14.
- * It violated Islamic Law while being used as a tool to oppress the women.
- * The bench also asked the Central Government to enact a law in next six months to govern marriage and divorce in the Muslim community.

In consonance of these directions of Supreme Court, the Central Government enacted the Law called 'The Muslim Women (Protection of Rights on Marriage) Act, 2019'. Section 3 of this Act provides that, "any pronouncement of talaq by a Muslim husband upon his

wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal". And Section 4 of the Act imposes punishment for a term which may extend to three years, and shall also be liable to fine.

II. Divorce by wife: Under Muslim Law wife is entitled to give divorce but the power of wife is not absolute, it depends on the will of the husband. Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 states the various modes in which a Muslim wife can seek a divorce. There are four ways through which wife can give divorce which are as follows:

(a) Ila: In this type of divorce by wife, the husband swears by Allah, not to have sexual intercourse with his wife for duration of at least four months. After expiry of such period, the marriage is treated as irrevocably dissolved. The husband may revoke his oath before the expiry of four months by resuming sexual intercourse with the wife. If husband did not cohabit with his wife after four months then wife is entitled to file the suit of restoration of conjugal rights.

(b) Zihar: In this type of divorce the husband compares or treated his wife with his mother, sister or any other women within a prohibited degree by making a declaration to this effect. The wife is entitled to refuse cohabitation to the husband if husband does not cohabit with her within four months. Husband can revoke the declaration by either doing the work of a slave or fasting for two months or feeding 60 poor persons. If the husband refuses to undergo the above-mentioned process, the wife can approach the court for seeking regular divorce.

(c) Lian: In this type of divorce the husband accuses his wife of committing adultery. It entitles the wife to claim judicial divorce on the grounds of being falsely charging her of committing adultery by her husband.

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(d) Talaq-i-Tafweez: this type of divorce permits the husband to delegate his power of giving Talaq to any third person or to the wife herself. It is such agreement which can also be favour of the wife who will have the freedom to take the divorce whenever she wants. For example, a condition permitting the wife to pronounce talaq if the husband marries another woman is a valid condition. This form of talaq is considered as one of the most potent weapons in the hands of a Muslim wife to obtain divorce without court intervention.

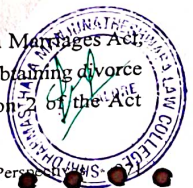
III. Divorce by Mutual Consent

Muslim law also recognize divorce by mutual consent of both husband and wife. This type divorce is categorized into two kinds:

(a) Khula: It is a type of divorce at the wife's instance in lieu of which she agrees to give some consideration as compensation to the husband for her release from the marriage tie and the husband also considers the same. Khula requires that both the wife and the husband should have attained puberty and should be of sound mind at the time of agreement. Since Khula takes place at the wife's instance, it is not a divorce by mutual consent in the true sense.

(b) Mubarat: It means release. It involves divorce by mutual consent of both parties. Either party may make the offer of divorce or once an offer has been accepted by the other party, the divorce becomes irrevocable. In the case of both Khula and Mubarat, the divorce is irrevocable and marital life cannot be resumed by reconciliation without a formal re-marriage. In both cases, once the divorce has been affected, the wife is required to undergo period of Iddat.

B. Judicial divorce: The Dissolution of Muslim Marriages Act, 1939 provides certain grounds to a Muslim wife for obtaining divorce from her husband before the court of law. Section 2 of the Act



119 specifies the following grounds on which a Muslim wife can obtain a decree for dissolution of the marriage:

1. That the husband was not found for a period of four years provided that, in such case, the decree shall not take effect for six months from its date and the husband may re-appear during this period and get the decree revoked by satisfying the Court that he is prepared to perform conjugal duties.
2. That the husband neglected or failed to provide maintenance to the wife for a period of two years;
3. That the husband has been sentenced to imprisonment for a period of 7 years or more and the sentence has become final;
4. That the husband has failed to perform his marital obligations for a period of 3 years without reasonable cause;
5. That the husband was impotent at the time of marriage and continues to be so, provided that, in such case, before passing the decree, the court may pass an order, upon an application filed by the husband, requiring the husband to satisfy, within a period of one year from the passing of the order, that he has ceased to be potent.
6. That the husband has been insane for a period of two years or is suffering from leprosy or avirulent venereal disease;
7. That she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years provided that the marriage has not been consummated ;
8. That the husband treats her with cruelty;
9. On any other ground which is recognised as valid for the dissolution of marriages under Muslim law.

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No doubt divorce is considered as the evil of society and all the personal laws condemn the same. But certain circumstances arise that make separation of husband and wife through divorce inevitable. In Muslim law, the husband has the absolute right to divorce his wife but after the enactment of Dissolution of Muslim Marriage Act the wife has more rights to divorce her husband. In addition, the Muslim Women (Protection of Rights on Marriage) Act, 2019 has snatched the Muslim husband's right of divorcing his wife by uttering Talaq thrice.

THOUGHTS ON MUSLIM WOMEN AND DOWER

Dr. B.R Ambedkar's next point of discussion on Muslim women under Muslim law is 'Mahr' or 'Dower'. Dower is the benefit available to a Muslim woman from her husband during her marriage which is a sum of money or other property. The dower may be fixed during marriage or even after marriage and if no amount is fixed, the wife is entitled to proper dower. Further, he explains that, "*the amount of dower is usually split into two parts, one is called "prompt" which is payable on demand, and the other "deferred" which is payable on dissolution of marriage by death or divorce. Her claim for dower will be treated as a debt against the husband's estate. She has complete dominion over her dower which is intended to give her economic independence. She can remit it or she can appropriate the income of it as she pleases*".

After explaining the provision of Muslim Law relating to age of puberty, divorce and dower he states that "*despite all these provisions of Muhammadan law in favour of Muslim women, she is the most helpless person in the world*". In this context he quotes an Egyptian Muslim leader whose name he has not mentioned:

"Islam has set its seal of inferiority upon her, and given the sanction of religion to social customs which have deprived her of the full opportunity for self-expression and development of personality."

THOUGHTS ON MUSLIM WOMEN AND POLYGAMY, CONCUBINAGE AND SLAVERY

While explaining the practice of Polygamy, Concubinage and Slavery, he says that, *"in addition to four legal wives a Muslim husband can cohabit with his female slaves and the Muslim Law permits the same"*. He further added that, *"the female slaves are unlimited in number and they are allowed to him without any restrictions whatever and without any obligation to marry them"*. He opines that, *"the evils of polygamy and concubinage are the source of misery to a Muslim woman and the same are privileges to a Muslim husband to abuse his wife to the misery and unhappiness"*.

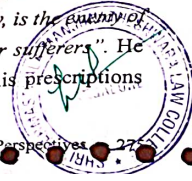
When we look into the history of the practice of 'Polygamy' by Muslim men in Islam, it is having the deep roots in the seventh century conjugal mores of Arabia. The permission provided in the holy book Quran for Muslim men to practice polygamy was not to gratify the male sexual appetite and lust, but to afford shelter for widows, orphans, and other vulnerable women. The pressing social welfare problems during the time of revelation was the reason for Quranic permission to practice polygamy. The holy book Quran mention the reason for practice of polygamy in its fourth chapter which reads as follows:

"Give orphans their property, do not substitute their good things with the bad of your own and do not consume their property with your own. That is a serious crime and ever a great sin. If you fear you will not deal rightly by the orphan girls, then marry those who

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seem good to you, two or three or four; and if you fear that you cannot do justice to so many then one only or the captives that your right hands possess. Thus, it is more likely that you will not do injustice. And give the women upon marriage their bridal gifts graciously. But if they give up willingly to you anything of it, then take it in satisfaction and ease". (Surah An-Nisa, 4:2-4)

Quran is the book containing many verses showing compassion for orphans and the sanction of polygamy in the holy book Quran was mainly concern for orphans. There was a reason for the insertion of polygamy verses in the Quran and it was the battle of 'Uhud', in which the Muslim militaries lost their many soldiers which lead many women, children and dependents to suffer. At that time as we know that the women were largely depended on men for their financial survival and after the battle many women lost their husbands and became widow. Thus, the concept of men marrying many widows to give life to them as well as their children made polygamy a practical solution.

Noting the very words of Surah 70: 30 of Quran Dr. B.R Ambedkar writes, *"The slaves which their right hands possess, as to them they shall be blameless"* on these words of Holy Quran he points that *"it is no sin to live with slaves"*. Accordingly, he quotes Sir W. Muir in his book "Life of Mahomet" wherein he says: *"so long as this unlimited permission of living with their female slaves continues, it cannot be expected that there will be any hearty attempt to put a stop to slavery in Mohamedan countries"*. Although slavery is abolished in India through the Abolition of Slavery Act, 1843, he states that *"Thus the Koran, in this matter of slavery, is the enemy of the mankind. And women, as usual, are the greater sufferers"*. He further praises Prophet Muhammad (PBUH) for his prescriptions



regarding the just and humane treatment of slaves contained in the Quran but his words on practice of Slavery are "as there is nothing whatever in Islam that lends support to the abolition of this curse". He quoted again the words of Sir W. Muir which reads as, "... rather, while lightening, he reverted the fetter.... There is no obligation on a Muslim to release his slaves....".

To justify the views of Dr. B.R Ambedkar regarding encouragement and practice of Concubinage and Slavery in Islam to be on the side of true fact Slavery and Concubinage were existed long before the advent of Islam and the same were spread in the Persian, Roman, Greece, Egypt, and the Pre-Islamic Arabian Peninsula empires as they had made Slaves and Concubines an integral part of their socio-economic system.

According to Encyclopaedia Britannica, "Concubinage is the state of cohabitation of a man and a woman without the full sanctions of legal marriage". In Roman law concubinage was the perpetual cohabitation of a man and a woman outside of their existing formal marriages. In such relationships the partners and the children of their union did not have the same legal rights conferred as married persons and their legitimate children."

It is believed that the Prophet Muhammed (PBUH) in the matter of slavery was a true reformer because he brought moral, social and economic upliftment of the slaves and took serious steps so that slaves could steadily become fit to lead independent and useful lives of their own.

The Islamic way of gradual liberation of slaves and stressing the marriage of female slaves was imperative because they were physically and mentally dependent on their masters and had no means of supporting themselves. If sudden and universal liberation of

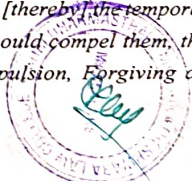
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thousands of them was exercised think about the impact on their morals and economics.

Surah 70: 30 "what your right hands possess" has been mentioned in the holy book Quran in preference to slaves or bond women to denote that they are under the care of Muslims and should not be mistreated. As common sense we know the special merit and privileged functions that humans instinctively reserve for right hand. The following chapter of holy book Quran explains:

"Who are stingy and enjoin upon other people stinginess and conceal what Allah has given them of His bounty - and We have prepared for the disbelievers a humiliating punishment". (Surah An-Nisa, 4:37).

There is no justification to the claim that extra marital relationships are allowed in Islam because the holy Quran has elucidated that the object of marriage is to protect oneself from moral and physical diseases, so only Muslims are not allowed to satisfy their desires outside the sphere of marriage. Following verse of holy book Quran explains the same:

"But let them who find not the means for marriage abstain from sexual relations until Allah enriches them from His bounty. And those who seek a contract for eventual emancipation from among whom your right hands possess - then make a contract with them if you know there is within them goodness and give them from the wealth of Allah which He has given you. And do not compel your slave girls to prostitution, if they desire chastity, to seek [thereby] the temporary interests of worldly life. And if someone should compel them, then indeed, Allah is to them, after their compulsion, Forgiving and Merciful". (Surah An-Nur, 24:33)



The chapter 4, An-Nisa of the holy book Quran specifies the blood relationships that believers of Allah are forbade to marry. It says, "Forbidden to you are your mothers, and your daughters, and your sisters, and your fathers' sisters, and your mothers' sisters, and brother's daughters, and sister's daughters, and your foster-mothers that have given you suck, and your foster-sisters, and the mothers of your wives, and your stepdaughters, who are your wards by your wives unto whom you have gone in - but if you have not gone in unto them, there shall be no sin upon you - and the wives of your sons that are from your loins; and it is forbidden to you to have two sisters together in marriage, except what has already passed; surely, Allah is most forgiving and merciful."

"And also prohibited to you are all married women except those your right hands possess. This is the decree of Allah upon you. And lawful to you are all others beyond these, provided that you seek them in marriage with gifts from your property, desiring chastity, not unlawful sexual intercourse. Thus, for whatever you enjoy of marriage from them, give them their due compensation as an obligation. And there is no blame upon you for what you mutually agree to beyond the obligation. Indeed, Allah is ever Knowing and Wise". (Surah An-Nisa, 4:24)

The very next verse of holy book Quran defines the issue under discussion, "And whoever among you cannot find the means to marry free, believing women, then he may marry from those whom your right hands possess of believing slave girls. And Allah is most knowing about your faith. You believers are of one another. Thus, marry them with the permission of their people and give them their due compensation according to what is acceptable. They should be chaste, neither of those who commit unlawful intercourse randomly nor those

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who take [secret] lovers. But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free unmarried women. This [allowance] is for him among you who fears sin, but to be patient is better for you. And Allah is forgiving and merciful". (Surah An-Nisa, 4:25)

By understanding these two verses in chapter-4 (An-Nisa) of holy book Quran one can directly understand the Islamic teachings on the issue of Concubinage and Slavery. "Your right hands possess", these words in holy book Quran and above mentioned two verses are only referring to concubines and slaves within the context of marriage. The next verse in chapter 4 of Quran further confirms that there is no permission for extra marital relationships in Islam which reads as follows:

"And whoso of you cannot afford to marry free, believing women, let him marry what your right hands possess, namely, your believing handmaids. And Allah knows your faith best; you are all one from another; thus, marry them with the leave of their masters and give them their dowries according to what is fair, they being chaste, not committing fornication, nor taking secret paramours." (Surah An-Nisa, 4:26)

Since its evolution, Islam worked on complete abolition of Concubinage and Slavery. The Quran has laid down certain principles for abolition of Concubinage and Slavery they are: 1. Prisoners can only be taken during a regular war; 2. They cannot be retained after the completion of the war; 3. They are to be set free either as a mark of favour or by exchange of prisoners or by paying ransom and 4. To obtain freedom, prisoners of war could enter into a civil contract with his or her master, irrespective of the fact whether master liked it or not, which is known as 'mukatabat' (deed of manumission).



After this contract slave is free to earn the ransom in any legitimate means he or she likes, to get the freedom.

The prior marriages of the concubines or slaves who could not negotiate freedom, were void. But no conjugal association was allowed in the Muslim society without marrying them under all of the terms and conditions that any Muslim woman would have right during her marriage. Some companions of Prophet Muhammad (PBUH) asked permission to practice celibacy but Prophet Muhammad refused because he wanted every Muslim to follow the golden words of Quran on marriage.

"Thus, when you meet those who disbelieve in battle, strike their necks until, when you have inflicted slaughter upon them, then secure their bonds, and either confer favor afterwards or ransom them until the war lays down its burdens. That is the command. And if Allah had willed, He could have taken vengeance upon them Himself, but He ordered armed struggle to test some of you by means of others. And those who are killed in the cause of Allah - never will He waste their deeds". (Surah Al-Muhammad, 47:4)

"And We have certainly sent down to you distinct verses and examples from those who passed on before you and an admonition for those who fear Allah". (Surah An-Nur, 24:34)

Only those female slaves who could not able to get their freedom by above means or chose to stay with Muslims, were allowed to be married and this was specially stressed by the holy book Quran. This permission to marry them secured freedom for female prisoners and their children and it prevented them from prostitution and becoming concubines. The Islam provided them hope and dignity and made men responsible for taking care of them. A free man was allowed to

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marry these female slaves even though by doing this the prescribed limit of maximum of four wives was exceeded. (Surah An-Nisa, 4:4)

Prophet Muhammad (PBUH) was very obvious that female slaves and female prisoners of war should be given good education and upbringing. He is reported to have said, *"He who has a slave girl and gives her proper education and brings her up in a becoming manner and then frees her and marry her, for him is double reward"*, (Bukhari, kitab ul Ilm). This indicates that if a Muslim wants to marry a slave girl, he should first free her and then marry her. Prophet Muhammad (PBUH) had set an example by marrying prisoners of war. Among his wives Jawariya and Saffiya came to him as prisoners of war and he married them according to the Islamic Law.

Dr. B. R Ambedkar further discussed the comments of Stobart in his book *"Islam and its Founder"* that *"Some Mohamedans make a habit of continually changing their wives. We read of young men who have had twenty and thirty wives, a new one every three months: and thus it comes about that women are liable to be indefinitely transferred from one man to another, obliged to accept a husband and a home whenever they can find one, or in case of destitution, to which divorce may have driven them, to resort to other more degrading means of living."* By this mostly he was pointing to the 'Muta' form of marriage which is practiced by Shia Muslims. The word 'Muta' means 'enjoyment or use'. The Muta marriage is a temporary form of marriage and it is a marriage for pleasure for a fixed period of time. A man may contract Muta marriage with any number of women.

When we go back to the history of Muta marriage in short it was originated in war times when the first Islamic militants, raided



processions and attacked adjacent societies for war booties. Because of the non-availability of war slaves in that place with whom they could enter into marriage they went to seek permission from the Prophet Mohammad (PBUH) to visit prostitutes. Prophet Mohammad (PBUH), being "the messenger of Allah" did not like to grant permission to undertake such depraved activity but instead he decided that those soldiers shall have to marry the girls that they desired. The Prophet Muhammad (PBUH) mandated them to pay dower to woman and by this means the concept of "Muta" marriage took birth.

A Muta marriage also follows certain essentials such as: 1. It must be a proper contract which means declaration and acceptance. 2. A man may contract a muta marriage with a woman professing the Mohammedan, Christian or Jewish religion or even with a fire worshipper, but not with a woman following any other religion. But a Shia woman, however, cannot contract a Muta with a non-Muslim. 3. The period of cohabitation should be fixed, which may be a day, a month, a year or may be couple of years and 4. With a fixed dower. When the term and the dower are fixed, the contract is valid.

When the question of legality of Muta marriage arise there is a need to discuss some important valid points such as: 1. A Muta marriage doesn't create the mutual rights of inheritance between the man and the woman; 2. The children born out of Muta marriage are legitimate, and can inherit from both parents; 3. A Muta marriage is dissolved by itself with the expiry of the term; 4. Muta marriage does not recognised the right of divorce but the husband may, at his own will terminate the contract by 'making a gift of the term' to the Muta wife, even before the term ends for such termination the wife's consent is not required; 5. In terms of payment of Dower in the Muta marriage it is necessary condition depending upon the consummation

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of the marriage if the husband ends the contract before the term expires the wife is entitled to the whole amount and if the marriage is not consummated, the wife is entitled to half the dower. If she leaves before the expiry of the term, the husband is entitled to deduct a proportionate part of the dower. In India a Muta wife is not entitled to maintenance under Shia Law but in *Luddun Sahiba v. Mirza Kamar Kudar* ((1882) ILR 8 Cal 736), she was held to be entitled to maintenance as a wife under the provisions of Code of Criminal Procedure. The Court held that "A right to maintenance, depending upon the personal law of the individual, is a right capable of being enforced, and properly forms the subject of a suit in a Civil Court. But we think that this right, depending upon the personal law of the individual, is altogether different from the statutory right to maintenance given by Section 536 in every case in which a person, having sufficient means, neglects or refuses, to maintain his wife." Dr. B.R Ambedkar though did not point in his discussion directly about Muta marriage but he pointed indirectly the same noting the comments of Stobart.

THOUGHTS ON MUSLIM WOMEN AND PURDAH SYSTEM

The next concern of Dr. B.R Ambedkar about Muslim women is the practice of 'Purdah' system. He explains the strict observance of purdah system in the Muslim community. He says that purdah system has brought segregation of Muslim women. he has also highlighted the problems faced by Muslim women because of wearing purdah or strict observation of purdah system which are summarised in brief such as, "the ladies are not allowed to move outer rooms, veranda or gardens, within their house, they are accommodated only in the back-yard of their house. The young and old, are confined in one



room. The male servants were not allowed to work in front of them. A woman could see only her sons, brothers, father, uncles and husband, or any other near relation who are trustworthy. She cannot go even to the mosque to pray and must wear burka (veil) whenever she has to go out". He opined that, "the burka women walking in the streets is one of the most hideous sights one can witness in India. Such seclusion cannot but have its deteriorating effects upon the physical constitution of Muslim women". Highlighting the health impact of wearing of purdah or burkha or viel he says that, "the Muslim women would be usually the victims to anaemia, tuberculosis and pyorrhoea. Their bodies are warped, with their backs bent, bones jutted, hands and feet twisted. Ribs, joints and nearly all their bones pain. Heart palpitation is very often present in them. The result of this pelvic deformity is untimely death at the time of delivery". He further says that "Purdah system deprives Muslim women of mental and moral nourishment. They are deprived of healthy social life, completely secluded from the external world, being locked within four walls engage their minds in petty family quarrels because of these problems they will become narrow minded and restricted in their outlook".

For the purpose of understanding the vastness and seriousness of the problem of purdah on the Muslim women he explained, "the Muslim women lag behind with the women of other communities because they are not allowed to take part in any outdoor activity and are considered down by a slavish mentality and an inferiority complex. They don't want to gain knowledge because they are taught not to be involved in anything outside the four walls of their houses. The Muslim women in Purdah in particular become helpless, nervous, and unfit for any fight in life".

He further highlights the purpose for which the purdah system was originated in the Islam. He says, "it was deep-rooted suspicion of sexual appetites in both sexes and the purpose is to check them by segregating the sexes. But far from achieving the purpose, purdah has adversely affected the morals of Muslim men". He explains the impact of purdah on Muslim men, "because of observance of purdah by Muslim women the Muslim men have no contact with any woman outside those who belong to his own household. Even with them his contact extends only to occasional conversation. There is no company of and no commingling with the females except those who are children or aged. This isolation of the males from females is sure to produce bad effects on the morals of men. It requires no psychoanalyst to say that a social system which cuts off all contact between the two sexes produces an unhealthy tendency towards sexual excesses and unnatural and other morbid habits and ways".

In his book 'Pakistan or the Partition of India' at page 290, he recalls an incident when All-India Muslim Conference held a session through its U. P. Branch at Cawnpore on 4th November 1928 and passed the following resolution:

"In the opinion of the All-Parties U. P. Muslim Conference, Musalmans of India stand for the goal of complete independence, which shall necessarily take the form of a federal republic."

In the said Conference, "when Maulana Azad Sobhani proposed that the Conference should declare itself in favour of complete independence and Khan Bahadur Masoodul Hassan and some other persons, objected to such declaration, which, in their opinion, would go against the best interests of Musalmans. Upon this a number of women from their purdah gallery sent a written statement to the President saying that if men had not the courage to stand for complete

independence, women would come out of purdah, and take their place in the struggle for independence". This was the courage and change he wanted to bring in the Muslim women.

He further opines that, "The observation of Purdah system by Muslim women is responsible for social segregation of Hindus from Muslim which is the nuisance in the public life in India. This argument may appear unbelievable and one is inclined to attribute this segregation to the unsociability of the Hindus rather than to purdah among the Muslims. But the Hindus are right when they say that it is not possible to establish social contact between Hindus and Muslims because such contact can only mean contact between women from one side and men from the other".

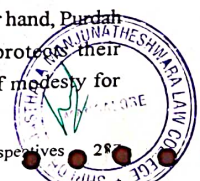
He concludes on Purdah system and its evil consequent by making the comparison with Hindus that "The same is not found certain sections of Hindus in certain parts of the country, the Purdah has a religious sanctity among the Muslim and the same is not with Hindus". According to him, "Purdah has deeper roots among the Muslims than it has among the Hindus and can only be removed by facing the inevitable conflict between religious injunctions and social needs. The problem of purdah is a real problem with the Muslims, apart from its origin which it is not with the Hindus". Of any attempt by the Muslims to do away with it, there is no evidence".

In this context the practice of Purdah system in Islam has some purpose behind it which is explained under the holy book Quran. Quran has given a high respect to women accordingly holy book Quran mentions about the safeguarding the women modesty. The following verse of holy book Quran speaks about Purdah for women and reason for the same:

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"And tell the believing women to lower their gaze from looking at forbidden things, and protect their private parts from illegal sexual acts and not to show off their adornment except only that which is apparent like both eyes for necessity to see the way, or outer palms of hands or one eye or dress like veil, gloves, headcover, apron, and to draw their veils all over Juyoobihinna (i.e. their bodies, faces, necks and bosoms) and not to reveal their adornment except to their husbands, or their fathers, or their husband's fathers, or their sons, or their husband's sons, or their brothers or their brother's sons, or their sister's sons, or their Muslim women (i.e. their sisters in Islam), or the female slaves whom their right hands possess, or old male servants who lack vigour, or small children who have no sense of feminine sex. And let them not stamp their feet so as to reveal what they hide of their adornment. And all of you beg Allah to forgive you all, O believers, that you may be successful" (Surah Al-Noor, 24:31)

The history relating to the practice of purdah is said to have been originated in the Persian culture and the same was to have been assimilated by the Muslims during the Arab conquest in the seventh century. In India unlike the Muslim community even Hindus also follow the Purdah system. But majority believe that the purdah system is associated with Muslim community as a compulsory custom. In northern India purdah was the usual among the Hindu upper classes and during the British supremacy in India, purdah observance was strictly observed and widespread among the highly conscious Muslims. In consonance with modern situation purdah system is considered as a backward custom because it restricts the women's freedom, mobility, and public participation. On the other hand, Purdah protects the women from sexual harassment and protects their modesty. The Quran mentions about the protection of modesty for



both men and women. But there are more restrictions on women's movement in the Quran. Thus, Some verses of Quran explicitly regulate Purdah to protect her modesty.

The following verse of Quran explains the women who are no longer get menstruate and who do not expect wedlock (Women past childbearing) and they can no longer get pregnant or bear children. They can discard their outer clothing as not to show their beautification. They should be refrain from discarding of their outer clothing and it is better for them.

"And as for women past childbearing who do not expect wedlock, it is no sin on them if they discard their (outer) clothing in such a way as not to show their adornment. But to refrain (i.e. not to discard their outer clothing) is better for them. And Allah is All Hearer, All Knower" (Surah Al-Noor, 24:60)

Further, Surah 33:59 of Quran explains that covering with purdah for women when they go outside is the way to denote that they should not become the victim of harassment by the hypocrites who at that time used to habitually harassed female slaves.

"O Prophet! Tell your wives and your daughters and the women of the believers to draw their cloaks (veils) all over their bodies (i.e. screen themselves completely except the eyes or one eye to see the way). That will be better, that they should be known (as free respectable women) so as not to be annoyed. And Allah is Ever Oft Forgiving, Most Merciful". (Surah Al-Ahzaab, 33:59)

The following verse of Quran directs the followers of Islam:

"O you who believe! Enter not the Prophet's houses, unless permission is given to you for a meal, (and then) not (so early as) to wait for its preparation. But when you are invited, enter, and when you have taken your meal, disperse without sitting for a talk. Verily,

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such (behaviour) annoys the Prophet, and he is shy of (asking) you (to go); but Allah is not shy of (telling you) the truth. And when you ask (his wives) for anything you want, ask them from behind a screen, that is purer for your hearts and for their hearts. And it is not (right) for you that you should annoy Allah's Messenger, nor that you should ever marry his wives after him (his death). Verily, with Allah that shall be an enormity". (Surah Al-Ahzaab, 33:53)

The reason behind the regularization of purdah in the verses of Quran was to protect the women from harassment and molestation. As we know women are vulnerable and Islam advised women to protect themselves and prevent any unfortunate situation before itself than to repent later. Perhaps, it is wrong to say that Purdah restrict the women empowerment because modern day Muslim women are empowered even with Purdah, they are becoming educated and into many professions such as Doctors, Entrepreneurs, Lawyers, Engineers and so on. Some view that Purdah bring respect, honour, and dignity to women. The Muslim Women have received support and strength of their families and along with Purdah they are motivated to study and be independent. Sometimes it is their self-motivation and passion that they become achievers of their dreams along with Purdah. But for some Muslim women Purdah is still a restriction because of family traditions their movements are restricted, those women are truly helpless. But in these situations, and for the said reasons, the intentions of holy book Quran for regularizing Purdah should not be blamed for non-development of Muslim women.

THOUGHTS ON MUSLIM WOMEN AND APOSTASY

The next thought and concern of Dr. B.R Ambedkar on Muslim women is Apostasy. He recalls the debates went on the Dissolution of Muslim Marriage Act VIII of 1939 in the central Assembly. The

reason for enactment of Dissolution of Muslim Marriage Act VIII of 1939 was "to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie". Section 2 of the Act provides for grounds for dissolution of marriage there are eight grounds and these grounds are exclusively available to Muslim women. Section 4 of the Act particularly deals with effects of conversion of a married Muslim woman to another faith, wherein the provision reads as under:

"The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage.

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam some other faith who re-embraces her former faith".

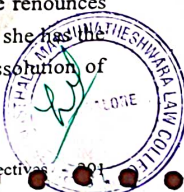
He highlighted that that before the enactment of Dissolution of Muslim Marriage Act VIII of 1939, "the rule of law enforced by Courts in India for the past 60 years on the apostasy of a Muslim male or a female married under the Muslim law ipso facto dissolved the marriage with the result that if a married Muslim woman changed her religion, she was free to marry a person professing her new religion. This law was invalidated by Act VIII of 1939 under section 4".

Ambedkar points out that the Dissolution of Muslim Marriage Act under section 2 has not made Apostasy as a direct ground for

dissolution of marriage of a married Muslim woman. But under section 4 on her conversion to another religion she will be entitled to obtain the decree for the dissolution of her marriage on any of the grounds mentioned in section 2. He criticized that, "the effect of the Dissolution of Muslim Marriage Act is that a married Muslim woman has no freedom of conscience and is tangled for ever to her husband whose religious faith may be quite objectionable to her".

He made a reference to a provision of the Caste Disabilities Act, 1850. In this Act, "the forfeiture of civil rights that could be imposed on a woman on her apostasy has been taken away". He further says that, "this legislation has come to her help and through this legislation woman can no longer be subjected to any forfeiture of property or her right of inheritance or anything of the kind". He points that, "this legislation has given her freedom of thought, liberty of religion to adopt any faith she likes and has removed the forfeiture clause from which she could suffer, and which was a restraint upon her changing the faith".

Under Muslim Law of Apostasy or change of faith i.e., Islam is a disloyalty and the apostate will be placed outside the protection of law. The Dissolution of Muslim Marriage Act, 1939 under section 2 has given Muslim woman a number of additional grounds to come out of her unhappy marriage, but at the same time it has abolished under section 4 apostasy as ground of dissolution. Muslim Law discriminate in the matter of Apostasy because it favours men and disfavors women. If the husband renounces Islam, his marriage stands dissolved automatically at same time if the wife renounces Islam her marriage does not dissolve automatically but she has the choice of grounds available under section 2 of the Dissolution of Muslim Marriage Act, 1939 to get the formal divorce.



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He questions the restriction imposed on Muslim Womenas, "how far we are entitled after that to continue placing the restriction on her status as a wife?". He further explains that, "her status as a wife is of some importance in society. She belongs to some family, she has got children, she has got other connections too. If she has got a liberal mind, she may not like to continue the same old religion. If she changes her religion, why should we, according to our modern ideas, inflict upon her a further penalty that she will cease to be the wife of her husband. I submit, in these days when we are advocating freedom of thought and freedom of religion, when we are advocating inter-marriages between different communities, it would be inconsistent for us to support a provision that a mere change of faith or change of religion would entail forfeiture of her rights as the wife of her husband. So, from a modern point of view, I have got no hesitation in saying that we cannot, in any way, support the contrary proposition that apostasy must be allowed to finish her relationship with her husband".

In this regard it is pertinent to make the reference of the Special Marriage Act, 1954, which provides for the general matrimonial law available as an alternative for all the personal laws existing on marriage and divorce. This Act imposes certain restrictions on marriage such as marriage to a cousin, however such marriages are valid under Muslim law and are certainly common among the Muslims. Though there is an expressed prohibition in the Holy Quran for Muslim men and women to marry with non-Muslims. But under the Special Marriage Act, a male or female Muslim can lawfully marry a non-Muslim. Marriage contracted under this Act is through court and same is called court marriage. The verse of holy book Quran on the Apostasy is as follows:

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"And do not marry polytheistic women until they believe. And a believing slave woman is better than a polytheist, even though she might please you. And do not marry polytheistic men to your women until they believe. And a believing slave is better than a polytheist, even though he might please you. Those invite you to the Fire, but Allah invites to Paradise and to forgiveness, by His permission. And He makes clear His verses to the people that perhaps they may remember". (Surah Al-Baqarah, 2:221)

Muslim Law gives liberty to a Muslim man to marry a Kitabiya woman. But a Muslim woman has no right to marry anyone except a Muslim. Section 4 of the Special Marriage Act, 1954 provides certain conditions relating to solemnization of special marriage. An Indian Muslim woman who has attained the age of majority i.e., 18 years is entitled to marry with a male who has completed the age of 21 years irrespective of that he belongs to any religion. Under Muslim law as applicable in India attainment of age of 'Puberty' is the only requirement with regard to age of marriage. But a Muslim to get marry under the Special Marriage Act has to attain the age of 18 years if girl and 21 years if boy. Section 4 (a) and 15 (b) applies to a Muslim man practising polygamy, he cannot register any of his marriages under this Act. Section 15 (d) provides that, where an existing marriage need to be registered under the act, both the parties must have completed the age of twenty-one years. This Act does not permit a Muslim male to repudiate the marriage by the pronouncement of Talaq. The marriage can only be dissolved either by the death of the either party or by the decree of the Court under this Act. The effect of the implementation of this Act is that an Indian unmarried Muslim woman is not bound to submit herself only to that man who suits to the tests of her parents or guardian for the purpose of her marriage, and she is absolutely free to exercise her 'consent'

in her matrimonial matter provided she is competent to do so as per the provisions of the Act.

The Special Marriage Act, 1954 has provided a great liberty as a right to the Indian Muslim women to marry outside her religion or to inter-caste marriage on voluntary basis, though the earlier Acts did not permit this right. There are many examples available in India where the daughters of reputed personalities of Muslim community have married with the non-Muslims. It means that this legislation has paved the way for new dimensions for Muslim marriage outside their personal law.

He further pointed out the different conditions imposed by Hanafi jurists on the Apostasy, which he called as a mutilated and maimed condition. The Hanafi Jurists Bokhara say that, "marriage is dissolved by apostasy". Dr. B.R Ambedkar gives an authoritative clarification on Bokhara Jurists views on apostasy by a Muslim woman. How she will be treated if she changed her religion. "According to the Bokhara view, marriage is not dissolved but suspended. The marriage is suspended but the wife is then kept in custody or confinement till she repents and embraces Islam again, and then she is induced to marry the husband, whose marriage was only suspended and not put an end to or cancelled". He further discussed the second view on apostasy, "a married Muslim woman ceases to be the wife of her husband but becomes his bond woman. One view, which is a sort of corollary to this view, is that she is not necessarily the bond woman of her ex-husband but she becomes the bond woman of the entire Muslim community and anybody can employ her as a bond woman. The third view was of the Ulema of Samarkand and Balkh, that "the marriage tie is not affected by such apostasy and that the woman still continues to be the wife of the husband". These are the three

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views. A portion of the first view, the Bokhara view, was taken hold of by the Courts and rulings after rulings were based on that portion".

THOUGHTS ON MUSLIM WOMEN AND SOCIAL REFORMS

The next thought of Dr. B.R Ambedkar is to eradicate the above discussed problems faced by Muslim women and he felt that same need to be reformed. But he feels sorry for Muslims of India stating that, "they have not organized any movement for social reforms on a scale sufficient to bring about their eradication". He blames that the Muslims, do not realize that the problems they are facing in their religion are social evils and consequently they do not agitate for their removal. Instead, they oppose if at all any changes take place in their existing practices. In this regard he brought out an instance wherein the Muslims opposed the Child-Marriage Bill brought in the Central Assembly in 1930. "In the said Bill the age for marriage of a girl was raised to 14 and of a boy to 18 and these changes were opposed on the ground that it was against the Muslim canon law. On these changes in the law they oppose the bill at every stage and when it became law, they started a campaign of Civil Disobedience against the Act".

Dr. B. R Ambedkar finally raise a question that, "Why are the Muslims opposed to social reforms?" and he found an usual answer for this; "the Muslims all over the world are an unprogressive people". For this answer, he relates the history of Muslims, "from conquering huge empire to suddenly falling into a strange condition of lethargy, from which they never seem to have become awake". He further finds a cause for this lethargic condition of Muslims which he says is, "because of the fundamental assumption made by all Muslims that Islam is a world religion, suitable for all people, for

all times and for all conditions". His indication towards the Muslim lethargy is to make them aware and awake. As Muslims believe that, "outside Islam there can be no truth and outside its law there is no truth and outside its spiritual message there is no happiness". But he wanted to make Muslims to believe that outside Islam there is a world. He wanted to make every Muslim realise that there is a world outside the Islam and they need to change at least for the worldly things, for their better living, by correcting their problems which are becoming social evils. He wanted to change their mindset adjustable to the good and happy society without any social stagnations.

He believed that, "the religious law of the Muslims has had the effect of imparting to the very diverse individuals of whom the world is composed, a unity of thought, of feeling, of ideas, of judgment." In this respect he feels about "the deadening of the uniformity and it is imposed upon them by a spirit of intolerance ... is directed towards the suppression of all rational thinking which is in conflict with the teachings of Islam".

CONCLUSION

Muslim women have marked their significance in the history of India. Razia Sultan was the first Muslim woman ruler and in fact the first Muslim woman ruler of India. Her father Shams-ud-din Iltutmish nominated her for the throne of Delhi by overtaking his son Ruknuddin Firoz. Razia Sultan was born in the 1205 and ruled India from 1236-1240. She was the first Muslim woman who captured the throne of Delhi and was called as the Sultanate of Delhi in 1236.

Some Muslim women did not take their step back fighting against the Britishers for India's freedom. Begum Hazrat Mahal was an unsung heroine who played a significant role in the Great Indian

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Rebellion in 1857. Post her husband's death she took charge of Awadh and captured Lucknow during rebellion. She protested against the destruction of places of worship by East India Company. The next Muslim women freedom fighter was Abadi Bano Begum, a distinguished Muslim female freedom fighter. She says, "freedom of speech has to be done by screaming and shouting it can be done absolutely openly". She addressed a political rally behind a purdah and was the first Muslim woman to do so.

Compared to conventional period, Muslim women in the contemporary world have setup participations and achievements by holding high positions of authority in all their walks of life including, Police, Civil Service, Higher education, Politics, Sports, Foreign Services, Cinema, Industry and Trade. Some of the Muslim Women have performed outstandingly in their respective fields of work. For example, Fathima Beevi is the first female judge of the Supreme Court of India. Saniya Mirza is the famous sports personality of India. Najma Akbar Ali Heptulla is a Muslim woman in politics. She is the present Governor of Manipur. Nargis, Saira Banu, Mumtaz, Zeenat Aman and Shabana Azmi are some of the famous Indian film actresses who proved their best in acting. Inayat Khan is an IAS officer of Bihar cadre. Shahnaz Husain is the Founder, Chairperson and the Managing Director of 'The Shahnaz Husain Group' in India. She has received international commendation for revolutionizing the herbal beauty care movement and taking the Indian herbal heritage of Ayurveda worldwide. In 2006, she was awarded the prestigious Padma Shri, the fourth highest civilian award by the Government of India for her contribution to the fields of trade and industry. Parveen Talha reported to be the first Muslim woman to serve in civil service in India, she is the first Indian Revenue

Service officer to become a member of the Union Public Service Commission and the first woman to serve in Narcotics Department of India. She was honoured with Padma Shri award in 2014 for her services to Indian Civil Service. Guncha Sanobar, the first Muslim woman IPS officer of India. Shayara Bano who fought a vicious battle against triple talaq and made the Apex Court to declare it as unconstitutional. Uzma Nahid is a famous social activist and the founder of NGO, Iqra International Women's Alliance (IIWA) which work social and economic upliftment of women.

As discussed above, Dr. B. R. Ambedkar's thoughts and views on the welfare of Muslim women for making them realise that they are under the clutches of some social and religious problems and they have right to live with dignity and they need to defeat and overcome for their own liberation. Unlike the approach of others reformers such as Raja Ram Mohan Roy, Jyotiba Phule, Ishwar Chandra Vidyasagar and Mahatma Gandhi towards the welfare of women, Dr. B. R. Ambedkar's approach was exclusively different as he tried to reform not only Hindu society and status of Hindu women but also women of Muslim community. Thus, Dr. B. R. Ambedkar's visionary thoughts on the empowerment of Muslim women have come true in the contemporary India.

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