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The Burden of Being a Muslim Woman in India—The Instrumentalisation of Muslim Women at the Intersection of Gender, Religion, Colonialism, and Secularism

Shilpi Pandey

Faculty of Law and Criminology, Vrije Universiteit Brussel, 1050 Ixelles, Belgium; shilpi.pandey@vub.be

Abstract: This paper focuses on the discourse on Muslim women's rights in India, aiming to trace how policies concerning Muslim women affect their constitutional rights to equality and non-discrimination. In doing so, this paper explores a colonial continuity of policies in the post-independence era and the subsequent governments. The purpose of this paper is to provide an extensive and nuanced discussion on Muslim women's rights in light of their historical evolution, the existence of personal laws, and the ongoing debates on a Uniform Civil Code. This article concludes that Muslim women continue to struggle for their rights to equal citizenship at the intersection of gender, religion, colonialism, and secularism.

Keywords: Muslim women; intersectionality; gender; religion; personal laws; uniform civil code

1. Introduction

> *"The UCC Debate And The Dilemma of Indian Muslim Women: Muslim women have been featured as major pawns in this majority/minority politics, with their oppression being traced back to Islamic law along with the continued emphasis on a gender-just civil code."*
>
> Tasneem Khan[1]

Khan's article discusses the complexities of the ongoing debates on a Uniform Civil Code (UCC) in India. While India claims to have a constitutionally secular identity,[2] personal laws based on religious identity continue to govern matters relating to marriage, divorce, adoption, succession, and the governance of religious institutions.[3]

The goal of establishing a uniform civil law is derived from Part IV, Article 44 of the Directive Principles of State Policy (DPSP) in the Constitution of India, which states that "*the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India*."[4] However, the term "*shall endeavour*" ensures that the obligation under Article 44 is non-binding,[5] making it open to criticism and debate.

While the UCC has been a point of contention among different political and religious groups, the question of the Muslim minority, more specifically Muslim women's rights, has come to the forefront.[6] This is based on a recent statement by the Prime Minister, who announced the government's endeavour to create a UCC[7] for all citizens. The reason behind the UCC debate, which mainly focuses on the rights of Muslim women, is the differential status of civil rights that Muslim women continue to have experienced due to personal laws based on religious identity.

Vrinda Narain's statement in this regard highlights this issue: "*in India, the location of Muslim women at the intersection of gender, community, and nation exposes the inclusions and exclusions of post-colonial nationalist ideology, the mendacity of equal citizenship, and the inherent dangers of a forced identity based on primordial, essentialist definitions.*"[8]

This statement recognizes the unique crisis facing the Muslim women's community as a group, caught between political and religious battles, wherein each faction continues

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to position itself as the saviour of Muslim women. To justify this, Muslim women are portrayed as either victims (based on essentialist definitions) or seen as agents of reform. Both descriptions are based on post-colonial nationalist ideology. These struggles continue to create a crisis for Muslim women, with a negative impact on their rights as equal citizens, as they continue to face discrimination based on unfair personal laws.[9] This form of discrimination is evident in practices such as the criminalized act of *triple talaq* (instant divorce), polygamy, rights relating to maintenance claims, and limitations on their civil rights. This paper explores colonial and post-colonial discourses on Muslim women's rights to highlight how they have been instrumentalised, either at the hands of religious leaders or political powers, focusing on their struggles in claiming equal rights as equal citizens of the state.

2. The "Benevolent" Coloniser: Political Considerations and the Selective Civilisation Drive

Rina Verma Williams writes that because of their unique characteristics, postcolonial states play a crucial role in how modern states construct themselves. This uniqueness is attributed to the fact that although they identify as modern, their modernity is a byproduct of their colonial past rather than an inherent characteristic that represents the state.[10] The Indian state also evolved into a modern state under the influence of its colonial conquest by the British. In their encounter with India, the British officials began producing knowledge about the Indian society that became an essential tool for them to carry out their conquest of India. This transformation of knowledge was a form of covert power that was built by controlling more apparent forms of power.[11] This colonial knowledge production about India continued to shape post-colonial India, and personal laws are a prime example of this type of continuity of the effects, resulting from accepting colonial knowledge production in post-colonial India.[12] Despite a change in politics and policies, the system of personal laws persisted, continuing to replicate the rule of law defined in the colonial era,[13] as "*the legal form of the Raj was incorporated more or less wholesale, only to yield to incrementalist changes at a later stage.*"[14] However, those changes are yet to be translated into reality in the context of personal laws.

According to Hussain, Indian independence, in 1947, came in the form of a legal statute, thus making India a prime example of a post-colonial state that ensures the colonial continuity of its laws based on colonial knowledge.[15] In India, the local populations followed local customs and rules in matters of governance, with the British ruling the state. However, the British had to introduce Western laws to the local state to ensure the legal administration of India. These codes, inspired by the Western legal systems, left out one set of laws from its purview, more specifically, personal laws. The British took an approach to preserve these laws to a great extent, ensuring that the communities were free to govern themselves in matters relating to personal laws.[16]

The decree of 1772 stated that on issues of "*inheritance, marriage, case, and other religious usage, or institutions, the laws of the Koran concerning the Mussalmans, and those of the Shasters with respect to the hindoos, shall be invariably adhered to*."[17] This Victorian proclamation of "*non-interference*" in personal laws meant that the only way the government could and would interfere with personal laws of the community was if the community itself demanded such interference.[18] While this approach appears to be ironically democratic in a colonial state, this intentional space for personal laws in both colonial and post-colonial Indian states was established to support the ruling classes' political aspirations. It is also relevant to note that this approach was also not applied consistently to different communities.[19] This differential treatment of communities, in deciding to what extent their personal laws could be interfered with, continued to be based on the question of which faction of community initiatives supported the position of the government.[20] In doing so, the rule of non-interference was only limited to the extent that it supported the position of the government in propagating and sustaining the power structures the state required to continue.[21]

Within this context of selective interference and non-interference, the movement of Hindu reformation supported by the Hindu elite reflects an affinity to the European culture in how it began reforming the local social and cultural identity.[22] This change was highly influenced by the debates ongoing in Europe in the late eighteenth and nineteenth centuries.[23] The British civilising mission in this regard was faced with the "women's question", one of the most contentious debates, specifically in Bengal, also known as the Renaissance.[24] Most of these questions were related to the issue of the "age of consent" or legalising widow remarriage and abolishing Kulin polygamy.[25] Also known as the "reform", this attempt to modernize personal laws was done to achieve social progress mostly in the context of gender equality.[26] At the same time, the Indian state consistently failed to stop the abuse of Muslim women at the hands of personal laws.[27]

Bringing back the discussion to Hindu reforms, with the influx of nationalist ideologies, the debates surrounding women's rights appeared to have taken a back seat in the nationalist agenda.[28] While some authors argue that this was a sign of regression from the attempt to reach a liberal progressive society,[29] others contend that the reformers' agenda should be examined within the context of the particular causes they selectively embraced from the array of Western liberal ideas. This perspective suggests that rather than regressing, the nationalist agenda recognised that in the reformist agenda, there was a consistent pattern of choosing specific causes while neglecting other Western liberal ideologies. Notably, these areas of oversight encompassed issues such as caste distinctions, patriarchal forms of authority, the sanctity of Hindu *shastras*, and efforts to advocate for mere symbolic alterations in social practices.[30] In including this discussion in this section, the author does not argue about the legitimacy or the necessity of the reforms, nor the acceptance of the liberal ideas imported from the West. It is important to acknowledge that the purpose of including these works in this discussion is to highlight how in the Indian context, the colonial era did not have a universal policy on the issue of reforms.

Reforms were picked and chosen by the elites based on what they thought the community required. This essentially meant that the representation of the community was overtaken by a handful of Western-educated self-proclaimed representatives. It is also relevant to note that the governance of a highly diverse society needed specific strategies from the British. To do so, they relied on educated pandits to create a digest of Hindu law from customary laws. The topics included aspects of both social and personal matters. However, the British increasingly began to mistrust such translations due to conflicting opinions on the subject.[31] Another attempt was made to create a "definitive" code of Hindu law that could be similar to the code used by the European judges, which could also be used in India.[32] Thus, they attempted to create something resembling the European system from an entirely different system of which they had no understanding. One of these codes was written by William Jones, favouring the Bengal School. In addition, he also translated *Manu Smriti*, making it one of the most favoured texts of the British.[33] In their attempt to find a universal Hindu law, the European-made version of the Hindu code came to govern the Hindus.[34]

On the issue of reforms, despite specific interventionist attempts, most of the reformist agendas were focused on Hindu communities, supported by the Hindu elite. This elite comprised a set of individuals who based these attempts at reforms on their own limited understanding and considerations of power and politics. In their attempt to find a universal law for Hindus, the works of the European authors came to be used over genuine Sanskrit *shastric* works.[35] This led to the beginning of the myth that *shastric* injunctions are the governing law for the Hindus. However, even with the assumption of non-interference in personal laws, they began to interpret and change customs and traditional practices even within the established policies of non-interference and the policy of protecting personal laws,[36] leading to a continuous battle, and "*since then custom has been forced to struggle against the Anglo-shastric law brought into existence at the behest of the British, which was assumed to be the personal law of Hindus.*"[37]

This colonial attitude towards the making of a Hindu law was also reflected in the Hindu Code Bill of 1956, reflecting a colonial continuity of the alliance between the colonial rulers and the influential elite class of India. Though assumed to be created in favour of reforms to fight for women's rights and gender equality, the reasons behind bringing changes in Hindu personal laws were inspired by the objective of keeping the existing power structures supported by the colonisers.[38]

In contrast to their interference with the Hindu traditions and practices, the British policies on Muslim customs and traditions continued to be that of "*more than a concession to the native opinion*", based on the fact that the colonial rule required the support of certain communities to extract economic benefits.[39] As the colonial powers began to stretch their influence over the Indian subcontinent, the British had minimal awareness of Islamic legal arrangements.[40] Following the declaration of "non-interference" in personal matters, the bureaucratic machinery of the British colonial rules needed knowledge of the indigenous legal arrangements of the Muslim population to make it possible to govern them.[41] However, they faced several difficulties in this attempt, based on barriers of language, the limited number of administrative officers, and the fragmentation within the Muslim population, which was governed by different rules.[42]

Similar to the attempts to define a universal Hindu code in a highly diverse system, in their quest to find the universality in a fragmented Muslim society in India, the British relied on pre-colonial legal scholarship, based on *shari'a*, which had been adopted in the subcontinent in different forms as an administrative tool.[43] These adapted forms were used by the sultanates, the Mughal Empire, as well as the newly formed states in the eighteenth century.[44] The Mughal era saw a major reliance on *shari'a*, seen as a sacred duty, to legitimize the imperialist nature of the Mughal empire. A heavy reliance was placed on the ulama, the Islamic legal scholars. This era also saw the culmination of a collection of legal opinions known as *fatwa Alamgiri* within the *fiqh* tradition (a collection of authoritative Hanafi teachings that serves as evidence of the Mughal Emperor Aurangzeb Alamgir's support for the Hanafi school of thought).[45] This was one of the many different forms of interpretations of Islamic law, which, in the Indian context, was also studied by numerous other scholars who tried to interpret Islamic law, one such example being the Hanafi school.[46]

In contradiction to the Hindu community, including its elites, who saw customs as an independent source of law, the Muslim elites made sincere efforts to enforce the rule of *shari'a*,[47] however, many localised Muslim communities wanted to safeguard their autonomy in governance based on their local customs and knowledge of the local traditions.[48]

The British also ignored this diversity within the Muslim communities, where some of these communities were also following Hindu customs.[49] Looking for a "Muhammadan" law to be included within the Company court system, the administrators made the mistake of treating conventional Islamic script as a binding system of laws, stating that "*the laws of the Koran with respect to Mohamedans' made Qur'an the code of law for Muslim in India*."[50] In doing so, a heavy reliance was placed on the interpretations of the *qadis* and later the *ulama* (scholarly guardians and interpreters of the *shari-a*), who were seen as the legal authorities on the subject. The persistent need to find a static source of law led to the publication of *Principles and Precedents of Mohamedan Laws* in 1825, which included the *fatwas* issued by the *qadis* and a range of generalisations.[51] This publication ignored the problematic static interpretations and presented a unified rule, rather than acknowledging the fundamental differences in the systems. A number of other publications and textbooks, following the *Principles and Precedents of Mohamedan Laws* in 1825, prseneted "*organised knowledge in a way that made the most of a limited amount of understanding. It minimised doctrinal difference and presented the shari'a as something it had never been: a fixed body of immutable rules beyond the realm of interpretation and judicial discretion.*"[52]

Later, in light of the Punjab Laws Act of 1872, an attempt was made to ascertain customary practices. The administrators, through surveys, created an understanding that the customs are to be treated as facts, which can be brought under the administration

through codification, without acknowledging the political nature and intent of the task.[53] It is also relevant to note that these administrators, belonging to a different cultural and administrative context, already held assumptions that these customs were ancient, and that society was largely static.[54]

In such a diverse system of Islamic rules of governance, the British again required an understanding of these rules of governance to interact with the local populations without making too many efforts in terms of labour and capital.[55] In establishing "the rule of law" for the Muslim community of India, the British codified the Anglo-Muhammadan law based on legal assumptions, codifications, translations, and new legal technologies. This was carried out based on the understanding that *shari'a* (comprising Islamic texts included in the *Qur'an* and *Hadith*) was the main legal authority for Islamic legal scholars,[56] in doing so the British also denied the social realities of a Muslim population in a diverse nation.

This codification led to the development of the Muslim Personal Law (Shariat) Application Act,[57] (MPL), which is a colonial legacy created by British efforts to reach two goals. One of them was to appropriate economic surplus through revenue in an agrarian society, and the second was to maintain political control without spending.[58] To achieve this without much resistance, the British treated the *Qur'an* as the binding code of Muslim law.[59]

In their civilising mission aimed at establishing a society based on local communities, cultures, and traditions, the British distorted the inherent systems built over centuries to look for a "fictional" universal "rule of law" that made it easier for them to extract money from the local population and enslave them. In doing so, while the colonial powers reduced the *Hindoos* to a backward religion and the Hindu women to *subalterns*, they also established a stricter set of rules based on the *Qur'an* for the Muslim society. This created a highly strict system of laws for the Muslim community, which is popularly known as the MPL. This "scriptural" identity of the Muslim laws continues to have a long-term impact on how identity politics works within the Muslim community. As this identity became a tool in the hands of both political powers, fundamentalist groups rallied around this new form of identity, claiming that any changes to these laws would amount to interference with Islam.[60]

The discussions included in this section have been able to highlight the selective interference and non-interference policies designed to fulfil the colonisers' aims of political and economic exploitation of the local population. Despite the violence, whether economic, physical, and intellectual, carried out during their colonial conquest of India, the post-independence political discourse in India appears to perpetuate a continuity of colonial intellectual violence. While this violence has continued to be a norm for both Hindu and Muslim populations, it is more specific and apparent in the context of the MPL due to its unique nature. This discourse is the focus of the analysis in the next section.

3. The Post-Independence Approach to Muslim Personal Laws

Research has shown a colonial continuity in terms of institutions before and after independence in post-colonial states.[61] This continuity can be seen in three specific areas: the structure of the state, its political foundations, and the system of law it chooses.[62] In continuing the institutional colonial framework post-independence, most states continue to be a European construction, while numerous indigenous interpretations of the concept of the state also continue to exist.[63] This continuity is also found within the indigenous elite of the newly constructed state. This suggestion is supported by the argument that national elites also supported the interests represented by the colonial states. However, no reference to their intentions is made here. In this manner, the national elites, to a large extent, assumed the function of the government given by the coloniser.[64] The continuities in the legal system are reflected in the way the colonial legal system was transferred with the help of the Constitution almost indiscriminately in the post-colonial period. In the Indian context, the existence of personal laws is a key element of this institutional structure of the legal system, reflecting a colonial continuity.[65] The understanding of the nation's elites that law is a tool that can be used for both political and economic development—Western

law facilitates such development, while customary laws obstruct it—explains why colonial laws were accepted to such an extent.[66]

Based on the reasons of ease and effectiveness, the indigenous elites used these Western-made laws for the purpose of nation-building, the quest for modernization, and development. This was also the case with India's first prime minister, who fell into this mould, resulting in colonial continuity in a post-colonial state.[67] However, this positive assumption on the effect of colonial laws has been debunked by scholars, as colonial laws have a negative impact on economic development and, in effect, work to maintain and sustain the positions of political elites from the minority group, who assume the position of development through law, which in itself is a direct effect of colonial control.[68]

In this context of colonial legacy, personal laws are sometimes favoured by legal pluralists, suggesting that they prevent elite politicians from imposing their version of national identity on the indigenous populations.[69] However, this extremely compassionate view of personal laws has been critiqued for its fundamental logic, which is used as an instrument for the assertion of power.[70] This is because, according to Mamdani,[71] colonial legal pluralism "*was more an expression of power relations in a colonial society than a recognition and tolerance of any multicultural diversity*."

During the initial years following independence, Indian elites argued that personal law reform was essential to satisfy secularism and "modernization" demands while also guaranteeing that personal law did not violate the fundamental values of a just, equitable, and non-discriminatory system.[72] However, these reforms were only targeted towards Hindu personal laws.[73] To what extent these reforms to Hindu laws were sufficient to achieve these goals is questionable; however, the more contentious issue is the fact that minority religions did not undergo similar reforms, thus raising doubts about the intentions behind establishing a system of equal citizenship rights when only one religion was chosen to be interfered with.[74] This, again, reflects the colonial policies of selective intervention and raises the question of how this type of asymmetric treatment could even be defended in light of the constitutional right to "*Equality before Law*" under Article 14.[75] In maintaining a non-interventionist approach towards other minority religions, a system of consistent inequality based on religious identity was allowed to develop within a secular country, in which the UCC has consistently been opposed by Muslim leaders.[76] Due to this consistent opposition, the MPL remained largely unchanged till 2019, when *triple talaq* was criminalised.[77]

4. What Personal Laws Do to Muslim Women

The question of personal laws becomes crucial in defining women's rights in this context of colonial laws being transferred to post-colonial Indian communities. Personal laws rooted in rigid religious doctrine have led to the politicization of religion in the Indian state, where minority rights concerns are pivotal in defining the relationship between religion and politics. This dual legal system, which permits the existence of personal laws, has left some communities' women, particularly Muslim women, especially vulnerable in India. This situation leaves them exposed to exploitation by both religious and political authorities.[78]

In this context, it is important to understand the complex and paradoxical relationship between politicised religion and women. Politicised religion creates opportunities for women's activism while also undermining their autonomy.[79] Contrary to popular feminist discourses, women do not invariably reject religious nationalist appeals; this is because they do not always oppose religion. Additionally, women in this situation defy the expectations of religious nationalists because religion does not inherently invalidate aspects of a woman's identity such as her gender, caste, or class.[80] Moreover, women also contest the appeals of the nation-state by challenging the assumptions that women primarily identify with being wives or mothers.[81]

In an already complex society, the condition of Muslim women becomes even more complicated. Since independence, and in the next few decades, the Muslim community, and more specifically its women, have made few tangible gains in economic and social

development.[82] The rights of Muslim women within a family continue to be a matter of extensive debate and controversies, involving questions about gender justice, religious freedom, and, more importantly, the question of how minority rights are accommodated in a secular democratic state.[83] While the state was eager to project itself as a secular and democratic entity, it had to display hesitance in revising Muslim personal laws. It operated under the assumption that, as also stated earlier, for Muslim women, religious rights held greater significance than gender rights. This effectively led to subordinating the welfare of Muslim women to the assumed collective interests of the community.[84]

Consequently, contemporary family law continued to categorize all Indians based on their affiliation with religious communities. Muslim personal laws are unique, as they exhibit gender discrimination against Muslim women, affording them fewer rights compared to Muslim men, and even in comparison to other Indian women.[85] This results in Muslim women facing various forms of discrimination based on their identity, at the intersection of their gender and religion. The MPL essentially contributes to the entrenched subordination of Muslim women within the patriarchal structure of both the family and the community.[86,87] This subordination is reflected in the unilateral right to grant divorce, which is only available to men, along with practices such as polygamy, and the absence of the right to legal guardianship.[88] Despite the glaring discriminatory nature of these laws, which violate fundamental principles of equality, neither the *ulemas*, the political leaders, nor Muslim scholars ever came up with a solution to counter one of the most debate issue of unilateral talaq.[89] The rights relating to marriage and divorce continue to be central to the debate on the rights of Muslim women because their right to seek divorce is limited and is subject to a number of other constraints. Furthermore, they are also denied the right to claim maintenance, which makes the right to divorce insignificant.[90]

5. Freedom of Religion or Equal Rights–Gender Wars

The issues discussed above, relating to divorce and maintenance, have been used as instruments at the hands of political parties, the community, and the religious authorities. In this context, the case of *Shah Bano*[91] became a prime example of how Muslim women were exploited for political and community goals.

The case involved a judgment given by the Supreme Court that allowed Shah Bano to claim maintenance from her husband, who had divorced her by saying the word *talaq* three times, also known as divorce through *triple talaq*.[92] The resulting furore in the society was equated to the great mutiny of 1857.[93]

The Supreme Court's judgement came after the husband's appeal against the High Court's judgment, which had allowed maintenance to Shah Bano. The High Court had allowed the claim of maintenance under Section 125 of the Criminal Procedure Code (CrPC), a secular law that allows women of all religions to claim maintenance under the provision.[94] Shah Bano, a 62-year-old Muslim woman, petitioned the court in April 1978 to obtain alimony from her divorced husband, Mohammed Ahmad Khan, a well-known attorney in Indore, who had given her an irreversible talaq in November. The couple had five children born to the couple after their 1932 marriage. Three years prior, after living with Khan and his second wife for an extended period, Shah Bano's husband asked her to move to a different home.[95] While Shah Bano was not the first Muslim woman to claim maintenance under the CrPC, this judgment became a crucial point in how Muslim women's rights came to be renegotiated in the power struggle between political and religious authorities. The effects of the judgment were seen in the by-election of 1985, where the greater percentage of the vote went against the ruling Congress party, as it was perceived as supporting the judgment which allowed the claim of maintenance for Muslim women under secular law.[96] It became a focal point of intense controversy, drawing significant attention from the media, and escalating into a major national concern.[97]

For the Muslim fundamentalists, the judgment was an attempt to disturb their freedom to follow their religious laws. The judgment also allowed them to attack the perceived threat posed by the Hindu majoritarian identity, which, according to them, was an attempt

to assimilate them to an extent that threatened their Muslim identity.[98] It is also relevant to discuss the role of the Muslim Personal Law Board, which was crucial in how it pressured the government into creating an ordinance that made the Supreme Court judgment ineffective. This ordinance also severely limited the rights of Muslim women to claim maintenance under secular laws.[99]

As a clarification, in the following paragraph, the use of the term "fundamentalist" is deliberate, aiming to explore the nature of opposition the judgment received. According to Syed Shahabuddin, a well-known young Muslim minister, who was also part of the Union cabinet and the spokesperson of the official position of the Muslim religious authorities at the time, the term fundamentalist is the accurate description of allegiance to the *Qur'an*. In this belief, since the *Qur'an* was revealed 1400 years ago by the prophet, it cannot be changed; hence, as Shahabuddin stated, "*not one syllable is subject to change. . .. It is in this sense that the Muslim is by definition a fundamentalist.*"[100]

According to Syed Shahabuddin, the judgment increased tensions between Muslims and Hindus and had a significant impact on the nation's electoral politics.[101] Consequently, the then Congress government felt compelled to take decisive action to address the concerns of the Muslim community and rectify the perceived harm caused by the *Shah Bano* judgment.[102] This led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act of 1986 (the Act). The government justified the Act by stating that its goal was to reduce the emotional distress experienced by Muslim women and guide the country into the 21st century.[103] The Act was implemented to override the court's judgment, effectively excluding Muslim women from the scope of the CrPC, which was a secular law protecting all citizens.[104] This action was taken on the advice of religious leaders, and the government decided to invalidate the Supreme Court's ruling and enacted the Act in 1986. This law explicitly stated that Muslim women would not have recourse to civil law concerning matters of marriage and divorce. Consequently, the new legislation posed challenges not only to gender equality but also to religious non-discrimination, as it singled out Muslim women as the only group denied this remedy under the CrPC.[105]

This case demonstrated how political and religious powers exploited a straightforward issue of the right to maintenance, as guaranteed by the Constitution, for their own political ends, thereby highlighting the blatantly obvious British colonial policies. To further explain this point, an important aspect of the identity of the Indian post-colonial state is the mistreatment of Muslim women under the legal system. The state's unwillingness to amend personal laws needs to be understood in the context of its political goals for running a multicultural, pluralistic society.[106] This approach was evident both immediately after independence, when selective interventions were made to one specific religion while leaving out other religions, and also few decades post-independence, in the above-discussed case, wherein the political ambitions of the Congress party trumped the quest for fundamental constitutional rights of equality and justice.

While the role of the political and religious authorities becomes quite evident in these debates, one of the more nuanced critiques also highlights the issue of the judicial approach to the "protection of women". According to Basu, "*the figure of "Woman" is refracted in numerous competing and contradictory ways within the legal system of a post-colonial nation; individual women get represented as empowered agents, invisible presences, signifiers of sexual, family and property relations, while the law in relation to women gets coded as arbitration, protection, conservation, or liberation.*"[107] Courts frequently support women's rights within the family, as demonstrated by the Shah Bano case and others, demonstrating that the legal system is not hostile to women seeking legal parity. However, in many of these cases, the judges also portray themselves as secular protectors of the secular post-colonial state, or as advocates of vulnerable women, praising the updated Hindu legislation while lamenting the lack of updated Muslim personal codes.[108] Not surprisingly, this attitude has been seen by many as one of the reasons of the Muslim community's lack of support and trust in the legal system and reforms.[109] Arguably, this can also be due to the lack of education and exposure amongst the community specially amongst Muslim women.

Thus, women (more specifically Muslim women) in India, are continuously at the centre of national politics, legal battles, and religious discourse, as they continue to face challenges in reclaiming their rights and challenging the gender status quo.[110] The crisis of numerous competing interests resulting from Shah Bano's legal claim for maintenance dismantled the reluctance of the state to reform personal laws. It continued to reflect the post-colonial consensus of maintaining a status quo in MPL, even after decades of independence, resulting in a national crisis.[111]

Despite the relevance of this issue, the Muslim woman, as a subject, is notably absent or fragmented within the various legal, religious, sexual, and political texts. In this conceptual context, discourse operates primarily by deliberately excluding specific possibilities, such as, in this case, the comprehensive representation of the subject. Its internal coherence is established by adhering to ideologically fixed parameters, which continue to generate knowledge about the other that is always connected to power structures.[112]

It is relevant to note here that, despite the political and academic discourses which have been written over several decades, the question of Muslim women's rights continues to be at the centre of the political discourse in India. Without going into too many details on the decades between 1986 and the rise of the Modi government in 2014, as no notable reforms on the issue of personal laws were made during this period, this discussion will now look at the discourse on Muslim women's rights under the Modi government, also known as the Bhartiya Janta Party (BJP).

One of the BJP's election manifestos promises was also focused on the establishment of the UCC, claiming the need for establishing "*one nation, one law*".[113] Within this manifesto, the idea of "empowering Muslim sisters" is also inherent, using Muslim women as a platform wherein the meaning of nationalism is established.[114] This issue of empowerment of Muslim women came to the forefront again in 2016 in the context of the issue of *triple talaq*, as exemplified by the case of *Shayara Bano v Union of India*,[115] which involved a claim by Shayra Bano, who had been divorced by her husband by *talaq-e-biddat* (also known as *triple talaq*) after over a decade of marriage. In going to the Supreme Court, Shayra Bano claimed that the practice of *triple talaq*, polygamy, and *nikah halala*,[116] were against the Constitution, more specifically the rights established under articles on the Right to Equality (Article 14), the Right against Discrimination (Article 15), and the Right to Livelihood (Article 21). She also claimed that the right to freedom of religion is not absolute and must be subject to public order, morality, and health under Article 25 of the Constitution.[117] The allegations also included demands for a dowry, claiming that the husband's family drugged, abused her, and abandoned her while she was sick, and the her family was not able to support her.[118]

The case is pertinent for examining how various groups, each representing distinct interests, articulated their perspectives on the Supreme Court's directive. While the All India Muslim Personal Law Board (AIMPLB) opposed the petitioner's claims, the Union government, along with notable women's rights organizations such as the Bebaak Collective and the Bhartiya Muslim Mahila Andola, expressed their support for the petitioner.[119]

One of the most important observations in this regard can focus on the position of the AIMPLB due to its significant influence on matters relating of the position of Muslim community in India. While agreeing that it fully condemns the practice of *triple talaq*, it also argued that the Court did not have the authority to review uncodified personal laws.[120] They also argued that these practices formed an essential part of Islam and, therefore, were to be protected under Article 25 of the Constitution, which guarantees the freedom of religion.[121] This is the same organisation that had also stated that men have greater power to make decisions, as they are "*better at controlling emotions and unlikely to take a hasty decision*."[122]

The history of this organisation is also relevant in understanding, to what extent it represents the interests of the Muslim community as a whole. The fight for gender equality for Muslim women has been a consistent focus for a number of Muslim women's organisations. One of these organisations is also known as the Muslim Women's Rights

Network. In 2004, some members of the group worked to make a gender-just marriage contract outlining the terms of marriages, including the amount of *mehr* (money given by the groom to the bride), divorce, and maintenance. In response to this attempt made by the Network, the AIMPLB, which is often mistaken to be a government organisation representing Muslim interests, formulated its own marriage contract on the same issue. The draft was widely criticised by Muslim women as being anti-women. A copy of this contract was publicly torn during a press conference in 2005, wherein the AIMPLB was denounced as a misogynist organisation that did not represent Muslims in India.[123] AIMPLB, thus, should be see in the context of how it negotiates its position as the saviour of the community's interests while also reinforcing the *status quo* of Muslim women within the community.

6. You Need to Be Saved from Them—Who Represents Muslim Women's Interests

Bringing back the discussion to the issue of *triple talaq*, and more specifically the Supreme Court's declaration that the practice of *triple talaq* is unconstitutional, it appeared to have been a big win for Muslim women. However, in addition to this unconstitutionality, the Modi government passed the Muslim Women (Protection of Rights on Marriage) Act of 2019 (referred as the Act).[124] The Act has been implemented to criminalise the practice of *triple talaq*, and the individual may face imprisonment for a duration of up to three years and, additionally, may be subject to a fine.[125] The Act also provides the right of maintenance and custody to Muslim women in case of *triple talaq*, which is not granted under their personal laws.[126]

Without delving into the discussions about custody and maintenance, the most heated debates concerning the bill have centred on the criminalization aspect. One argument posits that the declaration deeming the practice unconstitutional is adequate to imply that triple talaq would be legally nullified. Therefore, the question arises as to how such an act can be subject to criminalization.[127] In contrast, the argument supporting its criminalisation is that despite the judgment, the practice of *triple talaq* continues to persist, and hence, the Act was necessary to create strong support for the judgment.[128]

Another facet of the bill subjected to criticism is that, by classifying the utterance of triple talaq as a non-bailable and cognizable criminal offense, it eliminates the potential for reconciliation. Moreover, it appears to overlook the socio-economic circumstances of women, typically from uneducated and economically vulnerable backgrounds. Consequently, if the husband is incarcerated, the crucial question of how the woman will support herself becomes paramount—a consideration seemingly overlooked by the bill.[129] A survey also suggests that having a criminal adjudication for *triple talaq* complicates the issue further for women, first in terms of its economic impact, and second, in terms of the community's negative perception of a woman seeking such criminal prosecutions for her husband.[130] Arguments also suggest that the criminalising of *triple talaq* is "*a clear attempt to create a homogenised group of 'oppressor Muslim husbands' and 'helpless Muslim women victims'*."[131]

The global gendered implications of the othering of Muslims have been evident since 9/11, wherein Muslim men are essentialised, which is "*the predilection to define cultures according to their presumed "essential" character, especially as regards politics*", being portrayed as sinister terrorists,[132] with Muslim women being shown as victims of their own culture who need saving.[133] In India there is also a narrative that Muslim women act as an instrument to produce many children to overtake the Hindu majority.[134]

It is important to note that the history of India has to be seen in the context of its post-independence partition era, which contextualises the type of relationship the two communities will continue to have. A large Hindu community in India has continually felt side-lined by the decades of governance of the Congress or Congress alliances, and its selective interventionist policies towards Hindu personal laws, temples, and educational institutions, which continue to be subject to government and judicial review. It is relevant to note that this type of control does not apply to any other religious institutions.[135] This general sense of discontent, coupled with the global rise in Islamophobia since 9/11, has given a boost to Hindu nationalists. This phenomenon is intertwined with India's

distinct history of hostility between the two communities, in the context of its history of the Mughal empire's violent conquest of India and the circumstances immediately preceding the partition.

In this context, the concern about personal laws and their impact on the rights of Muslim women provides an apt setting for the present government to construct a narrative portraying Muslim women as victims within their own religion and culture. This narrative suggests a need to rescue them from the perceived barbarism attributed to men. This leads us to the concept of the subaltern, as articulated by Spivak, where she delineates how the colonial project in India can be seen as a case of... "*saving brown women from brown men*".[136] Thus, the government's actions of criminalising *triple talaq* do not come as a surprise, as it strategically uses the concrete plight of Muslim women for its own gains, similar to the other historical powers in India. However, in doing so, it introduces an element of Islamophobia by aligning with prevailing discourses without fully addressing the underlying socio-economic inequalities that persist among Muslim women.

However, the issue remains more complicated. In its endeavour to bring about a UCC for India, the 22nd Law Commission sought the opinion of religious organisations and the public. One of the main organisations the commission asked to give its opinion is the AIMPLB. While some details of the organisation's questionable stance on the reform have been discussed earlier, it is relevant to note their submission in the *Shah Bano* case. Before this, it can be useful to understand the evolution of the MPL and the AIMPLB. As discussed earlier, the MPL has not undergone any reforms since 1937, other than the Act in 2019.[137] Alongside this, a move in 1986 made gender justice impossible for Muslim women by excluding them from the purview of secular laws.[138]

The views of the AIMPLB have already been established to be misogynist; however, their counter-affidavit submitted in opposing a ban on *triple talaq* in *Shayra Bano* raises some fundamental questions.[139] In this document the AIMPLB states "*in situations where both the wife and husband seek to avoid residing together in a state of severe conflict and consider legal processes to be excessively time-consuming and costly, there arises the potential for a husband resorting to illicit and unethical means, such as inflicting harm or setting the wife on fire. It is important to acknowledge that a husband who lacks a sense of moral responsibility may engage in harmful actions towards a despised spouse, especially when their interactions primarily occur during night-time, under the cover of darkness.*"[140] This line of argument reflects a victim-blaming mentality, similar to questioning whether women behaved appropriately to avoid becoming victims of sexual assault.[141] It needs to be kept in mind that this is the same organisation that has been called misogynistic for suggesting that men are more in control of their emotions by Muslim women activist groups.[142]

Despite the clear evidence that it exhibits a strong patriarchal orientation, and as an organization that consistently adopts an unreasonable and staunch stance in the preservation of existing *shari'a* laws, often overlooking the necessity of critically evaluating their positions,[143] AIMPLB is still seen as the representative of the Muslim community, often having a say in most decisions of the community.[144]

Another aspect of the AIMPLB is that it faces criticism for its predominant representation from affluent Ashraf castes. This has raised notable concerns about casteism, classism, and elitism within the organization, which is unable to acknowledge the struggles of Muslims coming from under-privileged socio-economic backgrounds, such as the Pasmanda community.[145] The lack of representation in the AIMPLB is also seen in the absence of a women's wing till 2015, which was subsequently dismantled in 2022, to be again reinstated in 2023. The questionable stance of the AIMPLB on women's issues evidently shows that it does not believe in the rights of women as equal citizens, and its only attempt is to sustain itself as a "representative" of the community by maintaining its power structure.[146]

Despite these criticisms, in the most recent UCC debate, the Law Commission sought the position of the AIMPLB, which has popularly opposed the UCC, stating that Muslims must abide by the laws of shari'a. An important observation in this matter is that this claim of adhering to the shari'a is limited, as it is not applicable to criminal matters.[147] This raises

questions on how far the government is really seeking to promote social justice through the UCC, or whether this is just another method to engage in debates that may appear to be for the benefit of gender justice but do not bring about a real change. The actions of the current government also need to be seen in the context of other allegations it continues to face, in line with the argument that the BJP is instigating anti-Muslim rhetoric through discourses on social media, law, and the claim that instances of violence against Muslim women have been on the rise since the Modi government coming into power.[148] However, these claims also need to be evaluated on their merit rather than a reductive portrayal of the Western media or specific intellectual discourses, which have their own political ideologies.

7. Colonial Descriptions of Race, Gender, and Religion and Muslim Women in India

The interplay between gender and religion in the context of Islam has been a fundamental legacy of the colonial regimes. The 18th century saw the emergence of scientific racism, wherein race became categorised as a pre-determined biological and genetic category, with a focus on the black population. Subsequently, European racialist scholars, particularly anthropologists in the 19th and 20th centuries, extended this framework by introducing the concept of "Mohammedanism", portraying cultural inferiority as inherent to Islam and Muslims.[149] This "civilizational thinking", in which the concepts of cultural racism, gender, and consumption become entangled, was formed in large part because of this radical shift from external to internal aspects of cultural differences.[150] This portrayal of cultural difference in terms of inferiority became the main description of Islam. The following statement made by Sir John Malcolm gives a clear picture of this description: "*No Mohammedan country can ever be great, or far advanced in art, science, and literature, for their religion is the great barrier that keeps them back and binds their mind in a shroud of mental darkness.*"[151]

The essentialized Orientalist view of Islam in Western scholarship and colonial discourses led to a specific image of Islam and, more specifically, its women. Mohammedanism was construed by French and British colonists as a unified system of religious practices based on a number of interrelated concepts. This included the way it was constructed, as a cohesive religious and cultural worldview, which served to legitimize its fetishist nature, inferiority to other civilizations, and enigmatic portrayal of women.[152] The discussion of the "woman question", or what constitutes a woman's proper sphere of influence and the extent of her agency, is another element of the juxtaposition of race, gender, and religion. The veil and veiling serve as a visual representation of the discourse when applying the woman question to Oriental cultures. The woman question was cited in this discourse, within the context of colonial modernity, as being essential to the inferiority of particular religious and cultural practices. The woman question came to represent both civilization and barbarism, drawing a line between the two.[153]

Muslim women came to represent the Orientalist racist, exotic, and demeaning essentialist depictions of Islam as a religion stuck in the past.[154] In this colonial description of Islam, its women did not have agency, could not oppose their mistreatment, or even understand that they were being mistreated.[155] In India, reinforced by an essentialist colonial portrayal and specific British policies leading to divergent laws, there exists a perpetuation of the Orientalist image of Islam's men and women. This image feeds into the idea that Islam is inherently flawed, which in turn feeds into Islamophobia. Characterizing Islam's men as violent and barbaric is a perfect fit because Islam is portrayed as an uncompromising force, especially when it comes to how it treats women. In the context of India and its Muslim populace, this dynamic is clear. This construction of Islam, as violent to its women, as an immovable entity creates a perfect playing field for descriptions of Islam through its "oppressed" women, where its men are portrayed as barbaric and violent. Gender equality is widely perceived as a progressive and liberating goal that necessitates reaching full "civilizational maturity" and doing away with practices that are considered barbaric or culturally backward.[156] This can also be seen in the case of India and its Muslim

population, where Muslim women are subject to this "civilizational maturity" to achieve gender equality.

Based on these discussions, it is clear how each power structure, at different times, has utilised women, and more specifically, Muslim women, as instruments to sustain power structures that are in their economic and political favour. Nevertheless, it is important to emphasize that Muslim women should not be perceived as "subalterns" requiring rescue. A significant shift in representation has occurred, highlighting that the voices of Muslim women, previously absent in 1986, are now actively striving for self-representation, even within socio-economically disadvantaged classes. A report by the Bharatiya Muslim Mahila Andolan (BMMA), one of the petitioners against the *triple talaq*,[157] clearly identifies the issue of socio-economic vulnerabilities of the women who raised their voices against *triple talaq*.[158] In their representation of Muslim women, the report states that "*successive governments since 1947 including governments led by secular political parties have done little more than pay lip sympathy to the plight of the minorities.*"[159]

The four power structures identified in this chapter include the British colonial administration, the post-independence government led by the Congress, the AIMPLB, and the BJP government. While the positions of the colonial administration and AIMPLB have been discussed, it is relevant to do a brief comparison of how both the Congress and the BJP have acted in matters concerning Muslim women's rights.

Despite taking different positions on the issue of personal laws, both of the Congress and the BJP have failed to acknowledge the expressed needs of the Muslim community, which confronts a similar threat of marginalisation in both the *Shah Bano* and *triple talaq* instances. The *Shah Bano* case successfully silenced those who disagreed with the AIMPLB by equating the voices of a small number of people with the aggregate voice of the whole community. Several members of the majority population simultaneously saw these events as a possible call for giving Muslim minorities additional respect, particularly in terms of tolerating their religious rules, or providing support, such as establishing religious educational institutes.[160] Regarding the triple talaq controversy, the current BJP government portrayed Muslim men and religious leaders as opponents of women's rights by portraying all women as victims. The government used this picture as justification for scrutinising and reforming the Muslim population, starting with the use of triple talaq.[161]

In both the *Shah Bano* and *Shayra Bano* cases, the Muslim community was described as unyielding, requiring supervision for political and geopolitical purposes. While in the *Shah Bano* case, the reliance on the AIMPLB was highly reductive, the Congress government, fearing defeat in the election, acquiesced to the AIMPLB's demand by denying Muslim women the right to pursue their claims under secular law. *Shayara Bano* became the representative of all Muslim women suffering at the hands of Muslim men, consistently facing oppression in the form of triple talaq and practices such as polygamy, who need to be rescued by a more civilised community.[162] Thus, in India, Islam became the crucial defining factor that, through personal laws, creates the conditions for an oppressive culture supported by religious authorities, a definition that denies the existence of a culture of violence against women in other religions.[163]

The focus on *triple talaq* was also used to polarise the society and establish a larger pattern of portraying Muslim women as victims for political gains.[164] Prime Minister Modi's move to criminalise triple talaq in 2019 was perceived as an effort to assert social justice, framing it as a measure aimed at rescuing Muslim sisters from inequality and discrimination.[165] Along with the political discourse, the *triple talaq* question became a popular topic of discussion in major media channels, wherein most of them continued to create a discourse presenting Muslims as perpetrators of oppression and Muslim women as mere helpless victims of their religion.[166]

While the Muslim Women (Protection of Rights on Marriage) Act of 2019 has been challenged in the Supreme Court,[167] there are numerous other concerns that Muslim women continue to face. According to a recent national survey, the economic conditions of Muslim women continue to be deeply disadvantaged, as 78.7% continue to be homemakers,

with only 7.9% working in the organised sector, and 12.7 working in the unorganised sector.[168] Muslim women are also the least educated minority in India.[169]

Muslim women continue to struggle for their rights to equal citizenship while also being continuously exploited for political gains. Thus, the vulnerability of Muslim women operates at the intersection of their gender, religion, colonial policies, and secularism in the context of the UCC. It is clear that the community needs to re-evaluate its harsh truth and Muslim women require a space where they are heard, but this cannot be done unless they stop being considered voiceless based on an assumption drawn from colonial knowledge production. Their rights as equal citizens need to be renegotiated on their own terms.

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Notes

1 (Tasneem Khan 2023).
2 (Bhargava 2002).
3 (Mitra and Fischer 2002).
4 Article 44, Constitution of India, 1950, available online: https://legislative.gov.in/constitution-of-india/ (accessed on 15 August 2023).
5 (Bhatia 2015).
6 Smriti Ramachandran (2023). Hindus make up 79.8% of India's population, with Muslims being the second-largest religious group, at 14.2%. The remaining 6% is distributed among Christians, Sikhs, Buddhists, and Jains. For demographic makeup of India please see Kramer (2021).
7 See note 1.
8 (Narain 2008).
9 Ibid.
10 (Williams 2006).
11 (Hussain 2019).
12 See note 10.
13 Ibid.
14 (Low 2014).
15 See note 11.
16 Ibid.
17 (Chatterjee 1993).
18 See note 10.
19 Ibid. 10.
20 Ibid.
21 Ibid.
22 (Dwyer 2016).
23 Ibid.
24 (Chatterjee 1993, p. 116).
25 Ibid.
26 (Williams 1998).
27 Ibid.
28 See note 24.
29 (Murshid 1983).
30 (Sarkar 1985).
31 (Kishwar 1994, p. 2145).
32 Ibid., p. 2146.

[33] Ibid. The *Manu Smriti*, alternatively known as the *Manu Dharma Shastra*, stands as a historical Indian text widely recognized as Hinduism's foremost law book. Yet, during the British era, it can be argued that, in their efforts to shape a definitive understanding of Hinduism, they not only identified the *Manu Smriti* as the paramount authority but also crafted a fictional universal narrative around it.
[34] Ibid.
[35] Ibid.
[36] Ibid.
[37] Ibid.
[38] (Newbigin 2008).
[39] (Anderson 1993, pp. 165, 168).
[40] Ibid. p. 165.
[41] Ibid. p. 170.
[42] Ibid.
[43] Ibid.
[44] Ibid.
[45] Ibid.
[46] Ibid.p. 171.
[47] (Mahmood 1965).
[48] Ibid.
[49] Ibid.
[50] Ibid. p. 173.
[51] Ibid. p. 176.
[52] Ibid.
[53] Ibid.
[54] See note 39, p. 171.
[55] Ibid.
[56] Ibid.
[57] The Muslim Personal Law (Shariat) Application Act, 1937.
[58] Ibid.
[59] Ibid. 11.
[60] (Patel 2009, pp. 44–49).
[61] See note 10, p. 46.
[62] Ibid.
[63] (Otto 1996).
[64] Ibid.
[65] See note 61.
[66] (Anderson 1990, pp. 158–77).
[67] Ibid.
[68] Ibid.
[69] (Hooker 1976, pp. 400–1).
[70] See note 10, p. 49.
[71] (Mamdani 2018, p. 111).
[72] Article 14: Equality before law, Article 15: Prohibition of discrimination on grounds of religion, race, caste, the Constitution of India (See note 4).
[73] (Chatterjee 1998).
[74] (Hasan 2010).
[75] Ibid.
[76] Ibid.
[77] (Shrotriya and Pachauri 2019).
[78] (Pathak and Rajan 1989b).
[79] (Basu 2012).
[80] Ibid.
[81] Ibid.
[82] (Hasan 2012).
[83] (Narain 2001).

84 (Parashar 1992).
85 (Narain 1998).
86 Ibid.
87 This issue will be discussed in detail in the following sections.
88 See note 85, pp. 52–54.
89 Ibid.
90 Ibid.
91 *Ahmad Khan v. Shah Bano Begum* 1985 (3) SCR 844.
92 Ibid.
93 (Gupta et al. 1986).
94 Section 125 provided "order for maintenance of wives, children, and parents". "If any person having sufficient means neglects or refuses to maintain" his wife, children, or parents in need, a magistrate may "upon proof of such neglect, or refusal, order such person to make a monthly allowance for the maintenance . . . at such monthly rate not exceeding five hundred rupees in the whole". Available on <https://www.indiacode.nic.in/bitstream/123456789/15272/1/the_code_of_criminal_procedure,_1973.pdf> accessed on 15 August 2023.
95 See note 92.
96 See note 78.
97 (Mody 1987).
98 See note 78, p. 989.
99 Ibid.
100 Shahabuddin (1986) (as cited in Pathak and Rajan (1989a))
101 See note 97.
102 See note 97.
103 Ibid.
104 See note 74.
105 Ibid.
106 See note 84, p. 144.
107 (Basu 2003, p. 248).
108 Ibid.
109 Ibid.
110 See note 8, p. 97.
111 Ibid.
112 See note 78, p. 563.
113 (Saha and Dutta 2020, p. 17).
114 (Jaffrelot 2017, p. 52).
115 *Shayara Bano v Union of India* (2017) 9 SCC 1.
116 Nikah-halala requires a divorced woman to first marry and subsequently divorce her second husband to be able to remarry her first husband.
117 Article 14 (Equality before law), Article 15 (Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth), Article 21 (Protection of life and personal liberty), Article 25 (Freedom of conscience and free profession, practice and propagation of religion), Constitution of India (See note 4).
118 *Shayara Bano v Union of India* (See note 115).
119 (Triple Talaq n.d.).
120 Ibid.
121 Ibid.
122 (India Anger over Muslim Board's 'Patriarchal' Remark 2016).
123 (Khan 2023).
124 The Muslim Women (Protection of Rights on Marriage) Act, 2019.
125 Sections 3 and 4 (ibid).
126 Sections 5 and 6 (ibid).
127 (Sur 2018, pp. 5–12).
128 Ibid.
129 Ibid. p. 7.
130 Ibid.

131 Ibid. p. 8.
132 (Mamdani 2002, pp. 766–75).
133 Amarasingam et al. (2022, p. 380). For a detailed discussion on the idea of "victim of their own culture" please see Bhabha et al. (1999).
134 (Anand 2005, pp. 203–15).
135 (Hindu Temples under Government Control 2022).
136 (Spivak 2023, pp. 171–219).
137 See note 124.
138 See note 74.
139 *Shayara Bano v Union of India* (See note 115).
140 (Das and Kamthan 2022).
141 (Amana Begam 2023)
142 India anger over Muslim board's 'patriarchal' remark (See note 122).
143 See note 141.
144 Ibid.
145 Begam, (See note 141). The Pasmanda community is also known as the Dalit Muslims, comprising of 85% of the Muslim population. In the traditional understanding of the Indian caste system, an individual from one of the lowest castes, distinct from the four primary varna categories, is referred to as a Dalit.
146 Begam (See note 142).
147 Ibid.
148 (Gupta et al. 2020).
149 (Moallem 2021, pp. 271–90).
150 (Malcolm 1849, p. 189).
151 See note 149.
152 Ibid.
153 Ibid.
154 (Said 1977, pp. 162–206).
155 (Lazreg 2018).
156 (Kapur 2012).
157 (Niaz and Soman 2023).
158 Ibid.
159 Ibid. Introduction.
160 Ibid. p. 6, please also see Jaffrelot, (See note 115).
161 Ibid.
162 Ibid. p. 5.
163 (Agnes 2018).
164 (Drabu 2018).
165 (Akhilesh Singh 2017).
166 See note 148.
167 (Criminalisation of Triple Talaq n.d.).
168 Niaz and Soman (See note 157).
169 (Maurya 2022).

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