

# Covid 19 pandemic: Impact on Education in Maharashtra

Dr. Kazim Malik

## Abstract:

COVID-19 has resulted in widespread lockdown of several economic activities including the education sector. Institutes across the country have been shut due to the pandemic. The purpose of this paper is to conduct a primary survey to gain insights on the education sector in the state of Maharashtra. The constraints faced by the stakeholders with respect to the online classes, examination and other educational activities during the pandemic results in great loss of education sector. It emphasizes on importance of increasing the capacity building and the training needed for teachers and trained administrative personnel to tackle the new normal pandemic situation.

Covid 19 has changed the world like never before. India also suffered a lot from it. Maharashtra is one of the states showing the highest rise in the months of September 2020. The first case of the COVID-19 pandemic in the state of Maharashtra was confirmed on 9 March 2020. The largest single day spike (24,886 cases), highest peak in all of India was reported on September 12.

Maharashtra is a hotspot that accounts for nearly **one-third** of the total cases in India as well as about **40%** of all deaths. On 7 July 2019, the state's case fatality rate is nearly **4.3%**, which is lower than the global average but significantly higher than other Indian states with large numbers of cases. Mumbai is the worst-affected city in India, with about **100,000** cases. About half of the cases in the state emerged from the Mumbai Metropolitan Region (MMR). One year since the schools shut down due to covid 19 pandemic, more than **60,000** of the **6.2 lakhs** school students have not yet been able to access online learning.

This is a crucial time for the education sector board examinations, nursery school admissions, entrance tests of various universities and competitive examinations, among others, are all held during this period. As the days pass by with no immediate solution to stop the outbreak of Covid-19, school and university closures will not only have a short-term impact on the continuity of learning for more than **285 million young learners** in India but also engender far-reaching economic and societal consequences.

All schools, colleges, universities have completely closed their operations. And it is replaced by online classes. State issued guidelines for online education from Std 6<sup>th</sup> onwards. Earlier all educational institutes rush towards making online presence visible for all age group students. But after a month Govt. realised that just blindly following the online pattern will not help us achieving our educational goals. Then State govt. stop online classes for nursery, pre-primary and primary age group students as it was affecting their health.

Entire online system of education forcefully imposed on us. All stake holders like students, parents and teachers affected from it. There was a line of training programmes for teachers organised by private and govt. agencies to train them for the new scenario of education. Only a handful of private schools could adopt online teaching methods. Their low-income private and government school counterparts, on the other hand, have completely shut down for not having access to e-learning solutions. The students, in addition to the missed opportunities for learning, no longer have access to healthy meals during this time and are subject to economic and social stress.

Maharashtra is a shelter for many north Indian states migrants especially UP, Bihar and Jharkhand. Most of the parents migrated to their villages with entire families forever from Mumbai. There children unable to have access to phone and internet and they are not able to join classes and subject to drop outs. The drop out ratio in metro cities of Maharashtra has reached an alarming position that many private institutes and coaching classes shut down their institutes completely.

Needless to say, the pandemic has transformed the centuries-old, chalk–talk teaching model to one driven by technology. This disruption in the delivery of education is pushing policymakers to figure out how to drive engagement at scale while ensuring inclusive e-learning solutions and tackling the digital divide.

Though Maharashtra education minister and chief minister has taken no stone unturned to make online learning possible for the entire state of Maharashtra. BMC has started 40 educational YouTube channels to boost online education in different languages to help students who are sitting at home. Many private players also jump into the online business to lure students especially who are preparing for competitive exams like NEET and JEE. But due to covid policy this year coaching classes losses crores of business of education. A multi-pronged strategy is necessary to manage the crisis and build a resilient Indian education system in the long term.

One, immediate measures are essential to ensure continuity of learning in government schools. Open-source digital learning solutions and Learning Management Software should be adopted so teachers can conduct teaching online.

Two, inclusive learning solutions, especially for the most vulnerable and marginalized, need to be developed. With a rapid increase of mobile internet users in India, which is expected to reach 85% households by 2024. This can change the schooling system and increase the effectiveness of learning and teaching, giving students and teachers multiple options to choose from. Many aspirational districts have initiated innovative, mobile-based learning models for effective delivery of education, which can be adopted by others.

Three, strategies are required to prepare the higher education sector for the evolving demand supply trends across the nation. Because now the no one knows that when the situation become normal. Four, it is also important to reconsider the current syllabus, delivery and pedagogical methods in school by seamlessly integrating classroom learning with e-learning modes to build a unified learning system. So far, there is no quality parameters on online mode of delivery method.

In this time of crisis, a well-rounded and effective educational practice is what is needed for the capacity-building of young minds. It will develop skills that will drive their employability, productivity, health, and well-being in the decades to come, and ensure the overall progress of India.

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# Covid Pandemic: Psychological Impact of Fear and Helplessness on the Minds of People

Asba Masroor

## Abstract:

This article seeks to extend the information about the psychological impact of covid pandemic on the minds of people. The pandemic, it all initiated with the feeling of fear and also economical and financial stress. But people were coping up with all these things by feeling relaxed by a long lockdown imposed, but it all went through confusion and it all started piling up with anxiety and depression. The psychological health of younger adults, mainly students have been worse throughout during the pandemic. Concentrating well on studies became a matter of concern in this strenuous period. Students had to resort to the 'new normal' i.e. studying online, which had its own complications of maintaining enough productivity. On the other side elder individuals started ending up with boredom, insomnia and other health issues. Also the working people were hit drastically as in a blink of an eye they were all locked up in their homes and there were no face to face interactions for them which created many psychological problems like loneliness and depression. This article also aims to help people and students improve their mental immunity and maintain a good psychological health and to stand out as stronger individuals during the pandemic.

## Introduction:

As the coronavirus pandemic rapidly sweeps across the world, it is inducing a considerable degree of fear, worry and concern in the population at large and among certain groups in particular, such as older adults, care providers and people with underlying health conditions women and children. In public mental health terms, the main psychological impact to date is elevated rates of stress or anxiety. But as new measures and impacts are introduced especially quarantine and its effects on many people's usual activities, routines or livelihoods levels of loneliness, depression, harmful alcohol and drug use, and self-harm or suicidal behaviour are also expected to rise. Covid has created a sense of fear all over the world. Messages for the general population, COVID-19 has and is likely to affect people from many countries, in many geographical locations. When referring to people with COVID-19, do not attach the disease to any particular ethnicity or nationality. Be empathetic to all those who are affected, in and from any country. People who are affected by COVID-19 have not done anything wrong, and they deserve our support, compassion and kindness.

## Discussion:

### How all age groups were affected:

The most hard hit age group people were the women, children, students and old age people. Children were fed up of being locked at home and the women were tired of being working unproportionately all time. Old age people were afraid of their health all time ending up in anxiety. People with sleep disturbances had a lot to suffer, their insomnia became a curse for them which made them sleepy and half dosing all day halting their activities. Older adults, especially in isolation and those with cognitive decline/dementia, have become more anxious, angry, stressed, agitated and withdrawn during the outbreak or while in quarantine.

### How students were affected:

It all started as a crisis for everyone but it was really a very big matter of concern for the students who had to resort to the new normal for studying. The ONLINE learning which had some pros but very disturbing cons. Students were psychologically not so disturbed at the beginning

of the pandemic but eventually led themselves to stress and anxiety. Students comprise a major part of most countries in the world and hence is one of the biggest community to be affected in lockdown. Students are physically bound and confined to their homes but this didn't stop them from learning. According to UNESCO 32 crore students are hit by covid in India which is more than the population of many countries. Considering the number given by UNESCO it is a very big total to deal with, while many anticipated that the situation may get under control and awaited the pandemic to end. Most of the schools and colleges decided not to halt their studies and moved on with online classes and distance education. However, unfortunately, we still don't have a tech-savvy infrastructure so the students and teachers had to suffer a lot. Students had to resort to the NEW NORMAL of studying. It has its own boons and banes. Students were confused with the new schedule and ended up with stress of studies. Many of them got their new spectacles due to the use of screen for a long time. Many of them lost their track of being consistent in studies and are now ending up in anxiety.

**How to manage stress related to studies:**

- 1) Strategize your work.
- 2) Make a plan and cling on to it.
- 3) Be consistent.
- 4) Eat, sleep and workout.
- 5) Take power naps between your studies
- 6) At last be safe and follow instructions to be safe from covid

**How to manage Psychological and Mental Health problems:**

Feeling under pressure is a likely experience for many at this hard time. It is quite normal to be feeling this way in the current situation. Stress and the feelings associated with it are by means a reflection of the stressful environment around the people. Managing your mental health and psychosocial well-being during this time is as important as managing your physical health. Take care of yourself at this time. Try and use helpful coping strategies such as ensuring sufficient rest and healthy food, engage in physical activity, and stay in contact with family and friends. Avoid using unhelpful coping strategies such as use of tobacco, alcohol or other drugs. In the long term, these can worsen your mental and physical well-being. The COVID-19 outbreak is a unique and unprecedented scenario for many workers, particularly if they have not been involved in similar responses. Even so, using strategies that have worked for in the past to manage times of stress can benefit now for people.

**You are the person most likely to know how you can de-stress and you should not be hesitant in keeping yourself psychologically well.**

**This is not a sprint; it's a marathon.**

Some healthcare workers may unfortunately experience avoidance by their family or community owing to stigma or fear. This can make an already challenging situation far more difficult. If possible, staying connected with your loved ones, including through digital methods, is one way to maintain contact. Turn to your colleagues, your manager or other trusted persons for social support your colleagues may be having similar experiences to you.

**Mental health of Children and how to Manage it:**

Help children find positive ways to express feelings such as fear and sadness. Every child has his or her own way of expressing emotions. Children feel relieved if they can express and communicate their feelings in a safe and supportive environment. Keep children close to their parents and family, if considered safe, and avoid separating children from their parents and care takers. Further, ensure that during periods of separation, regular contact with parents and carers is maintained.

Maintain familiar routines in daily life as much as possible, or create new routines, especially if children must stay at home. Provide engaging age-appropriate activities for children, including



activities for their learning. Where possible, encourage children to continue to play and socialize with others, even if only within the family when advised to restrict social contact. During times of stress and crisis, it is common for children to seek more attachment and be more demanding on parents. Discuss COVID-19 with your children in an honest and age-appropriate way. If your children have concerns, addressing them together may ease their anxiety. Children will observe adults' behaviours and emotions for cues on how to manage their own emotions during difficult times.

**References:**

- 1) WHO
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# 1 PROCESS YOUR FEELINGS

Think about when you're feeling lonely and what seems to exacerbate it. Are you physically isolated from friends and family, or do you feel lonely all the time, even with others? Try and identify some of the factors affecting your loneliness.

# 2 LOOK AFTER YOURSELF

Now that you've identified what makes you feel lonely, do know that you are not alone – loneliness affects everyone but we rarely talk about it. These are unusual times, affecting us all differently. Go easy on yourself and your mental health. Prioritize activities that make you feel calm and try to avoid sources of anxiety.

# 3 STAY CONNECTED

Try calling friends and family or organizing a physically distanced activity together. If there's something troubling you and you feel you can't tell anyone, reach out to a trusted adult like a teacher, or a helpline who might be able to support.

# 4 TRY SOMETHING NEW

Like drawing, cycling or cooking. If you think you could be feeling lonely because you don't feel connected or comfortable with the people around you, you could try a new activity where you might meet new, like-minded people IRL or online.

# 5 SEEK SUPPORT

If you think your loneliness could be a result of other conditions, like depression or anxiety, search online for support available in your country, or try contacting your school or local community services to see whether they can offer support or advice.

## Covid Pandemic - A Moral View

Dr. Majid R Kazi

### Covid Pandemic A Moral View

The gem of Urdu humor and satire Mushtaque Ahmed Yusufi (1923-2018) has quoted an incident in the preface of his great work 'Aab-e-Gum', that someone asked Emmanuel Joseph Sieyès, 'what remarkable work you did in the French Revolution.' His three word answer is now the part of history. He said "J'aivecu." (I survived.)

After going through the Covid Pandemic, all of us should be really grateful to Almighty Allah that He bestowed His special blessings on us and we are here to take an account of the impacts of the horrible disease on different walks of life. The situation is far better in India. Barring some places, the normalcy has returned, though educational institutions and a few other sectors are still under siege. The world has been witnessing ups and downs and the fear of relapsing has overshadowed many big international deals, events, industries, trades, marketing etc. This was the deal of the century from the Almighty in which the supreme creation of the planet Earth does not have a 'say'. The well known Urdu short story writer and recipient of Sahitya Academy Award on his novelette 'EkChadarMailisi', Rajindra Singh Bedi (1915 – 1984) has written a short story 'The Quarantine'. The Quarantine is included in, 'Daana-o-Daam' the first collection of his short stories published in 1936. The quarantine was built to counter plague that spread in a town of Himalayan valley. The story revolves around the selfless heroics of William Bhago, the sweeper, who is an unlettered convert Christian, having really enviable faith in the Almighty, and working tirelessly for the cause of humanity. In the story, Bedi is on the top of his narratives while describing the horrible scenes of the quarantine. At one place Bhago says: *Babuji ..yehkontin todojukhhaidojukh...* (this quarantine is really a hell..). Then he describes an incident in which how the care takers and performers of the last rituals throw an unconscious but alive man with other dead bodies in to the fire and how he struggles to come out of it, and then our hero jumps in to flames and rescues the patient. While doing so he gets burns at many parts of his body. The peak of the incident is yet to come. According to Bhago, the patient was a real gentleman; even in that unbearable pain he thanked him and appreciated his love for humanity. Soon after the story takes an ugly turn as the patient died in agony and Bhago had to regret on his action saying: "How good it would be, had I not rescued him, I just caused him more pain after removing him from fire, now with my burnt hands, I threw him back in to the same heap." After that Bhago could not say much, crying with pain he just asked a simple question: *"aapjaantaehain..wohkisbeemari se mara? Plague se nahin..kontin se..kontin se..!"* (Do you know what did he die by? Not by plague..by quarantine..by quarantine..!)

The Covid Pandemic has shackled the world. During whole year we all witnessed and went through a type of an uncalled for cruelty in the current Covid Pandemic. We were helpless and unwillingly forced to leave our dear ones on the beds of death. The only access we could have through video calling that was also on the mercy of the attending doctors. The patient was left alone to die. The relatives were waiting for a final call and then the wrapped up body sent not at the residence but directly to the graveyard. The people lined up after the Imam, who was standing before the ambulance for the last prayer. Not many relatives, not many neighbors and sometimes not even brothers, sons and fathers performed the last rituals. Throughout, it was experienced that the hospitals and the medicos were not at their professional best. Not just the

heavy bills, even the dead body of someone else was sent to the relatives. At times, even the alive were listed as dead, and vice versa. No doubt there were innumerable professionals and even common people who set examples of selfless services and sacrifices by putting their lives in danger and many of them have achieved the fate of martyr. The straight forward question is that 'Are we satisfied with the handling of entire scenario?'

There are many aspects to think and work on so that along with scientific and physiological precautions, we can be better human being while dealing with pandemic which is not yet completely over. The most important cause is "Fear of Death."

Though we believe that death is most certain reality, we are afraid of facing it. A believer in God, irrespective of his religion, not only believes in its certainty but also conditions it with the time. William Bhago says to the doctor: "*Nahi Babuji.. binaa 'ibaalhibeekanahoga. Apittay bade hakim thahre, hajaro ne aapkehaath se sifapa'i, magar jab meriaa'ihogi to aapkidavadaarubhikuchhasarnakaregi.*" (Babuji, nothing will happen to me unless the time (of death) has come, you are a great doctor and thousands have been cured by you, but when mine (death) would come, your medicine will not work..) The Quranic wisdom is always with us to guide and help us decide the course of action. Here is the time just to remind ourselves:

"Every soul will taste death, and you will only be given your (full) compensation on the Day of Resurrection. (Chapter 3 Verse 185)

"Say, Never will we be struck except by what Allah has decreed for us; He is our protector. And upon Allah let the believers rely." (Chapter 9 Verse 51)

"And Allah should touch you with adversity; there is no remover of it except Him. And if He touches you with good- then He is over all things competent." (Chapter 4 Verse 17)

There are many Prophetic Injunctions interpreting the teaching of the Quran and thereby strengthening our faith and removing the hesitations in taking proper decisions. Let's recollect some of them:

"Ali narrated that the Messenger of Allah (s.a.w.) said: "A slave (of Allah) shall not believe until he believes in four: The testimony of La Ilahallallah, and that I am the Messenger of Allah whom He sent with the Truth, and he believes in the death, and he believes in the Resurrection after death, and he believes in Al-Qadar."

"Anas narrated that the Messenger of Allah (ﷺ) said: "When Allah wants good for his slave, He hastens his punishment in the world. And when He wants bad for His slave, He withholds his sins from him until he appears before Him on the Day of Judgment." And with this (same) chain, (it was reported) from the Prophet (ﷺ) who said: "Indeed greater reward comes with greater trial. And indeed, when Allah loves a people He subjects them to trials, so whoever is content, then for him is pleasure, and whoever is discontent, then for him is wrath."

The responsibilities of healthy persons who are less vulnerable to disease increase a lot more and not shouldering them and leaving the affected people in misery is unpardonable social crime. This is the behavior least expected from a God fearing person, who is more concerned about the accountability before the Lord. The patients suffering in the pandemic deserve more than just the professional attitude and legal permissions. They need empathy and courage to develop a strong will to fight against the enemy and hope to regain health and prosperity. The sympathetic words, gestures and prayers can do miracles to distressed and disappointed patients but certainly it should be more than a formal pity-based response saying "Get well soon." In fact 'Empathy' is required rather than 'Sympathy'. Empathy is imagining oneself in the place of the affected one and then putting whole hearted efforts to provide maximum comfort. The affected

family should not be spared without support and cooperation. Playing safe is good but finding safe way out to provide maximum support is desirable. The relatives and neighbors should take care of food and other necessities in this testing time and the affected family though quarantined should not feel isolated and dejected.

The mutual confidence and we feeling is the essence of a good and healthy society and every Muslim is supposed to work for it. This is has been taught to us and is an inevitable part of our collective conscience. Narrated Abu Burda from his father that the Prophet (ﷺ) said, "Every Muslim has to give in charity." The people asked, "O Allah's Prophet! If someone has nothing to give, what will he do?"

He said, "He should work with his hands and benefit himself and also give in charity (from what he earns)." The people further asked, "If he cannot find even that?" He replied, "He should help the needy who appeal for help." Then the people asked, "If he cannot do that?" He replied, "Then he should perform good deeds and keep away from evil deeds and this will be regarded as charitable deeds."

This is high time that one should extend his support to the society in the best possible way and the Covid Pandemic has provided us an opportunity to strengthen the basic fabrics of the society.

**Note:**

**Emmanuel-Joseph Sieyès**, usually known as the abbé Sieyès, was a French Roman Catholic abbé, clergyman, and political writer who was a chief political theorist of the French Revolution; he also held offices in the governments of the French Consulate and the First French Empire. (wikipedia)

**Rajinder Singh Bedi** was an Indian Urdu writer of the progressive writers' movement and a playwright, who later worked in Hindi cinema as a film director, screenwriter and dialogue writer. ( wikipedia)

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- 1) Bedi Rajindra Singh, (1980), Dana-o-Daam, Maktaba Jamia Limited, New Delhi.
- 2) Yusufi Mushtaque Ahmed, (1990), Aab-e-Gum, Husami Book Depot, Hyderabad.
- 3) <https://quran.com/>
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# Divorce Different Aspects of Divorce With Respect of Religious Practices

Fulare Bharat Asaram

## I) Introduction:

Sociologically divorce means the final termination of a martial union cancelling the legal duties and responsibility of marriage and dissolving the bonds of matrimony between the parties. The legal process of divorce along with other issues of alimony, child custody, child support, distribution of properties, division of debt.

Commonly following are the main reasons for divorce.

- 1) Infidelity
- 2) Money
- 3) Lack of communication
- 4) Constant arguing
- 5) Weight gain
- 6) Unrealistic expectations
- 7) Lack of intimacy
- 8) Lack of equality
- 9) Not being prepared for marriage
- 10) Abuse
- 11) Addiction
- 12) Difference in parenting style
- 13) When you don't marry for love
- 14) Lack of sincerity
- 15) Losing your identity
- 16) Irreconcilable differences
- 17) Long distance relationship
- 18) Control struggle in relationship
- 19) Interference of parents
- 20) Jealousy and insecurity

## II) Experience of Divorce:-

The divorce is always tragic for the couple, as well as their family members. It is a difficult and complex experience for family members. The experience can be summaries as follows.

- 1) Emotional Divorce, which represent problem of the deteriorating marriage.
- 2) Legal divorce based upon the ground on which the marriage will be dissolved.
- 3) Economic divorce which deals with division of money and property.
- 4) Co-parental divorce, which includes decision regarding child custody and visitation rights.
- 5) Community divorce, the changes in friendship and institutional ties that divorce person experience.
- 6) Psychic divorce, focused on persons attempt to regain autonomy and self esteem.

## III) Religion and Divorce:-

The relationship between religion and divorce is complex. In some religion divorce is part of social life, but in some religion divorce attaches stigma.

The divorcerate differs religion wise, gender wise and it also depends on social and economical status of the person.

That every thousand married Hindus two are divorce and for every thousand Muslims 3.7 are divorced (for India this values 2.4). For every thousand married Hindu women 2.6 are divorced, while for one thousand married Muslim women 5.6 of them are divorced.

In India, marriage is consider a lifelong tie-up, and therefore divorce rate is extremely low. Only 1.1% of marriages in India result in divorce. In the United State of America the rate is 45.8%. In India also the divorce rate is rising due many reasons. The modern complex way of life, the problems and tension of jobs, services, the hi-fi life style, the indifferences, the ego problems and the unnecessary interference of mother in the married life of daughters or sons are some of the reasons for the rising rate of divorce in modern times.

**IV) Conclusion:**

In this paper, I tried to highlight the aspects of divorce. The rising rate of divorce today and the probable reasons for the same. This topic is like an ocean, out of which, I tried to focus on the aspects, reasons and effects of divorce in India and also mentioned some religious practices, believes regarding marriage and divorce. When two people decide to get a divorce, it isn't a sign that they "don't understand" one another, but a sign that they have at least begun to understand each other with this positive quote I conclude.

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## ***Concept of Sustainable Economic Development***

***Mohammed Salman Mukarram***

Development is understood to involve economic growth, increase in per capita income, and attainment of a good standard of living. Sustainable development ensures the well being of human kind by integrating social development, economic development and environmental conservation and protection.

### **Case I: Manmade disaster**

Beginning in 15 August 2018, severe floods affected the south Indian state of Kerala, due to unusually high rainfall during the monsoon season. It was the worst flooding in Kerala in nearly a century. Over 483 people died, 14 are missing. At least a million people were evacuated. According to the Kerala government, one-sixth of the total population of Kerala had been directly affected by the floods and related incidents. The Indian government had declared it a Level 3 Calamity, or “calamity of a severe nature”. It is the worst flood in Kerala after the great flood of 99 that happened in 1924.

As per the assessment, the state has incurred a loss of Rs.20, 000 crore (Rs.200 billion). Kerala is facing its worst flood in history after 1924. Ten out of 14 districts were badly affected. 27 dams in the state were opened due to water rise. 37 people died in just four days. There were mudslides and landslides in 211 different places across the state. Central forces, National Disaster Response Force and all the state forces are full time engaged in rescue mission at different districts. More than 20,000 houses were totally ruined, about 10,000 kilometres of public roads were also destroyed. The state will have to bear the loss of this disaster for a long time.”

### **Environmentalists point at poor policy decisions**

Most of the regions, impacted by this monsoon were once classified as ecologically-sensitive zones (ESZs) by the Western Ghats Ecology ExpertPanel (WGEEP), also known as the Gadgil Committee. The report was crafted by a team headed by MadhavGadgil, ecologist and founder of the Centre for Ecological Sciences at the Indian Institute of Science, Bengaluru. According to environmentalists, the committee’s recommendations were strong enough to protect the sensitive Western Ghat region.

The committee had suggested to classify 140,000 kilometres of the Western Ghats in to three zones as per the requirement of environmental protection in the areas. In some areas the committee recommended strong restrictions on mining and quarrying, use of land for non forest purposes, construction of high rises etc. The report was first submitted to the government in 2011. But the Kerala government rejected the committee report and did not adopt any of its recommendations. Speaking to various regional media, Madhav Gadgil has said that irresponsible environmental policy is to blame for the recent floods and landslides in Kerala. He also called it a “manmade calamity”. He said that the committee report had recommended to protect the resources with the cooperation of local self governments and people, but those recommendations were rejected. He also pointed out that quarrying is a major reason for the mudslides and landslides. Scientists say the use of explosives to blast through rocks in quarries is another important cause of landslides in Kerala. “Quarrying causes rapid landscape changes,” said TV Sajeev, a senior scientist at the Kerala Forest Research Institute. “It also blocks the natural hydrological pathways. This stress causes large rock bursts and hence landslides.” Other environmentalists also suggested that water raising in dams will not cause a big issue and that discussions on environmental concerns are needed. “Quarrying is a major reason for environmental hazards like landslides. Apart from that, buildings in environmentally sensitive areas are also a

reason. Resorts, hotels and religious institutions built on such areas destroying the nature can also contribute to a disaster,” he said. “All these districts that were badly affected have got wide range of quarries, both legal and illegal. Underground is a huge source of water. But doing unscientific constructions, mining and quarrying, the soil that covers this water storage been removed. This causes pressure, which results in land slide or mudslide,” the report suggested. “There are more than 1500 illegal crusher and quarrying units in Kerala. Apart from that, illegal buildings appear in water zone areas, so a heavy rain can cause flood. We humans are responsible for all these,” .

### **Case II: The Gujrat Bubble Darkness under the Lamp**

The famous ‘Gujarat Model’ development has been a topic for debate ever since the term was coined in the second half of last decade.

What is the Gujarat model? In simple terms, it refers to a period from 2002- 03 to 20011-12 during which Gujarat experienced a quantum jump in its growth rate. The driving force was the then chief minister Narendra odi’s innovative interpretation of neoliberal policies.

Historically, as a state, which was more into trade and commerce because of its geography and arid climate, Gujarat had better growth rate compared to other states, except for a brief period of four years from 1998. Towards the end of this period, Mr Modi took over as the CM of the state and within two years came the first Vibrant Gujarat Summit.

**The growth strategy** had three major components: quantum jump in infrastructure to facilitate inflow of corporate investment; quantum jump in governance to address the requirements of corporate units; and unprecedented rise in incentives and subsidies on investments to the corporate sector to attract investments. Infrastructure development focused on roads, airports and power and through reforms, 24-hour availability of power.

Governance focused on quick disposal of investment proposals with a single window, easy access to bank credit and if required, other escort services to corporate units and their core staff. The concerned departments were aggressive in expediting the procedures to facilitate investment flows. The incentives to corporate investment included mainly sales tax subsidies till 2006-07 (till the Centre banned it). Forty percent of the revenue from sales tax the main source of revenue for state governments was forgone. Thereafter, the government introduced subsidies on capital, interest, infrastructure as well as heavy subsidies on land, water supply and natural resources. The rates of subsidies were larger for larger investments. For mega industries, there was no fixed rate and each case was assessed separately. For example, Tata-Nano got totally Rs 30,000 crores subsidies (like Suzuki, Hyundai etc). Land was acquired from common grazing land, denotified protected areas, national parks and from irrigated fertile lands. The price started from Re 1 per acre, and increased during the last years of the model but still was less than the market price. What also helped the growth was expanding global markets. Gujarat pushed up the exports from all major industries: petrochemicals-chemicals, pharmaceuticals-drugs, textiles and garments, leather, machine tools and electronics, gems and jewellery, and agricultural crops by setting up a number of SEZs, industry parks and special export promotion measures.

Gujarat also experienced high agricultural growth (7-8%) during this period thanks to continuous good rainfall for almost nine years, and policies of the government on improved seeds (Bt cotton was the main winner), extension through KrushiRath, modern agricultural practices and 24-hour electricity for farmers. However, after 2011-12, droughts and water crisis brought down the rate to 3.7% with high fluctuations. In addition, agriculture is suffering from low minimum support price (cost of cultivation is much higher), poor crop insurance (even

in good areas the coverage is 10-12%) and declining public investment in agriculture. In addition, this growth is neither sustainable (ground water, a major source of irrigation is depleting badly without adequate efforts in recharge) nor equitable (marginal farmers did not receive much benefits) and agricultural wages for the rising number of agricultural labour are almost lowest in the country). What was the overall impact of this quantum jump in corporate investments and growth on the economy?

**The Price of Development:** After the huge incentives to corporate units, the government is left with limited funds for education, health, environment and employment for the masses. Gujarat spends less than 2% of its income on education (the norm is 5-6%) with the result that 45% workers in Gujarat are illiterate or studied up to the fifth standard with the quality of education very poor. The quality of higher education is also resulting in the rising number of unemployed engineers and science graduates. Public expenditure on health is 0.8% of the state income, well below the norm of 4-6%. Gujarat is decelerating very fast in almost all health indicators. Forty-five percent children in the state are undernourished and the decline of maternal mortality rate has decelerated, leading to the state's poor ranking.

The state leaders boast of the highest workforce participation in the state (after Haryana); however only 6.8% of the workers are formal (this % is declining as against rising trend in most other states). Close to 93-94% workers are in informal and traditional sectors with low incomes and low social security. The wage rates in Gujarat are almost the lowest in major states in India, with the rank declining over the past decade or so. The growth has been highly capital intensive due to the chase for the "state-of-the-art" technology. The employment elasticity of growth has nose-dived for productive sectors. One of the greatest challenges for the state is creating massive productive jobs with decent incomes for the youth. The ongoing agitations in Gujarat emanate from this failure.

Though 40-45% households in Gujarat depend on natural resources for their livelihoods (farming, animal husbandry, dairy, forestry, fishery etc), the depleted and degraded resources, along with heavy pollution, have reduced their productivity and incomes in these sectors and raised their vulnerability. The tribal population is the worst affected by the growth despite the fake claims. Thousands of them are forced to migrate to squat on urban roads or live in makeshift huts in rural areas without even basic facilities. No wonder the Gujarat high court has told off the state government frequently, asking it not to forget that they are also a part of the state's population. The net result is 40% population is below the multi-dimensional poverty line. The growth is elitist, not reaching the masses. Though there are a number of central and state pro-poor programmes, their implementation is very poor. In short, the hype created around the Gujarat model is hollow and fake.

**At the end of the day in Gujarat:**

In an India that has a very poor record of hunger and malnutrition, Gujarat stands out as one of the worst performers with exceptionally high proportions of hungry, malnourished and underweight children and anaemic women. It is a smelly state with 65 percent of its rural people deprived of toilets and still employing manual scavengers, a practice prohibited by law. Its rate of poverty reduction and other improvements in HD indicators have slowed relative to other Indian states during the same period in which it has experienced high GDP growth. Behind Gujarat's HD deficits is an underlying democratic deficit. The vast majority of the state's people have been powerless in effectively participating in the democratic process and in influencing state policy in their favour through more inclusive and redistributive measures.

**Case III: The available Alternatives (Introduction to the work of Prof. Haq, Prof. Sen & Prof. Yunus)**

***The Human Development Index: Prof. Mahbub ul Haq***

What should be the Focus of Development? GDP or people's Well-being Unfortunately, long ago the agenda of 'development' was hijacked by economists. As a result, today when people talk of progress or development they are merely talking of "economic development" which simply means expansion of the economy in terms of GDP growth. People play the role of producer of goods and services and also the end consumers. It is basically a production/consumption oriented model – produce more and consume more. People are supposed to be more "developed" if they consume more. Everything is seen in the context of consumption of goods and resources; it is an input driven ideology.



London to protest against its troops in Afghanistan. What distinguishes the two is the freedom, or availability of option. The first person is badly constrained in freedom and lacks the capability to achieve the functioning to be well-fed; the second person has this capability though he decided not to use it. Likewise, you are capable of driving a car – ie, you have the ability to drive a car. It becomes a capability if you have the freedom (having the driving license, road connectivity, availability of fuel, as well as the motivation) to use it to do things you value. So, merely having a car or being able to drive it, by itself, does not add value to your life.

***Development is Enhancing People's Freedom***

Sen proposes that people lose capabilities when they lack freedom. Having freedom provides the space to develop capabilities. Therefore, all development, according to Sen, is development of human capabilities in the enabling environment of freedom. Sen proposes that

expansion of individual freedom is the goal of development; freedom is also the principal means of development. Therefore, development also means removing the major sources of constraint (lack of freedom) such as all forms of discriminations – racial, religious, gender or community based; unreliable public facilities and poor infrastructure; lack of economic opportunities; social exclusion and political marginalization; and policies limiting human rights; and so on.

Freedom provides the necessary space to make choices to make one's life better the way one wanted. It is particularly relevant for the poor for its enabling and empowering impact.

***The "Social Entrepreneur": Prof. Mohammed Yunus***

- 1) Microcredit
- 2) Microfinance
- 3) Social Business

***Conclusions:***

CA is a function of Democracy; Why Famine caused in British India and not in Democratic India (Democracy mein bure din nahi ate) but how to ensure ideal democratic functioning? All goes in the basket of Government? What if all contesting political parties have the same hidden Neoliberal agenda? Don't you want to say anything to Uncle Sam (International Political scenario)? CA does not address the Market!! No change in economic structures! The Neoliberal Market can enjoy all the authority to plunder and people should wait for the Achhe din. What a Paradox? What is the practical value?

The Practical ideas of Prof. Yunus put the ball in the court of selfish giants (Businessmen) and ask them to solve the social problems for the sake of Happiness (Social Business)? To increase the happiness he offers interest gains on investments so that they should complete their raid operations on whatever left after the loot of consumerism? (Microfinance) Suck all the blood through the straw of interest? Very smartly working on wealth accumulation agendas!

***From Worshipping the creation to worshipping The Creator (From darkness to Light):***

***Islam offers the Perfect and Complete solution –Divine guidance from Al-Aleem***

***(From Psychology to Politics/for both the worlds)***

الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيْتُ لَكُمْ الْإِسْلَامَ دِينًا

***The Guaranteed Path (Historical fact not a mere incomplete theory)***

وَلَوْ أَنَّهُمْ أَقَامُوا التَّوْرَةَ وَالْإِنْجِيلَ وَمَا أُنزِلَ إِلَيْهِمْ مِنْ رَبِّهِمْ لَأَكَلُوا مِنْ فَوْقِهِمْ وَمِن تَحْتِ

أَرْجُلِهِمْ مِنْهُمْ أُمَّةٌ مُّقْتَصِدَةٌ وَكَثِيرٌ مِنْهُمْ سَاءَ مَا يَعْمَلُونَ ﴿٦٦﴾

ان الله يرفع بهذا الكتاب الاما ويضع به اخرين

وَإِذْ قَالَ إِبْرَاهِيمُ رَبِّ اجْعَلْ هَذَا بَلَدًا آمِنًا وَارْزُقْ أَهْلَهُ مِنَ الثَّمَرَاتِ

***Correct sequence of sustainable development Justice, Aman & Samaraat.***

## وَإِذْ قَالَ إِبْرَاهِيمُ رَبِّ اجْعَلْ هَذَا بَلَدًا آمِنًا وَارْزُقْ أَهْلَهُ مِنْ الثَّمَرَاتِ

Introduction of Anbiya in Quran working for the development of the world like Ibraheem (Baitullah & City of Makkah), Dawud (Metallurgy), Sulaiman (Ships), Zalqarnain, Yusuf (Solution for the Recession) etc.

### *The opposite of Sustainability Fasaad*

طسم (١) تِلْكَ آيَاتُ الْكِتَابِ الْمُبِينِ (٢) نَتَلَوُا عَلَيْكَ مِنْ نَبِيٍّ مُوسَىٰ وَفِرْعَوْنَ بِالْحَقِّ لِقَوْمٍ يُؤْمِنُونَ (٣) إِنَّ فِرْعَوْنَ عَلَا فِي الْأَرْضِ وَجَعَلَ أَهْلَهَا شِيْعًا يَسْتَضَعِفُ طَائِفَةٌ مِنْهُمْ يُذَبِّحُونَ أَبْنَاءَهُمْ وَيَسْتَحْيِي نِسَاءَهُمْ إِنَّهُ كَانَ مِنَ الْمُفْسِدِينَ (٤)

وَإِذِ اسْتَسْقَىٰ مُوسَىٰ لِقَوْمِهِ فَقُلْنَا اضْرِبْ بِعَصَاكَ الْحَجَرَ فَانْفَجَرَتْ مِنْهُ اثْنَتَا عَشْرَةَ عَيْنًا قَدْ عَلِمَ كُلُّ أُنَاسٍ مَشْرِبَهُمْ كُلُوا وَاشْرَبُوا مِنْ رِزْقِ اللَّهِ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ ﴿١٠﴾  
وَإِذَا تَوَلَّىٰ سَعَىٰ فِي الْأَرْضِ لِيُفْسِدَ فِيهَا وَيُهْلِكَ الْحَرْثَ وَالنَّسْلَ ۗ وَاللَّهُ لَا يُحِبُّ الْفُسَادَ وَيَقْوِمُوا أَوْفُوا أَلْمِكْيَالَ وَالْمِيزَانَ بِالْقِسْطِ ۗ وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ ﴿٨٥﴾

### *The Basic Principles*

Ø Means of wealth & Business desirability

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ ۗ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ﴿٤:٢٩﴾

Accumulation of wealth is forbidden

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُّضَاعَفَةً ۗ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ

The social Insurance & Money coming back mechanism

وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْعًا ۗ وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ <sup>and the</sup> وَالْمَسْكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنبِ <sup>and the</sup> وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ ۗ إِنَّ اللَّهَ لَا يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا ﴿٣٦﴾



﴿ لَيْسَ عَلَيْكَ هُدَاهُمْ وَلَٰكِنَّ اللَّهَ يَهْدِي مَنْ يَشَاءُ ۗ وَمَا تُنْفِقُوا مِنْ خَيْرٍ فَلِأَنْفُسِكُمْ ۗ وَمَا تُنْفِقُونَ إِلَّا ابْتِغَاءَ وَجْهِ اللَّهِ ۗ وَمَا تُنْفِقُوا مِنْ خَيْرٍ يُوَفَّ إِلَيْكُمْ وَأَنْتُمْ لَا تُظْلَمُونَ ﴾ (٣٧٢)

﴿ إِنَّ الَّذِينَ يَتْلُونَ كِتَابَ اللَّهِ وَأَقَامُوا الصَّلَاةَ وَأَنْفَقُوا مِمَّا رَزَقْنَاهُمْ سِرًّا وَعَلَانِيَةً يَرْجُونَ تِجَارَةً لَّن تَبُورَ ﴾ (٢٩)  
﴿ لِيُوفِّيَهُمْ أُجُورَهُمْ وَيَزِيدَهُم مِّن فَضْلِهِ ۗ إِنَّهُ غَفُورٌ شَكُورٌ ﴾ (٣٠)

Ø Money in rotation (Zakat, Ushr & Wirasat)

﴿ يَأْتِيهَا الَّذِينَ ءَامَنُوا إِنَّ كَثِيرًا مِّنَ الْأَجْبَارِ وَالرُّهْبَانِ لِيَآكُلُونَ ءَأْمَالَ النَّاسِ بِالْبَاطِلِ وَيَصُدُّونَ عَن سَبِيلِ اللَّهِ وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يُنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ ﴾ (٣٤)

The forbidden Buql , Tabzeer & Israaf

# Conventional Micro Financing- Challenges and Opportunities

Dr. Aftab Alam

## Introduction of Microfinance

*Oxford learner's dictionary* defines Microfinance as “A system of providing services such as lending money and saving for people who are too poor to use banks”. According to *Investopedia.com* “Microfinance, also called microcredit, is a type of banking service that is provided to unemployed or low-income individuals or groups who otherwise would have no other access to financial services.” The borrowing limit, excluding educational or medical expenses, has been doubled to Rs. 1 lakh from the existing Rs. 50,000, the RBI notified in its first bi-monthly monetary policy statement in the new fiscal year that began on April 1, 2015. The increase in the limit was suggested by the Nachiket Mor committee on Comprehensive Financial Services for Small Businesses and Low Income Households. The new cap proposed by Microfinance Institutions Network (MFIN) is set at Rs 80000, up from Rs 60000 under the joint liability group model.<sup>1</sup>

## Why Microfinance?

Milton Friedman once said that “the poor stay poor, not because they’re lazy, but because they have no access to capital.” Till date, a huge section of population remains outside the formal banking system. Microfinance institutions are the only ones equipped to reach the ‘unbankable’ or ‘unbanked’ masses, and make financial services accessible to them.<sup>2</sup>

## History of Microfinance

The microfinance movement was started off by one man: Dr Muhammad Yunus, with one vision: to eradicate poverty from the world. Muhammad Yunus, the Bangladeshi economist, widely known as the Father of Microfinance founded the Grameen Bank to make small loans to the poor in Bangladesh. The success of the Grameen microfinance model has inspired hundreds of countries throughout the world, including the USA. Grameen Bank and Dr Yunus jointly won the Nobel Peace Prize in 2006.<sup>3</sup> The evolution of microfinance in India can be traced to cooperative movement started in 1900 credit cooperatives were extending subsidized credit to villages under government sponsorship. Subsequently With failure of cooperatives, the government focused on measures such as nationalization of Banks, establishment of Regional Rural Banks (RRBs) and the setting up of apex institutions such as NABARD & SIDBI during 1960-1990. The failure of subsidized social banking triggered a paradigm shift in delivery of rural credit with NABARD initiating the Self Help Group (SHG) Bank Linkage Programme (SBLP) in early 1990s.<sup>4</sup>

## Microfinance delivery Model

There are mainly two models for delivery of Microfinance in India:<sup>5</sup>

- 1) SHG – Bank Linkage Programme (SBLP)
- 2) Micro Finance Institutions (MFIs)
- 1) SHG – Bank Linkage Programme (SBLP)

A SHG is a small group of about 10-20 persons from a homogeneous class of rural and urban poor which promoted savings among members and used these resources for meeting their credit needs.

- 2) Micro Finance Institutions (MFIs)

MFIs model is found worldwide whereas the SHG-BLM model is an Indian model. In MFIs model MFIs borrow large amount of funds from the apex financial institutions, donors and

banks for on-lending to the individuals or groups. These MFIs provide financial services to the individuals or to the groups like SHGs.

### **Growth and Outreach**

According to Sa-Dhan's (The Association of Community Development and Microfinance Institutions) "Bharat Microfinance Report – 2017" MFIs currently operate in 29 States, 4 Union Territories and 563 districts in India. The reported 168 MFIs with a branch network of 10,233 and 89,785 employees have reached out to 29 million clients with an outstanding loan portfolio of ₹46,842 crore.

### **Performance of MFI and SHG Model**

<b>Indicators: MFI Model</b>	<b>2017</b>	<b>2016</b>
Client Outreach	295 lakh	399 lakh
Women Clients	96%	97%
SC/ST Clients	20%	30%
Other Minorities	10%	27%
Rural Clients	61%	38%
Gross Outstanding Portfolio	46,842 Cr.	63,853 Cr.
NPA	0.69%	0.15%

The Bharat Microfinance Report 2017

### **Performance of SHG Model**

<b>Indicators: SHG Model</b>	<b>2017</b>	<b>2016</b>
Total No of SHGs Linked	85.77 lakh	79.03 lakh
No. of Families Reached	112 million	103 million
Total Savings of SHGs	16,114 Cr	13,691 Cr
Total No. of SHGs Credit Linkage	18.98 lakh	18.32 lakh
Gross Loan Outstanding	61,581 Cr	57,119 Cr
Total Loan Disbursed	38,781 Cr	37,286 Cr
Avg. Loan Disbursed per SHG	2,04,314	2,03,495
NPA	6.50%	6.45%

The Bharat Microfinance Report 2017

### **Challenges of Microfinance Institutions**

This sector deals with the poorer section of the society. Major challenges of microfinance institutions are identified as-6

### **High rates of interest as compared to mainstream banks**

MFIs' when compared to commercial banks do not enjoy the same rate of financial success. One of the reason is that while banking system is centuries old, micro finance is only a few decades old in India (Pathneja, Narwal and Kumar, 2015). MFIs' charge a very high rate of interest (12-30%) as compared to commercial banks (8-12%). Recently, the RBI (India's regulatory bank) announced the removal of upper limit of 26% interest on MFI loans (ET, 2014). This has benefited the industry's players but left the customers in a worse situation than before. Due to the issues of over-indebtedness caused by the charging of high interest rate, rate of suicide of farmers increased in states like Andhra Pradesh and Maharashtra

### **Over-dependence on the banking system**

Majority of the MFIs' in India are registered as Non-Governmental Organizations (NGOs). They are dependent on financial institutions such as commercial banks for stabilised funding for their own lending activities. Around 80% of their funds come from banks. Most of these are private banks which charge a high rate of interest and also the term of loans is of shorter period.

### **Illiteracy and lack of awareness about the products**

Illiteracy and lack of knowledge about the financial products offered by the microfinance institutions is one of the challenges of microfinance institutions. Like all other developing and underdeveloped countries, the literacy rate in India is very low and the rate is much lower in the rural areas. Nearly 76% of India's adult population does not understand basic financial concepts (Sud, 2017). Lack of awareness of financial services provided by the Indian microfinance industry is a challenge for both, customer and MFIs'. This factor not only causes hindrance for villagers to join hands with MFIs' to meet their financial needs but also makes them financially excluded. MFIs' are faced with the task of educating the people and establish trust before selling their product. Micro finance institutions struggle to make their business more financially viable due to this lack of awareness (Ancona 2014).

### **Over-indebtedness due to multiple borrowings and inefficient risk management**

Microfinance institutions (MFI) provide financial services to the poorer section of the society in order to improve their standard of living. Therefore over-indebtedness is major issue. Lack of risk management framework and multiple borrowings by most clients led to micro-finance crisis in India in 2008. In some cases, it has been seen that there is no apex control over the MFIs'. This sector gives loans without collateral which increases the risk of bad debts. Moreover the fast paced growth of the sector has not been met with proper infrastructure planning.

### **Problem in identification of appropriate model**

In India, most of the MFIs' follow Self-Help Group model (SHG model) or Joint Liability Group model (JLG model). The problem is that most of the time, selection of model are not scientific in nature. The models are selected randomly, not according to the situation and also the decision of selection is irreversible in nature. So, it affects the sustainability of the organisation in the long-run and also increases the risk of borrowings for the poorer section beyond they can bear. This is also one of the main reasons of crisis of microlending in the state of Andhra Pradesh.

### **Opportunities for MFI in India**

Out of 29 million SMEs, only 1 mn are financed by banks. Remaining 27 mn have no registration certificate. It is a sector with huge unfulfilled demand. 7 MFI currently works in 28 states and 561 districts. Nearly 50% of total MFIs in India are concentrated in only one state,

30% in 2 to 5 states. Rest of India has very few shares of MFIs and small loan financing facilities. As of 2013-14, 11687 MFI branches have been there across India with more than 1200 branches in Andhra Pradesh alone. As of March 2016, the total savings across all SHGs have reached 13691 crores. Nagaland, Tripura, Jharkhand, Maharashtra and Assam have seen all time high in the branches of MFIs. (S. Saravanan, Devi Prasad Dash 2017).8

### **Conclusion**

So there is huge scope and opportunity for MFI to grow across India rather than concentrating in few states. Keeping in view the challenges of high interest rate (higher than the traditional banks) charged by conventional microfinance, there is huge scope to grow interest free microfinance for rural and semi urban poor.

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# Impact of Fascism on Administration

## Study Group, Jama'at E Islami Hind, Maharashtra

**Mr. Shabi-uz-Zaman**

India is a pluralist society that creates magic with democracy, rule of law and individual freedom, community relations and (cultural) diversity. What a place to be an intellectual!... I wouldn't mind being born ten times to rediscover India. Robert Blackwill, departing US ambassador, 2003.

### **Abstract**

Fascism comes from the Latin word fascio meaning "bundle or political group". In fascism, the people are looked at as a bundle- one body that must be controlled by the government with absolute force. Fascism is a form of radical authoritarian ultra nationalism characterized by dictatorial power, forcible suppression of opposition and strong regimentation of society and of the economy. Foremost characteristic of fascism is extreme nationalism. It means an emphasis on the rebirth of the nation after a period of decline. It signifies building up of the greatness and prestige of the state. It also means that one's own nation is superior to all others. Secondly, the characteristic of fascism is that of setting up of a totalitarian system of government. This means a complete way of life in which the government attempts to arouse and mobilize the great wars of ordinary people, to control and organize with strong discipline as many aspects of people's lives as possible. This necessarily promotes the greatness of the state. Thirdly, fascism is a one party state. There is no place for democracy. Fascism is especially hostile to communism. The fascist party members are the elite of the nation and extreme emphasis is placed on the cult of the leader who wins mass support with thrilling speeches and skillful propaganda.

### **Defining characteristics of Fascism**

- 1) Powerful and continuing nationalism.
- 2) Disdain for the recognition of human rights.
- 3) Identification of enemies/ scapegoats as a unifying cause.
- 4) Supremacy of the military.
- 5) Rampant sexism.
- 6) Controlled mass media.
- 7) Obsession with national security.
- 8) Religion and government are intertwined.
- 9) Corporate power is protected.
- 10) Disdain for intellectuals and the arts.
- 11) Labor power is suppressed.
- 12) Obsession with crime and punishment.
- 13) Rampant cronyism and corruption.
- 14) Fraudulent elections.

### **Introduction**

Moving on toward the actual topic, my focus of study is Impact of Fascism on Administration. Administration itself is a vast entity. Therefore, for convenience sake, I have briefed my research topic on Impact of Fascism on Law Enforcement Agencies. Fascism in

general, cannot tolerate opposition. The power to dictate terms and create non-abidable laws is a little difficult in the presence of an active opposition. Also, the fascist forces cannot enjoy their monopoly and are somewhat restricted in their fields if an active opposition is present. Naturally, they need to either negotiate, disintegrate, dissolve, or, in a broader view, simply pacify the “activeness” of the opposition. Hence, to curb the opposition the fascists use various tools.

**Some of them are enlisted below:**

**Media-** The Media plays a vital role in propagating news- irrespective of it being true or false, verified or fabricated news. What it actually does is just spreads news and rumors both like wild fire. Fascism controls all kinds of media sources, be it either print, electronic or now a day’s social media. It tries to purchase all variant sections of the media. Once this is done, no one can oppose government. As famous saying goes, a dog with a bone in its mouth cannot bark. Those media variants that reject to bind themselves in the clutches of fascism meet the fate of suppression.

**Money-** Financial inefficiency is a non neglectable drawback in India today. To achieve their malicious goals, the fascist forces make use of money, not only very often but also in the most logical and coherent ways. **Public Emotions-** This is one tool where every countryman can be easily trapped. The fascists are highly skilled in primarily arousing the emotions and secondarily justifying their act. For example, arousing the emotions by repeatedly mentioning the sacrificial lives of the brave soldiers. **Judiciary:** Fascist government desire exclusive control over the entire judiciary system, thus enabling them to govern and malign the rules and laws of the country. **Government Machinery-** This is the most important tool that the fascist forces bring into action. This machinery includes law enforcement agencies namely the police department, the crime branch, the crime investigating department etc. These law enforcement agencies are distorted and put into use as per the convenience of the fascist government. It thus appears to the general public, that this machinery is diligently “on duty” whereas in reality they are being used as puppets.

**Opponents:**

The Fascists forces have certain major opponents. These are mainly the:

- 1) **Political Opponents:** Political opponents are the major opponents for fascist government. In our nation, the INC, AAP, JDU, Samajwadi Party, Trinamool Congress, Bahujan Samaj Party etc are opposition parties.
- 2) **Civil Society Opponents:** these include social activists, intellectuals, lawyers, writers, media persons etc. In short, any person who poses a threat to fascism needs to be curbed.
- 3) **Fake national threats:** The fascists raises a false national threat in the form of minorities. They make false allegations that these minorities in India are a national threat. Hence, they suppress and degrade the minorities.

**Civil Society Opponents:**

**Civil society** is the “aggregate of non-governmental organizations and institutions that manifest interests and will of citizens”. Civil society includes the family and the private sphere and is referred to as the “third sector” of society, distinct from government and business. By other authors, “civil society” is used in the sense of

- 1) the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens
- 2) individuals and organizations in a society which are independent of the government. Sometimes the term *civil society* is used in the more general sense of “the elements

such as freedom of speech, an independent judiciary, etc, that make up a democratic society”Mr. Modi’s government has been even more openly hostile to civil society groups. It repeatedly denounces human rights and environmental activism as “anti- national” a phrase that carries connotations of treason. The patriotic rage is a mask for a more pedestrian motive: punishing pesky critics. In 2016, what is normally a routine license renewal process was used to punish groups that have been critical of Mr. Modi or his policies.

Due to the absence of a strong opposition party in India, the main opposition for the Modi Government are the elements of civil society. Following are the some cases that were targeted by Modi the government.

**Greenpeace and Priya Pillai:**

Sometime back, Priya Pillai, an activist at Greenpeace was not allowed to travel to the United Kingdom because she was allegedly indulging in anti-national activities. The Delhi High Court took just a few months to order the government to remove her name from the “no fly” list. Meanwhile, the government has also cracked down on Greenpeace for violating Indian laws related to use of funds. All its bank accounts were frozen. A High Court Bench in Chennai ordered the government to “unfreeze” at least a few accounts so that Greenpeace could perform basic day to day functions. Subsequently, the registration of Greenpeace was cancelled. The Chennai High Court has provided interim relief even in this case. A final judicial verdict is awaited. The Lawyers Collective has been prominent among such groups. In 2015, Priya Pillai, a campaigner from Greenpeace India, was traveling to London to testify in the British Parliament about coal mining in central Indian forests by Essar Energy, a corporation registered in Britain. Federal officers pulled Ms. Pillai off her flight, arguing that her deposition would have hurt India’s “national interest.” Ms. Pillai went to court; the Lawyers Collective represented her. Some of these groups are seeking redress in Indian courts, which have largely been fair. But legal battles exact a cost: With bank accounts frozen for months during investigations, bills for rent, electricity and lawyers mount. People’s Watch, a human rights group, was unable to pay salaries for 23 months. Many Greenpeace India employees took pay cuts in 2014. As court duels drag on, campaigns lag, research comes to a standstill and years of community mobilization dissipate.

**2) Swaraj India president Yogendra Yadav :** 12th July 2018, Swaraj India president Yogendra Yadav’s sisters’ hospital and nursing home in Rewari, Haryana were raided by the Income Tax department on Wednesday morning in an attempt to intimidate him, and silence his agitation on behalf of farmers.

The I-T department confirmed the searches and said it has so far recovered about 20 lakh in cash from two properties associated with Mr. Yadav’s family members, and has “found evidence” of links to the Nirav Modi bank fraud case.

“This is ridiculous, to allege any connection to Nirav Modi,” Mr. Yadav told *The Hindu*. While stating that he did not have any direct involvement in the hospitals, he said his sisters had gone out of their way to pay all taxes, and be accountable, to the extent that their donations to him and his party were done through transparent online methods.

“This raid comes just 48 hours after my nine-day padayatra ended in Rewari, and I announced an agitation on MSP (minimum support prices for crops) and against liquor thekas (vends),” said Mr. Yadav. “It is a clear attempt at political intimidation, but I will not be silenced... The PM is so rattled by the farmers’ issue because he knows it can cost him elections.” Mr. Yadav said the raid began at 11 a.m. and was still ongoing as of Wednesday evening. A raid team of more than 100 people was involved and came in vehicles bearing Delhi number plates,



he said, adding: “This is not local. The decision to raid came from the very top.” On Twitter, Mr. Yadav alleged: “Modi regime now targets my family...[Please] search me, my home, why target my family?” “Hospital sealed, including ICU for new-born babies. A clear attempt to intimidate. Modiji you can’t silence me,” Yadav said.

**3) Teesta Setalvad:** Teesta is a human rights activist who has been campaigning against the alleged wrongdoings of the Modi led government in Gujarat during the 2002 riots. In activist circles, she is the best known “face” of those who are implacably opposed to Modi. On July 14, 2015, the Central Bureau of Investigation raided the home of anti-communalism activist Teesta Setalvad, a week after the Union Home Ministry transferred an ongoing investigation into her finances to the elite agency.

The CBI filed a case against her for criminal conspiracy and illegally receiving foreign funds, charges Setalvad denies. Though she wrote to the CBI saying she was willing to cooperate with them in every way, the CBI decided to raid her premises.

The CBI raid on Teesta came barely a day before the appeals by those convicted for the Naroda Patia massacre case were to be heard in the Gujarat High Court, and just two weeks before the final hearing of Zakia Jafri’s petition against the closure report of the Supreme Court-appointed SIT, which cleared Narendra Modi of criminal liability for the Gujarat riots. Setalvad has been closely assisting Zakia Jafri with her petition and appeal.

Some residents of Gulbarg Society, where former Congress MP Ehsaan Zaffri was brutally murdered by a mob filed a complaint with Gujarat Police that Teesta and her husband Javed Anand “cheated” them and misused funds acquired in the name of riot victims.

Apparently, Teesta had promised to erect a memorial museum at Gulbarg society and collected funds for the same. The memorial wasn’t built. Subsequent allegations and investigations revealed that Teesta and her family “generously” used the funds collected for riot victims for personal expenses, including the purchase of wine and visits to the beauty parlor. The case is still going on and the Supreme Court has extended her protection from arrest.

**3) Sanjiv Bhatt:** Sanjiv Bhatt is a former Indian Police Service officer from Gujarat. He is known for his role in filing an affidavit in the Supreme Court of India against the Chief Minister of the Government of Gujarat, Narendra Modi, concerning Modi’s alleged role in the 2002 Gujarat riots. He claimed to have attended a meeting, during which Modi allegedly asked top police officials to let Hindus vent out their anger against the Muslims. However, the Special Investigation Team appointed by the Supreme Court of India concluded that Bhatt did not attend this meeting, and dismissed his allegations.

On 8 August 2011, the Gujarat government suspended Bhatt, accusing him of unauthorised absence from duty, not appearing before an inquiry committee and using his official car while not on duty.[38] Bhatt claimed that he was unable to report for work because he was required to attend various legal and investigatory hearings, including those of Nanavati-Mehta Commission (NMC) -originally known as the Nanavati-Shah Commission-which had been established by the government of Gujarat. Bhatt was removed from the IPS on 19 August 2015 on the ground of “unauthorised absence”.

**4) Ford Foundation:** The Ford Foundation is a New York-headquartered, globally oriented private foundation with the mission of advancing human welfare. Created in 1936 by Edsel Ford and Henry Ford, for years it was the largest, and one of the most influential foundations in the world, with global reach and special interests in economic empowerment, education, human rights, democracy, the creative arts, and Third World development. In April, 2015, the

Union Home Ministry put Ford Foundation under a watch list of foreign donor agencies. Basically, the Home Ministry issued orders which said that all donations made by Ford Foundation will only be allowed after scrutiny by authorities. There were allegations that Ford Foundation, active in India since the early 1950s, had of late started “interfering in the judicial process” of the country, working to “disturb communal harmony” and finance anti national activities. Modi critics promptly pointed out that three of the biggest critics of the man and his regime: Arvind Kejriwal, Teesta Setalvad and Indira Jaising, were recipients of generous Ford Foundation funds.

**6) Banned Various NGO’S-FCRA Civil Society and Freedom of Association:**

The Modi government continues to use the Foreign Contribution Regulation Act (FCRA), which regulates foreign funding for civil society organizations, to cut off funds and stymie the activities of organizations that question or criticize the government or its policies. In April 2016, Maina Kiai, the UN special rapporteur on freedom of assembly and association, analyzed the FCRA and said that restrictions imposed by the law and its rules “are not in conformity with international law, principles and standards.”

In May, the government temporarily suspended the FCRA status of the Lawyers Collective, an organization founded by Indira Jaising, a former additional solicitor general, and her husband, Anand Grover, a former UN special rapporteur on the right to health. The Lawyers Collective accused the government of attempting to disempower and weaken the organization because of its work assisting people in cases challenging Modi government policies. In June, three UN special rapporteurs released a statement raising concerns over the suspension and calling on the government to repeal FCRA. In November, the government refused to renew FCRA for 25 NGOs, including several prominent human rights groups.

Even as authorities were using FCRA to tighten restrictions on NGOs, the government amended the law in March to retroactively legalize funding by foreign entities to political parties.

Licences of around 20,000 of 33,000 NGOs have been cancelled by the government after they were found to be allegedly violating various provisions of the FCRA, thus barring them from receiving foreign funds. This was conveyed to Home Minister Rajnath Singh during a review of the Foreigners Division of the Home Ministry here today. Giving a detailed presentation, Home Ministry officials said after cancellation of FCRA licences of around 20,000 NGOs, only 13,000 NGOs in the country are legally valid now. Organisations such as Greenpeace India, Amnesty International India, TARSHI Delhi and the Centre for Social Justice were all signatories to this statement. Even the National Human Rights Commission has issued a notice to the home ministry on the issue.

“Prima facie it appears FCRA licence non-renewal is neither legal nor objective and thereby impinging on the rights of the human rights defenders in access to funding, including foreign funding,” the apex human rights watchdog in the country said in the notice.

**7) Dalit Organisations:**

Since Mr. Modi rose to power, emboldened hard-line Hindu activists have assaulted cow traders and people suspected of eating beef, claiming to defend Hindu beliefs. In July 15, vigilantes stripped and flogged four Dalit, or lower- caste, men in Gujarat for skinning a cow. Many Dalits earn their livelihood from skinning dead animals and selling their hides to leather traders.

The assault prompted protests by Dalits and damaged Mr. Modi’s image among the group, about a sixth of the country’s population. Dalit rights organization, Navsarjan Trust, played a leading role in the protests. On Dec. 15, the federal government canceled the foreign funding license of A the Trust. Indian newspapers quoted unnamed officials claiming that intelligence agencies have described seven civil society groups, including the Trust, as “working against

public interest” and painting the Modi government as anti-Dalit abroad. Mr. Modi’s government found a way of legally transforming its donors from foreign companies to Indian ones. It amended the law to change the definition of a foreign business, retroactively making a wider range of companies permissible campaign donors. While the civil society groups working with the poorest Indians are being choked, India’s political parties found many more avenues to receive more money.

### **8) Koregaon Bhima Dispute:**

Police from various states are raiding the homes of noted human rights lawyers, lawyers and public intellectuals as part of an investigation into the massive Dalit protest in Bhima-Koregaon, Maharashtra, in January this year. The searches are also stated to be part of the investigations in connection with the Maoist plot to kill Prime Minister Narendra Modi and Maharashtra Chief Minister Devendra Fadnavis unearthed recently in Pune.

1) Pune police raided Arun Ferreira, Susan Abraham and Vernon Gonsalvez’s residence in Mumbai.

2) Civil Rights activist Anand Teltumbde’s house in Goa was also raided. Human rights advocate Sudha Bharadwaj’s home was raided and she was taken into custody this morning. APCLC leader and writer Varavara Rao, his daughter Anala’s house were raided in Hyderabad.

3) Rao’s nephew Venugopal, editor of Veekshanam Telugu magazine, told TV channel Sakshi after the raid, “This is an attempt to stifle voices that talk about murders of Dalit and Adivasis in areas like Gadchiroli. There is a cooked-up story that VV Rao related to an assassination attempt on Prime Minister Narendra Modi. There is no truth to it. Apart from VV Rao, his two daughters and son-in-laws have been targeted. They do not have any connection with VV Rao’s politics. The Central government, Maharashtra government, aided by the Telangana government, are engaging in intimidation to stifle democratic voices.”

4) The Maharashtra police on August 28 conducted a series of coordinated raids across multiple locations in India which has now drawn strong criticisms from civil society and opposition parties as well. Houses of several people including that of prominent activists, lawyers and writers were raided by the Pune police in Mumbai, Delhi, Ranchi, Goa and Hyderabad. While the police, in a bid to justify these arrests have termed them as “Urban Naxals”, many others have condemned the move and has termed it as a “virtual declaration of Emergency.”

5) By the end of the day, five prominent activists – Sudha Bharadwaj, Vernon Gonsalves, Varavara Rao, Gautam Navlakha and Arun Ferreira had been arrested by the police on a myriad of charges. Reportedly, the searches and detentions were carried out under the anti-terrorism Unlawful Activities Prevention Act (UAPA) and Sections 153A, 505(1)(b), 117, 120(b) and 34 of the Indian Penal Code. Raids had also been conducted in the houses of activist Stan Swamy in Ranchi, activists Kranti Teluka in Hyderabad, Dalit scholar Anand Teltumbde in Goa.

### **Political Opponents**

The number of cases against the Opposition leaders since the Narendra Modi government has come to power is increasing by the day. Some of the cases involving prominent Opposition leaders involve at least three Opposition party chief, two serving chief ministers and former union ministers among others. An average citizen can see for oneself that the hammer has not fallen on any BJP leader in the last four years that the party has been in power. Are we to understand that the leaders of the BJP and its allies are clean? Or, does it mean that the investigative agencies have chosen to look the other way when the leaders belonging to the ruling party are caught with their pants down?

**Aam Aadmi party:**

What is it that Narendra Modi values more than winning elections? What does he want, now that he has achieved the highest political office that the Indian democracy allows a citizen to occupy? He wants to be a Prime Minister who will be remembered as the Pandit Nehru of 21st century India. He wants to leave behind a legacy which will grant him direct entry into school textbooks, cultural symbols and the average Indian's consciousness. Only death could displace Nehru as India's unchallenged leader, after remaining in office for 17 illustrious years.

That is what Modi is after. While there is nothing objectionable about a Prime Minister who wants to dominate history, it is this aspiration of his that makes him despise that one man who has the potential to crush his dreams: Arvind Kejriwal. AAP is the only force which has the platform and the guts to take on a dictator, and Modi knows it.

They did it in when modi wave was at its peak.they snatch 67 seats from modi.

The CBI carried raids against Arvind Kejriwal's principal secretary Rajendra Kumar which became a major flashpoint between the AAP and the Centre. Kejriwal claimed the CBI was searching for a file relating to Union Finance Minister Arun Jaitley's handling of the Delhi and District Cricket Association (DDCA). The CBI refuted the allegation categorically denying that it had entered Kejriwal's office during the search. Slamming Prime Minister Narendra Modi over the raid, Kejriwal tweeted, "CBI raids my office. When Narendra Modi couldn't handle me politically, he resorts to this cowardice. Modi is a coward and a psychopath." The Delhi Police arrested 13 MLAs of the ruling Aam Aadmi Party in the last two years on charges ranging from rape, extortion, cheating, forgery to rioting. For most of these offences bail is hard to come by, but all the 13 lawmakers are out on bail. In fact, two have been cleared of all charges. The Election Commission has recommended that 20 Aam Aadmi Party MLAs embroiled in the office of profit case be disqualified. In 2015, the Arvind Kejriwal government had passed an order appointing 21 MLAs as Parliamentary Secretaries to seven ministries. This was challenged by Advocate Prashant Patel who petitioned President Pranab Mukherjee on June 19, 2015, that these MLAs were now holding 'office of profit' and therefore should be disqualified.

The Election Commission's (EC's) decision to disqualify 20 AAP MLAs for holding offices of profit, was its chief AK Joti's parting gift to Prime Minister Narendra Modi, senior AAP leader Gopal Rai said in New Delhi on Saturday. Addressing media, Rai also said that the party will launch a campaign against BJP's decisions to allow FDI in retail and the sealing drive in the city.

1) On Friday, the EC recommended to President Ram Nath Kovind to disqualify 20 AAP MLAs for holding offices of profit as Parliamentary Secretaries, triggering calls for resignation of Chief Minister Arvind Kejriwal.

2) The President is bound to act in accordance with the poll panel's recommendation.

3) On Saturday, Rai said that Joti was Principal Secretary in Gujarat when Modi was the state's Chief Minister and he was Modi's closest officer.

4) "The disqualification of 20 AAP MLAs was his gift to Modi. What is the reason for this gift? Why it has been given? Aam Aadmi Party and the country want to know this," the senior leader said.

5) "Everyone in the country has only one question on their mind: What was the compulsion for him to take the decision with only two days to retire," Rai asked.

The leader also rubbished claims that the AAP MLAs were given multiple chances to appear before the EC and said that lies were being spread in the media.

- 1) Rai said that all notices given by the EC were replied by AAP's lawyers and added that even during the the British rule, people were heard before giving punishments.
- 2) Holding out a purported order from the EC, Rai said that the EC had not given a date of hearing for the AAP MLAs, after March 13, 2017.
- 3) The EC gave its opinion to the President on a complaint by advocate Prashant Patel, a member of the Hindu Legal Cell, in June 2015, who petitioned then President Pranab Mukherjee alleging illegality in the appointment of Parliamentary Secretaries.
- 4) The decision led to calls by the Congress and BJP-who have been demanding the disqualification-for Kejriwal's resignation.
- 5) Later on Friday, the Delhi High Court refused to grant interim relief to AAP MLAs against the Election Commission's recommendation.

**P. Chidambaram:**

The CBI raided P Chidambaram, his son Kartik's house in Chennai in connection with clearance given to INX Media in 2008. Allegations are that Karti received kickbacks from the media company which was then owned by Peter Mukerjea. The government, using the CBI and other agencies, is targeting my son and his friends. The government's aim is to silence my voice and stop me from writing, as it has tried to do in the cases of leaders of Opposition parties, journalists, columnists, NGOs and civil society organizations. All I will say is, I shall continue to speak and write.

"Everyday Prime Minister Modi and his government use the ED and the CBI as captive puppets to seek revenge from the Opposition," Surjewala added. The reactions from the Congress came shortly after the Enforcement Directorate officials conducted a raid on former union minister P Chidambaram's son Karti's homes in Delhi and Chennai in connection with the Aircel-Maxis case. Reacting to the raids, Chidambaram said that the ED officials found nothing during the raid at his son's Karti Chidambaram's residence, therefore, took away a few documents to justify themselves. Chidambaram said the ED has "no jurisdiction" to conduct such searches under the Prevention of Money Laundering Act (PMLA).

"The ED has no jurisdiction to investigate under the Prevention of Money Laundering Act (PMLA)," Chidambaram told reporters here. He also said that there is no FIR concerning a scheduled crime by the Central Bureau of Investigation (CBI) or any Police agency.

"Yesterday, the Supreme Court issued notice on the cases filed by my son Karti Chidambaram. These cases have been filed some time ago, notices were issued yesterday and the respondents were asked to file their reply if they wish to and the cases posted for hearing on January 30. The main ground in the case is that there is no FIR in respect of a scheduled crime registered by any police agency including the CBI," said Chidambaram

**Lalu Prasad Yadav:**

- 1) CBI raids Lalu Prasad yadav, The CBI, in its FIR lodged on Wednesday, has accused Lalu, as railway minister, of rigging a tender process in 2005 to award the sublease of railway hotels in Ranchi and Puri to his favoured hoteliers in exchange for three acres of prime land in Patna routed through a benami company.
- 2) Lalu was in Ranchi today to appear before a CBI court in a fodder scam case (RC 64 A/96) pertaining to the Deoghar treasury.
- 3) Speaking to reporters at the state guest house before leaving for Patna in the evening, Lalu said he and his family were being targeted for being vocal against the Modi-Shah regime.

- 4) “I have been trying to bring Opposition parties under a single umbrella against the despotic Modi-Shah regime and running a campaign to save the country from the BJP. So, Modi and Shah want to pack me off to jail. But I’d rather die than bend before them,” Lalu said. “During the rally on August 27 in Patna I will expose BJP’s political vendetta.”
- 5) Lalu has called for a mega BJP bhagao rally in Patna’s Gandhi Maidan on August 27.
- 6) The RJD chief claimed that Indian Railways became a profit-making undertaking and got international recognition under his tenure.
- 7) Lalu will again be in Ranchi on July 11 to record his statement in fodder case RC 68A/96 related to the Chaibasa treasury.

#### **I-T probe against Sonia Gandhi, Rahul underway in National Herald case**

CBI probe against Himachal Pradesh CM Virbhadra Singh is going on.

- a. CBI raid in the residences of former Haryana Chief Minister Bhupinder Singh Hooda, in a case of alleged irregularities in acquisition of land in Gurgaon, was also part of the “same malice”. Hitting back at the Prime Minister, he claimed that in Gujarat, thousands of hectares of land were “sold for a song” and if land deals are probed, all the BJP chief Ministers would be in the dock.
- b. I-T teams conducted raids on former Tamil Nadu Chief Secretary P Rama Mohana Rao at a time when ruling AIADMK was embroiled in bitter factionalism. Later, I-T department raided the properties and offices of Tamil Nadu chief secretary P Rama Mohana Raoon. Though, no politician was targeted in the raids conducted across Tamil Nadu and Karnataka, it was widely perceived as a message to the AIADMK leaders.

#### **2) December 2015:**

The ED, I-T department conducted raids on firms ‘linked’ to P Chidambaram’s son Kartik in connection with a money laundering case in the Aircel- Maxis deal.

#### **3) December 2015:**

The CBI carried raids against Arvind Kejriwal’s principal secretary Rajendra Kumar which became a major flashpoint between the AAP and the Centre. Kejriwal claimed the CBI was searching for a file relating to Union Finance Minister Arun Jaitley’s handling of the Delhi and District Cricket Association (DDCA). The CBI refuted the allegation categorically denying that it had entered Kejriwal’s office during the search.

#### **4) May 2016:**

The CBI conducted raids at 16 locations in Chandigarh, Panchkula, New Delhi, Faridabad, Gurgaon, Rohtak, Karnal and Kurukshetra. The CBI searches included properties of former Haryana Chief Minister Bhupinder Singh Hooda.

#### **5) December 2016:**

I-T teams conducted raids on former Tamil Nadu Chief Secretary P Rama Mohana Rao at a time when ruling AIADMK was embroiled in bitter factionalism. Later, I-T department raided the properties and offices of Tamil Nadu chief secretary P Rama Mohana Raoon. Though, no politician was targeted in the raids conducted across Tamil Nadu and Karnataka, it was widely perceived as a message to the AIADMK leaders.

#### **December 2016**

T officials in Chennai claimed to have seized Rs 90 crore including Rs 10 crore in new Rs 2,000 notes - at a time when the entire country was facing cash crunch due to demonetisation - from an AIADMK functionary. The officials claimed that the money was meant for dubious political game.

**January 2017**

I-T raided places related to Karnataka Small Scale Industries Minister Ramesh L Jarkiholi and state Mahila Congress president Laxmi R Hebbalkar. The I-T team found Rs 162 crore in cash and 12 kg gold during the raids.

**April 2017:**

I-T conducted searches at offices of Shivraj Patil's son, Shailesh Patil in Chandigarh and new Delhi in connection with a money laundering case.

**May-June 2017:**

The ED raided locations related to Congress leader Baba Siddique. The ED also conducted raids on May 31 at five places including residences of Baba Siddique and Pyramid Developers' Rafique Maqbool Qureshi. The case relates an alleged Rs 400-crore slum rehabilitation scheme scam at Mumbai's Bandra.

**August 2, 2017:**

I-T conducted raids on 64 locations related to Congress leader and Karnataka Power Minister DK Shivakumar.

**Ranchi, July 7, 2017****Internal Threats**

To understand this phenomenon we are considering only one state. Uttar Pradesh. Even there are any state facing similar problem like J and K, Manipur, Assam, Tripura, Haryana etc.

1) After Yogi Adityanath came to power in Uttar Pradesh in March 2017, the number of fake encounters or pre-mediated extra-judicial killings have arisen in the state, with victims belonging to vulnerable social communities such as Dalits and Muslims in most cases, said a report compiled by an a rights group.

2) The report 'Countering the Silence' by Citizens Against Hate (CAH), documented as many as 16 incidents of alleged encounter killings in Uttar Pradesh and 12 cases in Haryana's Mewat region, which had occurred between 2017 and 2018.

3) The report observed: "(a)ll victims come from vulnerable social groups. Most came from poor 'lower castes' backgrounds, typically, landless farmers, engaged in manual labour and as farm hands, or working as informal sector workers, as hawkers. In UP, most were under trials, with some past involvement in petty crime."

4) "Torture was a common theme across cases. Most families reported having received dead bodies that had signs of grievous injuries to the body, not explained by a shoot-out."

5) Though there are a Supreme Court judgment and NHRC guidelines for police to follow in the encounter cases, the team found that these were being flouted routinely. "Most cases we studied, did not have FIR of the murder of the deceased filed by police. When families attempted to file a complaint or seek help to address the grievance, they were met by strong resistance from police, in the form of threats of charging in false cases, even of getting another family member 'encountered'," the finding revealed.

6) At times, "when families have mustered the courage to speak out, more serious accusations have been made. In several cases, accusations of rape have been initiated by police against family members."

7) "In the name of crime control, the blowing of trumpet over the police encounters in the last six months raises questions that do only members of a particular class or community engage in crime or are history-sheeters?" Ms. Mayawati asked.

- 8) In all, at least 50 criminals have been killed in over 1,700 encounters since the BJP government took over in UP in March last year. The UP State Human Rights Commission (SHRC) is already conducting a probe into four of these alleged encounters following complaints by family members that they were fake.
- 9) Saleha, a frail looking woman whose husband was shot dead in one such encounter, recollected the first time she saw his dead body.  
“The body was decaying at several places. There was no blood as he was killed days before we were informed. We came to know later that although police told us he had been shot the day we were informed, he had actually died two to three days ago,” she said.
- 10) “The CM had stated that those who believe in gun, will be answered through guns,” stated senior advocate Prashant Bhushan, who recently petitioned the NHRC to probe these encounter killings.
- 11) The report has also taken note of 12 cases in Mewat region near Gurugram in Haryana between 2017 and 2018, and said they too were likely to be fake encounters. There has been a spike in encounter cases related to attempts to smuggle cows for slaughter.
- 12) “The victims are mostly Meo Muslims. Most of them are cattle farmers and are socially and economically downtrodden. But there is an extreme level of police impunity observed in the area. Bodies of victims killed in encounters were often not returned to families and if burial took place it was amidst heavy police presence which ensured no evidence remains of their crime. Most of the families don’t even have death certificates yet,” said one of the members who was a part of the fact finding team.
- 13) The report has also highlighted a few cases in other states like Rajasthan. In August 2017, one Qasim was shot in his village during the early hours in Bharatpur. His family maintains that Qasim was acquitted in all criminal cases at the time of this incident, and that the police was informed of it during the encounter. Still the operation went on.
- 14) Akram Chaudhary, a local leader, claimed that “almost 1500 such encounters have taken place since 2014” and attempted to bust the common ground often resorted to by officials for conducting such encounters.
- 15) “In UP, state government seems to have launched a drive for encounter killings. The state has also a reward system for officers fighting crime aggressively. Officers are seen as high achievers and have been known to be given ‘prize’ postings. The situation is similar in Haryana,” states the report.
- 16) **As per data released by the government in a booklet** showcasing its achievements, apart from the encounter killings, from March 20 to September 14, the police have conducted 430 encounters. During this period, 868 wanted criminals were arrested while around 90 criminals were also injured during police encounters.
- 17) UTTAR Pradesh will be crime free – was the much-touted slogan of Yogi Adityanath after he became the chief minister. The illegal method of eliminating crime, aka ‘encounters’, started in 2017. “*Thok do*” (shoot them) was the dictum given to police officials to gun down criminals. It is a different matter that the chief minister himself is facing 15 criminal cases and 143 MLAs of the state have criminal cases registered against them, of whom 83 are from the ruling BJP.
- 18) “Chief minister of UP, Yogi Adityanath is lauding the police officers for such ‘encounters’ and rewarding them with promotions and medals which is against the orders of Supreme Court. This is a serious matter of branding marginalised Dalits and Muslims as criminals and killing them in fake encounters. The police are becoming extortionists and gunda-raaj is becoming the



reality of UP. Courts have stated that encounter killing is a grave crime but the CM is boasting it as an achievement to gather votes. The civil society should protest against it.”, Prashant Bhushan said.

19) Also presented was a fact finding report by civil society organisations, of another 8 cases where families were not able to give their statements on affidavits. The complaints in all these cases, requested the NHRC to take serious notice of these killings, order an immediate impartial investigation and take strict action against the concerned Police officials in accordance with the Supreme Court guidelines. NHRC chairperson has taken up the matter for further consideration and investigation. Table detailing the inconsistencies in police version and family version alleging torture are annexed.

20) The report submitted to NHRC is a documentation of 16 incidents of extrajudicial killing in UP and 12 cases of Mewat between 2017-18.

21) A report compiled by a rights group has claimed that “extra-judicial killings” have taken place in Uttar Pradesh in recent months, with the victims mostly from vulnerable social groups such as Dalits and Muslims. The report by ‘Citizens Against Hate’ group documents 16 incidents of alleged encounter killings in UP and 12 cases in the Mewat region, that took place between 2017-18. Senior Supreme Court lawyer Prashant Bhushan dubbed the police encounter killings in UP as “murders” and demanded a probe into all such cases by independent teams of National Human Rights Commission(NHRC). “These are extra-judicial killings, murders. Such killings by police are probed by junior level officers of the department and it cannot be independent. NHRC should get all such cases probed by its independent teams,” he said at a press conference.

22) “Our report, which takes a detailed look at the legalities involved, the investigation and the forensics, concludes that the idea of ‘crime control’ here is clearly an eyewash. Almost all the victims of these killings belong to vulnerable social groups - muslims, dalits and bahujans, and come from low- economic households. All the families, without fail, state that the victims were abducted by the police or entrapped through their informer networks.

Bodies of all victims showed visible signs of torture along with close range bullet injuries above the waist- a fact that is corroborated by the post mortem reports accessed by the team.”, CAH stated.

“Further, it is stated in the FIR that one bullet fired by the criminals hit the bullet-proof jacket of SHO Rashid Ali, P.S. Lasadigate. There is no mention of the bullet-proof jacket being seized and parcelled for investigation.”

23) In its analysis of 16 deaths in Uttar Pradesh and 12 in Haryana, the report found that most victims were poor and from the lower castes, “typically landless farmers... farm hands... hawkers”.

24) “In Haryana, most were from Meo and Gujjar backgrounds, involved in cattle trade, either as drivers or (as) handymen, or traders.”

25) “The objective is to tell the public, ‘See, we have killed criminals’. And by mostly targeting Muslims or Dalits, they are saying, ‘Look, they are the criminals’,” Bhushan said. The researchers, who included lawyers from the human rights research group Quill Foundation, found a similar pattern in most cases in Uttar Pradesh.

26) “FIRs spread over multiple episodes use exactly the same text, hinting at (the) use of a common template by state police Most of those killed

have, in police FIRs, the same number of weapons on them Autopsy reports contradict the FIR version(s),” the report says.

27) “Most bodies had tattooing marks and blackening of skin around bullet holes, indicating close-range shooting and not a shootout.”

- 1) Fascism has adverse effect on administration
- 2) Administration, as its primary characteristics should be unbiased but with powerful grip of facism this administration become bised.
- 3) The sole purpose of administration is to serve the nation. But in facist government admistration get inclined towards the service of government.

**Refrences:**

- 1) Indian Express The wire.
- 2) NHRC CSDS
- 3) The Quint Times of India Economic Times

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# Innovations in Financial Inclusion of The Urban Poor: A Model of Rahat Credit Cooperative Society, India

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**Abstract:**

Most of the Asian countries face challenge of poverty which is linked with unemployment. Lack of assets and income make poor unable to invest for self-employment or for knowledge / skill development leading to employment. Access to financial services may help people to come out of poverty through variety of ways like availing credit, insurance and saving facilities. In India, in spite of several initiatives for financial inclusion, field level data shows that by merely opening bank account the access to credit may not be there and financial inclusion in true sense may not happen. The microfinance movement had regional success in India. There are almost 35% urban poor in India indicating the need of innovations in financial services for them.

“Rahat Urban Credit Cooperative Society” was an initiative in 2008 of few persons belonging to Islam religion and believing on the teachings of Quran that the interest should not be taken. Though inspired by a particular religion the services are extended to all community groups. In today’s context when different religions are discussed for using the religious values/teachings negatively, Rahat will be a unique example how religious teachings can be utilized positively for society’s benefits. Since 2011, besides usual financial products, it gives interest free and collateral free loans for urban poor for self-employment and for consumption purposes.

The case study focuses on understanding the community based business model and its impact on urban poor in terms of their financial needs by analyzing the financial performance. The study explores how 92% recovery rate for loans is there and how depositors are attracted for interest free product. It also tries to understand the use of social capital in provision of financial services for urban poor having inability to give collateral.

“Rahat” means relief. The present paper brings out a Rahat model of financial services and inclusion of urban poor and try to understand how it has brought the relief in urban poor lives.

**Keywords:** Urban poor; innovations in financial inclusion; community based model; interest free model; social capital.

**Introduction**

The majority of Asian countries are currently facing the multiple challenges of poverty, among which unemployment often plays a key role. More than 680 million people in Asia and the Pacific region are considered poor (i.e., living on less than US\$1.25 per day). More than 70% of these people live in South Asia, which contains the largest rural population in the world. India has the largest concentration of poor people in the world. The percentage of people living below the poverty line in India is 25.7% in rural areas, 13.7% in urban areas and the overall figure for those considered living in poverty in India is 21.9% (2011-12). Due to a lack of assets and income, poorer people are unable to invest in self-employment or in developing their knowledge or skills, which may lead to paid employment. Providing access to financial services, such as credit, insurance and saving facilities may assist people in escaping poverty. However, the majority of the Indian population is excluded from banking services as only 54.4% in rural areas

and 67.8% in urban areas are able to access bank services (Census, 2011). Despite several initiatives for financial inclusion, field level data shows that merely opening a bank account may not equal access to credit. The movement of microfinance has not been successful across all Indian regions. The urban Indian poor can be considered particularly neglected in a variety of ways, for example, the provision of banking services. A number of researchers speculate there are almost 35% urban poor in India, indicating the chronic need of innovations in financial services, the increase in accessibility of these services and the promotion of the financial inclusion of the urban poor. Financial exclusion refers to the lack of access of certain consumers to appropriate, low cost, fair and safe financial products and services by the mainstream providers of financial services. Research conducted on the issue of financial exclusion suggests that services may not be considered relevant to the needs of consumers or the utilization of these services can involve a considerable amount of processing and documentation. A further reason suggested for exclusion of the poor is their inability to provide collateral when applying for loans. Thus the poor who are asset-less are likely to be excluded farther. This paper presents a case study of innovation in the financial inclusion of the urban poor, through an interest free model of microfinance.

#### **Literature Review**

One of the key factors in decreasing poverty, is finance. It is therefore imperative that people have access to financial services, which will enable them to participate more fully in society. According to Cull Ehrback and Hole (2014) it is shown that financial inclusion is positively correlated with growth and employment, at the macroeconomic level. Kempson and Whyley (1999) and Leyshon and Thrift (1995) have shown that financial exclusion is a phenomenon which often affects a minority of predominantly vulnerable and otherwise disadvantaged people, for example, single parents, social tenants, the long-term unemployed, members of some minority groups, ethnic communities and people with persistent low incomes. The conventional financial services do not consider it profitable to provide small and frequent lines of credit to poor people. This was the norm until Mohamad Yunus, in the 1980s in Bangladesh, provided the innovative approach of a micro-credit facility for the poor who were excluded from formal financial services. This micro-finance approach has become popular in different parts of the world, especially in poor and developing countries. Other variations of micro-finance also gained prominence. Banerjee and Duflo (2011) concluded that microfinance has achieved the objective of being a key instrument in, fighting against poverty through the supply of micro-credit to poorer members of society.

#### **Criticism of Micro-finance**

Although micro-finance has become more wide-spread, it has been criticized for offering higher interest rates and also its inability to reach the poorest in society. Wright (2000) stated that micro-finance projects actually fail to reach the poorest people and generally micro-finance has been shown to have a limited effect on income. A further criticism of microfinance is its lack of religious and cultural sensitivities (Muhammad, 2012). In some Muslim countries particularly, conventional microfinance has always been rejected, due to its non-compliance of Islamic principles, particularly interest or “rib a” (Muhammad, 2012).

#### **Islamic Microfinance**

Recently, a number of traditional financial companies have started offering services which are aligned with Islamic principles. Evans (2014) reviewed financial institutions in the UK and the US and found that Islamic-specific ranges, such as interest free and profit loss sharing

products were launched to attract Muslim customers. The International Monetary Fund and the World Bank also recognized Islamic financial products as alternative means of financial intermediation (Sundararajan and Errico, 2002; World Bank, 2013). Further the World Bank also has recognized that the customization of program is one of necessary conditions for poverty reduction (Haq & Shafiq, 2015). There are a growing number of microfinance institutions which have emerged who follow these Islamic principles, particularly interest free loans and savings. However, many issues have been raised regarding the sustainability of this interest-free model. Pejman et al. (2015) conducted a review of studies of the performance of conventional and Islamic banks and concluded that the Islamic banks were at least as efficient as the traditional institutions. Indeed, smaller Islamic banks had particularly low default/insolvency risks compared with their more conventional counterparts. This may be because Islamic banks typically focus more on higher margin small business borrowers who are less likely to default. Pappas et al. (2014) studied the survival rates of Islamic and conventional banks from 1995 to 2010 using duration analysis and found that Islamic banks had significantly lower failure rates compared to similar conventional banks. Baele et al. (2014) used hazard functions to model the loan default rates of small business loan borrowers in Pakistan. Using a unique data sample of 150,000 small business loans from 2006 to 2008, their research showed that the default rate on small business Islamic loans was less than half of that of conventional loans. The study also showed that small business borrowers that take loans from both conventional and Islamic banks are more likely to default on the former. This could be due to the moral pressures linked to religious beliefs. Soylu and Durmaz (2012) studied the profitability of interest free versus interest based banks in Turkey from 2002 to 2008 on a yearly basis. Their study showed that interest-free banks did have positive and reasonably strong rates of profitability, though their level of profitability was somewhat less than that of traditional banks. The data suggested that interest-free banks, based on Islamic principles, can be a viable option to traditional capitalist banks that derive a large portion of their profits from interest charges. Iqbal et al. (2015) undertook a comparison of interest free and interest charging micro-finance institutes in Bhawalnagar in Pakistan. It was observed that customers of interest free micro-finance institutes succeeded in reducing their poverty levels by improving their basic needs and living standards as compared to the customers of conventional micro-finance banks. However, product line, overall management and loaning procedures of conventional microfinance banks were perceived to be more successful.

#### **Cases of Interest Free Models**

There are a number of institutions worldwide offering interest free loans, which use a variety of models. The following are brief examples of case studies from different parts of world.

##### **Interest Free Model: JAK Bank, Denmark, Sweden and Italy**

The interest free model has been in practice not only in Muslim dominated countries, but also in other countries. The JAK bank was registered in Denmark as a cooperative society in 1934 and offered an interest free saving and loan system. These interest free loans helped the members/farmers to pay off their expensive bank loans. The JAK bank model emerged as an alternative to conventional high cost loans. The bank was only successful for a number of years before closing. However, the earlier members imitated JAK savings and loan systems and a number of them are still in operation today. In 1965 the Swedish JAK was formed and in 1997 it gained the status of a bank in Sweden. The JAK model has also been adopted in other countries like the UK, Finland, Belgium, Germany, Canada, the Netherlands, Spain and Italy.

JAK believes in a fair and sustainable economy to increase long-term prosperity for everyone. JAK does not pay any interest on savings and does not charge any interest on loans. Every member has to pay an annual membership fee. If a family member then joins, other members pay a little less membership and children do not pay any fee. Members gain an equity share in the bank and this gives the right of one vote to one member in board elections. The member can start saving immediately and begin accumulating saving points, without necessarily needing to take a loan. The saving can be undertaken in the repayment period and saving points are then accumulated. The loans are given, on the basis of the total liquidity or savings and a member's capacity to save and repay loans. Therefore loans are supported by members' savings and liquid assets. Thus deposits become a major source of funds available to the bank. A loan fee is charged which subsidizes operating costs related to loan services. The loan fees are in proportion to the amount of loan provided. There is no interest paid on deposits but saving points help the member to gain a loan. The JAK model is promoted by a network of more than 700 volunteers through regional and local offices and also with the help of existing members. They support other members in creating their savings and loan plans. The JAK bank organizes various capacity building programs for its members and volunteers. The JAK Italia was founded in Italy in 2011 and follows the JAK Sweden model with some variations. Both these banks focus on small and medium size businesses and households. The JAK bank model is considered a sustainable one and the individuals, businesses and communities are committed to sustainability and improving life quality for all. The bank does face challenges, such as new banking regulations at the European Union level and client demand for new financial services, according to Lelisa and Vichi 2013

#### **Case of Akhuwat, Pakistan**

One important characteristic of Islamic finance is the prohibition of interest in lending activity. "Qard-Al-Hassan" or a benevolent loan is a loan given to community members who are experiencing financial distress. It is a non-rewarding loan but the borrower is under a moral obligation to repay the principal amount as per their financial capacity. "Akhuwat", which means solidarity, is another model of social and sustainable finance, and was launched in Pakistan in 2001. The mission of Akhuwat is the alleviation of poverty by empowering socially and economically marginalized families through interest free microfinance by promoting entrepreneurial potential, capacity building and social guidance. Akhuwat functions under the guidance of a board of directors and there is an executive committee who is responsible for administrative and operational issues and both volunteers and paid staff. The loans are provided for a variety of reasons, for example, open businesses, pay off car loans with high interest, pay for children's education, cover health procedures, pay off emergency loans, facilitate marriages of daughters/sisters and enable business expansion. In addition, liberation loans, which are used to clear earlier loans with higher interest rates, are also provided. The lending methodology used is very simple. It includes the assessment of an individual's income and the feasibility of the prospective business. As well as meeting the previously mentioned criteria, two guarantors from the same community also have to be provided by the family. Besides the provision of the financial services, Akhuwat also provides Plus Services. These services focus on offering technical advice to the borrowers which may assist in the long term sustainability of the entrepreneurial activities. After the loan has been administered, a Loan Officer monitors the repayment schedule through work place visits or, in the case of delay, reminders are sent through the guarantors. If default occurs due to external circumstances, due consideration is given to

repayment options. In the case of the death or disability of the borrower, then the loan is waived off and additional support is offered to the borrower or their dependents. This support is also extended through the Akhuwat Mutual Support fund where borrowers voluntarily contribute 1% of their loan amount if the loan amount is above Rs. 4000 (US\$40). In addition to the capacity building of the borrowers, Akhuwat also works on social issues like girls' education, observance of local laws and traffic rules, etc. In order to reduce operating costs, Akhuwat works in religious places such as mosques and churches. Disbursement of loans from these places may also increase transparency and accountability. Using such premises can help to minimize potential moral issues also act as a selection tool, which could then decrease the risk of default. The Member Donor Program is one major source of funds where borrowers donate voluntarily to the organization and another source is a fund recently provided by the government. Although Akhuwat enjoys a high recovery rate and a very low percentage of written off loans due to Akhuwat's focus on the client's sustainability, continuous access to a flow of funds is crucial for sustainability. So, Akhuwat is developing partnerships with local organizations who want to follow the same model. Akhuwat's aim is to be an apex organization for such local level partnering organizations. Though Akhuwat is successful in reaching out to the poor, it faces criticism for its limited reach to women, perhaps due to its use of religious places where women's entry may be restricted.

#### **Interest Free Model, Kenya**

Beck and Chull's (2013) research, entitled "Banking in Africa", reports the advantages of combining financial products specifically designed for poor clients with mobile delivery methods. A Kenyan venture combines elements of credit extension and mobile delivery methods with a commitment to encouraging savings. This program is named "Jipange KuSwave", which means to organize oneself to save in Swahili. In this model the client is given an interest free loan. A portion of the loan must stay in a savings account and the remainder is deposited directly into a client's M-Pesa mobile wallet, from which loan repayments are made. There is no fixed schedule for repayment of loan, although the client only becomes eligible for the next loan after the earlier one is fully paid. In addition, clients also set personal targets for saving and a penalty is imposed if funds are withdrawn before the target is met. According to Rutherford (2012), the assessment of this model showed that the clients were able to save and continued to do so until they reached their target. As it is a low-cost product, Rotman, Ferand and Rasmussen (2012) observe it helped to promote financial inclusion of the poor in Africa. This example clearly shows that clients can establish saving and credit history and can also gain access to larger loans. An individual's credit history with Jipange KuSwave is essential when applying for loans without collateral.

#### **Al Khair Credit Cooperative Society Limited, India**

The Al Khair Credit Cooperative Society Limited is a successful example of an organisation offering interest-free loans. It currently operates in Uttar Pradesh, Bihar, Delhi and the Jharkhand states of India. The organization's premise is that focusing on saving ensures the continuous flow of money and therefore increases the number of loans available. It has also implemented a profit sharing product for loans. In addition to the Al Khair society, there are a number of other organisations providing interest-free loans to poorer people in India.

#### **Financial Exclusion in India**

In India, policy makers are extremely aware of the effects of financial exclusion and therefore, long-term attempts to create a more financially inclusive landscape are made at the

national policy level. The nationalization of some banks was one such endeavour to promote financial inclusion, particularly of the rural poor. Priority Sector Lending was another initiative taken by the Reserve Bank of India (the regulatory body for the financial sector in India) in 1972. The aim of this initiative was to ensure that credit would be provided by banks to those sectors of the economy which required it. A key element of this policy was the prioritization of lending to weaker sections of society to fulfil their financial needs and prevent their financial exclusion.

The Financial Inclusion in Asia Country Survey report 2014 concludes that despite India's efforts, only 36% of the population possesses a bank account. Micro, Small and Medium Enterprises (MSMEs) are drivers of growth; however, they mostly relied on informal financial arrangements. It has been suggested that financial products and services should be designed around the needs of households and businesses, for example, financial education, rather than the needs of banking institutions. In spite of concerted efforts for more financial inclusion in India, available data suggests that financial exclusion is still widespread. Recent ventures such as "Jandhan Yojana" may create improved access to banks, but they do not necessarily ensure increased access to credit facilities. A lack of access to financial services is also a major issue for specific groups, for example, certain tribes, women, etc. due to cultural and other reasons. Therefore particular attention needs to be focused on the financial exclusion of minority communities in India. The Muslim population as reported in the 2011 Census is 14.23%. The influential "Sachar Committee" report in 2006 provided an insight into the financial exclusion of the Muslim community in its chapter "Access to Bank Credit".

The report explains that under Priority Sector Lending, Muslims hold only 12% of accounts in 27 public sector banks and 11% of accounts in 29 private sector banks. Further data shows that in 44 minority dominated districts in the country, where Muslims constitute 33% of the population, they hold only 21% of all public-sector bank accounts. Using a range of data on loans and savings, the committee concluded that the shares of Muslim's accounts, total amount outstanding and amount outstanding per account of Muslims remains disappointing. The committee suggests this limited share is due to the negative mindsets of the banking sector and also because of faith reasons. Indeed, the Raghuram Rajan Report on Financial Sector Reforms, 2006 has clarified that certain faiths prohibit the use of financial instruments that pay interest. The lack of availability of interest-free banking products results in some Indians, particularly those from economically disadvantaged areas of society, not being able to access banking products and services due to reasons of faith. Therefore, it has been suggested that there is a need to introduce "interest-free" banking to promoting financial inclusion within India. As India has the third largest Muslim population country in the world after Indonesia and Pakistan and it is estimated that it will contain the largest Muslim population in the world by 2050 (Indian Express, 2015), it is imperative that the banking sector meets the needs of this growing population.

The Reserve Bank of India published a Report of the Committee on Medium Term Path of Financial Inclusion in 2015 and made some key recommendations. It suggests that commercial banks in India may be enabled to open specialized interest-free windows with simple products like demand deposits, agency and participation securities on their liability side and also to offer products based on cost-plus financing and deferred payment and deferred delivery contracts on the asset side. This would create more choice in the financial services for potential Muslim customers. Tiwari (2012) that as the Muslim population in India is considerably high, compared to other countries, and the demand for Islamic products is increasing, there is also a need for



specialized Islamic financial institutions. In agreement, Rahman (2014) also acknowledges that there is the potential in India for such banking services, but cautions that favourable regulatory conditions and awareness will be required. The last few decades have witnessed microfinance emerge as an alternative to the usual financial services. However, the traditional microfinance institutions are criticized for offering higher rates of-interest, their inability to reach the poorest sections of society and their lack of presence in certain areas. The literature clearly shows that interest-free loan models are offered in different parts of the world and that the financial inclusion of the very poor is In India, there are numerous successful examples of institutions offering interest free loans. However, the number of these loans in relation to the population size is very small The Reserve Bank of India's research concludes that the banking needs of the poor should be met by, for example, interest free loans.

#### **Rahat Urban Credit Co-operative Society Limited (Rahat)**

Osmanabad district is located in the drought-prone region of Marathwada in the Maharashtra state of India. Due to the consequences of its climate, the region experiences a flow of migration to urban areas for employment. More entrepreneurial activities and diversification of jobs from agriculture could increase employment options and standards of living. Osmanabad is the most populous city in the district and 25.85% of its population is Muslim. This paper presents a case study of the Rahat model of financial inclusion used to benefit the urban poor.

#### **Objective of the Study**

The objective of this research is to better understand the Rahat model, in which interest-free loans and deposit facilities are provided to the urban poor, particularly the Muslim population and to decipher its impact.

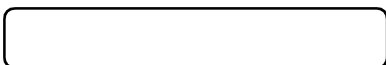
#### **Methodology for Case Study**

A qualitative approach was exclusively employed as the focus of this research was to better understand the functioning of the society. See Table 1.

**Table 1. Respondents and data collection tools used**

Tool	Type of participants	Number
Focus group discussions	Board of Directors of the society	2
	Staff	2
Focus group discussions	3. Borrowers	2
In-depth interviews	4. Chairperson of the society	1
	5. Members of Board of Directors	4
	6. Pigny (Uaily) Saving Collectors	2
	7. Customers as borrowers & depositors	15
Exit Interviews	8. Customers as borrowers & depositor	15

The customers as borrowers and depositors were randomly selected from the data base of the society. The secondary sources, for example. annual reports, audit reports, individual files



of borrowers, different forms and application formats, etc. were requested and provided by Rahat staff.

**Establishment of Rahat**

Rahat Urban Credit Cooperative Society was founded in 2009 by a group of concerned Islamic people from Osmanabad city. They had observed that to survive on low incomes, poor people borrowed money from informal sources, especially private money lenders. These lenders often offered high interest rates and the recovery methods used could be coercive. Once a loan was taken out, people were often caught in a debit trap. This exasperated the cycle of debt and poverty and no asset creation occurred even though people were engaged in entrepreneurial activities. They also observed that the Muslim population did not use formal financial institutions due to their lack of assets, their inability to offer collateral and the interest that the institutions charge which does not adhere to Islamic principles.

Based on these barriers to accessing the mainstream banking sector, the group decided to establish a financial services organisation which would serve the urban poor based on the Islamic principle that loans given as well as deposits received have to be interest-free. Initially the organization was set up with 1,000 shareholders. With USD 7794.84/Rs. 5 Lac as the share capital, the society was registered. It was open to all community groups and the minimum share value was USD 1.56/Rs. 100 which allowed entry for all income groups. After initial registrations were completed, members were sceptical of who would repay the interest-free loans and whether there would be a dropout of the members. Nearly 30% of the shareholders are women and there are shareholders from other religious denominations, however their percentage is very low.

**Table 2: Current membership and share capital 2016**

Year	No. of members	Share capital in USD
2014-15	646	25973
2015-16	760	34161.67

Source: Society's Annual Reports 2014-15, 2015-16.

Table 2 shows that there is an increase in share capital of the society.

**Table 3. Details of the products and costs involved in using the products**

Type of Product	Share holding	Costs involved
Membership of society and share holding No dividend is offered	Can start with shares of USD 7.79 / Rs.500 Shares can be increased in phased manner up to USD 109.13 / Rs. 7000	Fees for form etc. USD 1.71 / Rs.110
Loan Rs. 10,000 Interest free	Share requirement USD 15.59 / Rs. 1000	Service charges 6.24 / Rs.400 Account opening charges USD 1.56 Rs. 100 (in the case of first loan)
Loan Rs. above 10,000 to 20,000 Interest free	Share requirement USD 77.95 /Rs. 5000	Service charges USD 9.35 / Rs.600
Saving through Daily collection. Interest free		Service charge USD 0.78 / Rs.50 Out of which USD 0.12 / Rs7.50 consists of stationery charges and remaining is for the daily/ pigmy collector
Loan on profit sharing basis Interest free	Share holding	20% of profit to be shared with Society
Fixed Deposits interest free	....	....

**Table 3:** displays the costs recovered by the society in the case of the loan. Besides this, the applicant has to spend DSD 7-8 for other initial expenses, such as providing photographs, stamp-paper for agreement, etc. as per the legal requirements.

#### **Deposits and Loans :**

Table 4. Details of deposits mobilized and loans given [amounts in USD]

Year	Savings through daily deposits & savings accounts	Amounts distributed as interest-free Loan
2011-12	7373.92	3554.45
2012-13	25255.28	31101.41
2013-14	51212.10	61735.13
2014-15	214794.61	70574.48
2015-16	2416.40	97747.29

**Source:** Society's Annual Report, 1014-2015, 2015-16.

Data in Table 4 shows that there is growth in deposits and a continuous increase in the amounts distributed as interest-free loans.

### **Process of Giving Loans**

The process followed in loans is very simple. The borrowers have to submit an application explaining the reason for the request and the amount. The application is processed during the monthly meeting of the Board of an approval decision is then via phone and the borrower can collect the amount from the office. While completing the formality, two guarantors need to be provided. There is no need to give collateral in terms of any assets. Minimum documents such as ID proof and photograph are required. If the proposed borrower is not a shareholder, then he/she has to become a shareholder first. The borrowers shared that their experiences of the process were easy to understand and straightforward to complete. The borrowers also explained that it was possible to obtain the loan if necessary in less time than the typical period of 15-20 days. Some of the borrowers who were interviewed were examples of individuals who had begun saving first through daily collection, and then become shareholders, before borrowing a loan.

### **Costs Involved in Obtaining a Loan**

The cost of taking out a loan is also less when compared to other financial institutions. Table 3 shows the cost involved in getting a loan which is considerably less than other traditional financial services. These are the actual costs which the customers have to bear and no interest charged.

### **Reasons for Providing Loans**

Rahat provides interest-free loans for both consumption, used for living expenses and productive purposes, on developing businesses. It was observed that initially loans from Rahat are used for debt swapping and are used to repay earlier taken out loans from other sources. Out of 30 borrowers who were interviewed, nearly five had arranged their loans from Rahat to repay earlier loans they had obtained from informal sources. The borrowers shared that loans from Rahat save huge amounts of interest they would have otherwise paid to other sources. Later on, the subsequent loans are used for consumption purposes related to family issues, especially for illness, etc. The loans for consumption purposes are used for improving living conditions, for example, building additional rooms or creating basic facilities like toilets and bathrooms. The borrowers then slowly start investing in some small business activities. It was observed that generally after the third or fourth loan, the amounts are invested in more productive purposes. Out of 30 clients who were interviewed, nearly 24 have invested their first loan or subsequent loans into business activities. Through productive purpose loans, the borrowers have invested in creating assets for business activities like buying small machinery, furniture, using the amounts for working capital or investments for upscaling the business activities.

### **Selecting the Correct Borrower and Recovery of Loans**

In lending activity, the recovery rates depend on the effective selection of the correct borrower. Furthermore with interest-free lending, identification of appropriate borrowers is crucial in this process. The members of the directing board of Rahat come from different areas of Osmanabad city and as the Muslim community is relatively homogeneous, crosschecking the credibility of loan applicant is easily possible. This means that individuals who may be considered high-risk applicants, such as people who are alcoholics or gamblers, can be avoided. In many instances, cases are referred by other community members, who assist in the vetting of individuals. Now that Rahat has built a strong network of community volunteers to identify appropriate borrowers, this network can be used to recover loans too. The loan recovery rate is 98% which shows that the present recovery mechanism of peer pressure and the use of social capital of

trust are working effectively. The borrowers also revealed that recovery mechanism is borrower friendly and Rahat is sympathetic to potential repayment difficulties. The borrowers also expressed that they are highly motivated to make timely repayments for the following reasons.

### **Reasons for High Recovery**

#### **1. Saving - Interest-free**

As no interest has to be paid, the borrowers find that it is a method of direct saving for them.

#### **2. Regular loans leading to increase in faith and effective permanent relationship**

The urban poor need frequent loans for their entrepreneurial or self-employment activities. Therefore for them, the creation of a permanent source of support is necessary. The frequent access to loans can provide stability in business activity and also leads to asset creation at the business and family levels. Out of 30 borrowers, nearly 25 had taken loans for business activities. They felt that regular repayment creates a positive relationship for them with the society. Building faith and creating permanent support is important.

#### **3. Linking with daily collection deposits**

For urban poor households and small entrepreneurs, it is possible to save small amounts on a daily basis and they require a product which will create a safe saving mechanism. For them, going to branches every day to save small amounts is not possible and hence a daily collection deposit, through pigmy collectors, is preferred. These deposit accounts are linked to the deduction of monthly payments on the loans taken. Thus, for borrowers it is possible to save amounts on daily basis for loan repayment and to ensure recovery. Some new depositors have also started saving which will help them to borrow in future.

#### **4. Creating a chain of identification of borrowers**

It is acknowledged that satisfied customers act as a source of positive publicity. Based on their experience, the initial borrowers are referring other reliable borrowers and also becoming guarantors for others. Thus identification of needy borrowers become easier and the earlier borrowers are also assisting in the recovery process of new borrowers. This cycle proves the hypothesis that the social capital generated from believing in the poor, which was initially created by Rahat, helps to build further social capital and facilitate financial inclusion of other urban poor.

#### **Making More Money Available for Lending**

Along with the high recovery of loans, it is necessary to engage depositors who will make money available for lending. Some of the borrowers who have broken-even in their business activities, have offered the necessary funds to allow the continuation of interest-free fixed deposits. This behaviour supports the Islamic principle that the needy should be helped. Thus interest-free depositors are contributing to making more money available for lending and to positively impacting poorer people's lives.

#### **Impacts of Rahat's Efforts for the Financial Inclusion of the Urban Poor**

1) Rahat has created financial services for the urban poor which are easier and more accessible than more traditional offerings. All the borrowers who were questioned shared that the financial services which are provided by Rahat are simple and consume less time. It was observed that most of the borrowers had earlier obtained loans from informal sources where the interest rate was very high. Very few had taken loans from formal institutions like banks; however, respondents who had found that it was costly in terms of interest and they had to undertake many visits to branches which was time consuming and led to other costs.

- 2) It has not only provided interest-free loans to the urban poor but has also created a small deposit saving product which suits the saving needs of the poor. All borrowers said that linking the loan account to their daily saving account is really helpful as they obtain small amounts of money on a daily basis which can be saved from their entrepreneurial activities. For the consumption loan, it was observed that daily saving is helpful.
- 3) The entrepreneurs, when gaining increased amounts, prefer to save as fixed deposits. Some of the depositors reported that as they were planning to take loans in the future, they have opened up a daily savings account. Contrary to other financial programmes, the Rahat model shows that it does not make restrictions at the savings account level out it further allows its customers to take up credit facility which is truly required by the poor to deal with their economic situation. Due to certain values of Islam, some of the Urban -poor Muslims were not using the usual financial services as they charged interest. Rahat has continuously progressed in reaching out to the.
- 4) Rahat has helped the urban poor to come out of the debt trap of private money lenders and according to the chairperson of Rahat, it is one of the greatest achievements of Rahat. As these poorer have come out of the debt trap by using Rahat's interest-free loans, in a better situation in terms of their living standards and have their business sustainability. Without Rahat there was no possibility for them to save as the amount potentially save. we have been lost in interest to traditional money lenders.
- 5) The clients of interest-free loan products show that they are repeatedly visiting Rahat for loans. The process usually begins with consumption loans but as more loans are accumulated,
- 6) they are used to help create better facilities for the urban poor like housing, toilet, water and electricity facilities at home, etc. Almost everyone who had taken loans for business activities and who were covered under the present study reported taking repeated loans, especially for working capital and also gradually adding the assets required for their business activities. Some borrowers had taken five or six loans and the majority of them had attempted to make earlier repayments as per the repayment schedule.
- 7) Small, self-employment roles are essential in this region, considering the drought-prone nature of the area. The data shows that small loan amounts help to initiate these businesses, for example, small shops, hotels, laundry services, tailoring units, idol making, etc. and other services like saloons, painting, construction related activities, etc. For these roles, the initial investments are not huge but do require frequent loans to sustain them. These borrowers have shown that the uninterrupted supply of loans has helped to sustain their activities. The detailed analysis of such borrowers was undertaken and it showed that most of them have taken out five plus loans, nearly USD 150-200 at a time and on average USD 780 over a four- year period. Some of the activities which are seasonal also get supported when the need for working capital become more. Thus, one important criterion of financial inclusion is that provision of need based, easily-accessible financial services, especially credit is fulfilled by Rahat for thus urban poor. The following case study will help to strengthen Rahat's position further.
- 8) Some of Rahat's customers have used the loan services and have reached a break-even point in their business activities. They have begun generating profits, saving money and they have then become the depositors who do not require loans.
- 9) Although Rahat is providing financial services based on Islamic banking principles, it has helped the urban poor from other religions as well and does not differentiate based on religion. The percentage of non-Muslims is small. However, in due course this number will increase as

volunteers from other religious communities are also added to support Rahat's activities for identification and selection of borrowers and recovery. Five borrowers from other religious group were interviewed and they shared that they were treated with respect and offered all available services.

10) The discussions with borrowers and depositors and the board of directors and staff revealed that Rahat has established a community based model. Members of the Rahat community are actively involved in identification of borrowers and the recovery mechanism. In this whole process the social capital of borrowers as well as the social capital created by Rahat is found to be useful. The clients are selected based on their social capital in the community and additionally, the social capital and faith created by Rahat connects new clients to the financial services.

#### **Case of a Young Person in the Hotel Business: Improving Business**

Mr. A, aged 28, 10th passed youth has had a small hotel in the city for the last five years. He has taken a loan four times amounting to USD 780 for business activities over the last three years and has repaid each loan before the deadline. With these loans, he has improved his business adding some assets. He paid deposits to install a cold-drink sales point with refrigerator facility. Since this improvement, his profit levels have increased. He believes no other bank would have invested in him and provided the opportunity Rahat has.

#### **Survival and Sustainance of This Model Without Profit Making?**

The issue of survival and sustainability of this model is key as the major source of income, i.e., interest is not involved. However, the board of directors pointed out that profit making is not the objective of this model and so far, the society has been able to successfully manage the costs through the following sources. Indeed, the annual reports show the society made a profit generating. In 2014-15, the society gained USD 139.58 and in 2015-16, the society made a profit of USD 118.27 after deducting all expenses.

#### **Service and Other Charges**

When there is no profit earned, there is a need to create a source for managing expenses, such as staff salaries, rent, electricity, communications, etc. These expenses are minimal and Rahat is able to manage them through service charges, stationery charges and fines, in delayed payments of loan instalments, etc. There are only three staff members who are paid a minimum salary. The management is conducted by board members who work voluntarily. The daily saving collectors gain commission on the amounts they collect. The recovery work is mostly followed by volunteers and daily saving collectors. Furthermore, the society has electronic records, which helps to reduce costs and requires less staff as well.

#### **Profit Sharing from Other Units**

Rahat has started offering loans to profit sharing units and such units are increasing. This is an additional source of income.

#### **Center for Electricity Bill Collection**

Rahat has undertaken the role of collecting electricity bills and obtains commission for each bill, thus providing revenue for Rahat.

#### **Sustainability of Rahat Model of Financial Inclusion of Urban Poor**

Rahat is making good progress in terms of increasing loan distribution and broadening the customer base. However, the issue of sustainability does need to be considered. Due to legal constraints, it will not be possible to expand beyond certain geographical areas and this will limit the sustainability of the Rahat model.

### **Client Identification and Loan Recovery**

The Rahat model uses social contacts to identify clients for loans and recover loans through the closely linked network of volunteers. Whether this model is sustainable is debatable. Rahat is making efforts to create a network not only within the Muslim community but with other communities as well. It is also helping to create a secondary leadership who can be involved in due course. As Rahat is inspired by a religious value system, it is likely to be more sustainable. The increasing response of clients and efforts to bring new clients by the pre-existing ones suggests that the community members are taking the responsibility. Ninety percent of borrowers covered under the study were referred by volunteers, earlier borrowers, board members, etc. and very few came through staff. The recovery rate is 98%. As shown in Table 3, the amounts given as interest free loans are increasing every year. It is not possible to make new loans available unless there is a steady and regular recovery of earlier loans. According to members of the director board, clients who were defaulters had genuine reasons which were beyond their control, such as the occurrence of medical emergencies or chronic illness in the family. The community based model using social capital helps to control adverse selection, information asymmetry. The higher rate of recovery also suggests that this model also plays a significant role in the moral hazard of collecting loan repayments.

### **Upscaling or Replication**

The Rahat model of borrower identification and loan recovery suggests that it will not sustain if it has a wider geographical capture. The close proximity to the clients is the key to success in this model. Thus, expanding the present unit to cover a larger area may not be a very effective strategy. Rahm has motivated some individuals who follow Islam in nearby districts to form such organizations and two such units in neighbouring districts have been established. Rahat is also providing support and guidance. This development of a network of such organizations shows it is possible to reach out to the urban poor in wider geographical areas.

### **Suggestions Need of Profit Sharing Product Expansion**

To make more money available to lend to customers, it would be helpful if Rahat focused on financing profit sharing units.

### **Provision of Other Services to Urban Poor**

Besides credit and saving facilities, the urban poor also need insurance services to protect themselves, especially in their entrepreneurial and self-employment activities. Health emergencies are one major cause of pushing the urban low-income groups into further poverty. Health insurance is equally needed for the urban poor as it is for the well-off. Rahat should explore the provision of insurance facilities to its customers. Thus, it could be an umbrella of all financial services required for the urban poor.

### **Provision of Business Plus or Credit Plus Services**

Small entrepreneurs generally lack the appropriate management skills required for entrepreneurial activity and hence need capacity building or guidance. Thus provision of business or credit plus services would be very useful for the sustainability of the business units and it would strengthen these activities. This will impact in terms of more demand for loans and maintaining a high recovery rate.

### **More Focus on women**

There is a significant amount of literature indicating the plight of Muslim women. Due to certain systems like "pardha", low levels of literacy, lack of property, etc., these women are often excluded from traditional financial services. Rahat's own records show that women prove



to be better customers for loan and saving products. Other studies also suggest women to be better customers of financial services. Rahat should ensure it focuses on female clients as they require these services urgently.

#### **Training and Capacity Building of New Leadership**

The skills developed by current stakeholders at various levels in this model, like the governing board members and volunteers at the community level, need to be documented. Simultaneously, the next generation of leaders and volunteers at the community level needs to have systematic training to establish and sustain this model of financial inclusion of the urban poor. The leaders and the volunteers appear to be the backbone of this model. Thus, their capacity building will be very necessary.

#### **Learnings**

The urban poor need financial services to fulfil their consumption needs as well as to support creating employment opportunities for themselves. As the urban poor do not have assets and the scale of their business activities is very small, the traditional financial services are not interested in providing the need based services for them. However, the urban poor market is significant and there is considerable business potential for service providers. The Muslim population in India is excluded from accessing financial services because of the Islamic system of not giving and receiving interest. The poverty level among this minority group is also high.

At present, the Indian banking sector is facing problems in loan recovery and the rate of NPA is increasing. Rahat is a totally community based model and uses social capital as the base in dealing with the financial needs of customers.

Their continued high recovery rate of loans suggests that this model is effective. Involvement of community members help avoid adverse selection and cantoris the potential moral hazards of repayment. In-depth analysis of some borrowers has shown that after starting with consumption loans, they then took loans for entrepreneurial activities. A sustained supply of credit has helped to stabilize their income generation activities and they have eventually left the poverty trap and can enjoy a decent standard of living. As community is involved in this model, it is proving to be more successful. Currently there is significant discussion on people's participation in the development process. Through the Rahat model, it can be said that people can be involved in creating and effectively using financial services which arc crucial in dealing with poverty. As discussed previously in the literature review section, such community based models in other parts of the world are also showing significant success in providing financial services to the poorer members of society. As India contains such a diverse population, local or regional based interventions will be the most appropriate and useful. Rahat has assessed the landscape and has accurately understand that rather than further expansion, it is most valuable to the urban poor by sharing its knowledge and guiding other financial services organizations.

Rahat presents a model of providing financial services, which are aligned to the Islamic faith system, to a Muslim population. The model is also showing sustainability and replicability. Rahat has also demonstrated that a religious value system can also be used very positively to create supportive systems for poor people. Additionally, as Rahat has avoided religious places, it has been successful in connecting to the urban poor from other religious groups.

The Rahat model is also showing potential scope for further research, such debt swapping for poor people and poverty reduction, the continuous supply of small amounts of loans to the urban poor leading m poverty reduction and increasing standard of living, etc.

### Conclusion

Rahat has shown successful progress in providing interest-free loans to the urban poor and also proved that the interest-free deposit mobilization is also possible. The community based borrower, identification and recovery process has also illustrated that default can be reduced considerably. It also proves that appropriate religious values can be used to create support for poor people. Rahat has created a community based financial support system for the urban poor. It also indicates that the faith of one religion can also be effectively used to support Rahat means relief. It is not only bringing “relief” w the urban poor irrespective of their religions. As one of the female borrowers explained, Rahat not only relief to her family’s life, it has brought “barkat” meaning prosperity. She says, “Earlier, all additional income used to go to pay the interest to money lenders. Rahat helps to save our money and now my family has a better condition as my hotel has new investments. Rahat has brought ‘barkat’ to my family”.

She further pointed out, “Now I am introducing other needy persons to Rahat so they will also have a better situation as this is the best service to God”.

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# Islamic Banking and Finance in India: Opportunities and Challenges

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## Introduction to Islamic Banking

Islamic banking has been flourishing for more than sixty years since its foundation. The concept of Islamic banking is no more enigma in India and rest of the world. The products and services produced by Islamic banking and financial institution are highly accepted, not only Muslim countries but also in non-Muslim countries. Most of the literature on Islamic banks asserts that, basically, Islamic banks perform functions similar to conventional banks. However, their approach is different (Alimad, 2000; Chapra, 2000; Iqbal and Molyneux, 2005).

Manzor Kahf (1999, p. 445) has quoted that some writers would describe Islamic banks as more than mere financial institutions, the fact remains that an Islamic bank is actually much like a conventional bank, in that it is a full-service financial intermediary. By definition, an Islamic bank abides by the Islamic law, called the Shariah. A bank's commitment to the Islamic law is expressed only in the definition of its modes of financing and its contractual relations with suppliers of funds." Lewis and Algaoud (2001, p. 2) defined an Islamic bank as: "A financial institution that provides a service to, its customers free from interest, and the giving and taking of interest is prohibited in all transactions." Dar and Presley (2000, p. 7) defined Islamic banking in following words:

*"Like conventional banks, an Islamic bank is an intermediary and trustee of other people's money with the difference that it shares profit and loss with its depositors. This difference introduces an element of mutuality in Islamic banking, making its depositors as customers with some ownership rights in it. However, in practice most Islamic banks have an organisational set-up similar to their conventional counterparts."*

Nathan and Ribiere (2007) pointed out that the banking operations of Islamic banks are based on Islamic principles. Thus, Islamic banks can be differentiated from conventional banks in three major aspects:

- (1) Foundation
- (2) Management
- (3) Products.

Lewis and Algaoud (2001) and Nathan and Ribiere (2007) highlighted five major elements that Islamic banking and finance its distinctive religious identity:

- (1) Riba is prohibited in all transactions;
- (2) Business and investment are undertaken on the basis of halal (legally permitted activities);  
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- (3) Transactions should be free from gharar (Speculation or uncertainty) and maysir (gambling);
- (4) Zakah is to be paid by the bank to benefit society
- (5) To ensure that all activities are in line with Islamic principles, a special Shariah board supervises and advises the bank on the propriety of transactions.

### **Characteristics of Islamic Banking**

Riba or interest is the common factor that differentiates Islamic banking from conventional banks. One of the reasons for the establishment of Islamic banks was to avoid interest in banking transactions (Samad and Hassan, 1999). Much of the literature states that one of the major reasons for the establishment of Islamic banking was to provide an interest free Banking system. Interest in Islam is defined as predetermined return on capital (Nienhaus, 1986). Interest refers to the addition to the amount of the principal of a loan according to the time for which it is loaned and the amount of the loan. Rosly and Bakar (2003) indicated that interest might occur as a contractual increase arising from a loan, whether in money or barter. With riba/interest, there is no risk of loss (Gerrard and Cunningham, 1997). Ahmad and Hassan (2007) defined riba based on the Shariah and Fiqh perspectives. Riba in the Shariah technically refers to the premium that must be paid by the borrower to the lender along with the principal amount as a condition for the loan or for an extension in its maturity. In the Fiqh, riba means an increase in one or two homogenous equivalents being exchanged without this increase being accompanied by a return.

Ariff (1988) and Ahmad and Hassan (2007) pointed out that prohibition of interest is mentioned in four different revelations in the Quran. First, the Quran states that interest will deprive the one taking it from the wealth of God's blessings. Second, imposing interest is wrongful and inappropriate. Third, Muslims are enjoined to avoid interest for the sake of their own welfare and last, a clear distinction is established between interest and trade. The prohibition of interest is also cited in the Hadith. (the sayings of the Prophet).

Interest is prohibited in Islam due to its negative effect on society and the economic system. Interest is viewed as an act of exploitation and injustice and as such is inconsistent with Islamic notions of fairness and property rights. Siddiqi (1983) discussed the serious consequences of bank financing based on interest. A business may incur losses arising from difficulties in repaying both the principal and the stipulated interest, and have to make up the deficiency from its assets. This is why the concept of interest is related to injustice. "If the results of the enterprise are uncertain due to the nature of the world, the supplier of capital should be guaranteed a fixed positive return rather than the burden of uncertainty, in the form of loss, falling entirely on the entrepreneur." The same situation is faced by the lender (depositor) in a conventional bank, especially, when the return on their deposit, which has been channelled by the bank to entrepreneurs, is not commensurate with the actual performance of the investment (Lewis and Algaoud, 2001) Thus, the prohibition of interest is Islam's response to arresting social imbalances arising from inequitable distribution of income created by the credit system.

### **Historical Background of Islamic Banking and Finance**

The earliest instances of Islamic banking can be traced back to the time when the Prophet Muhammad (Peace be upon him), himself acted as a trading partner with his wife, who was already a wealthy and a rich business widow at the time of his marriage with her. He used to take her merchandise from Makkah to Syria and bring in rich profits due to his high levels of integrity and business acumen. However, the commencement of the formal Islamic banking system was with the advent of Mit Gharnr Savings Bank in as early as 1963. It was only during the mid-seventies that the first private commercial bank was established in Dubai. The establishment of regulatory bodies such as Accounting and Auditing Organization for Islamic financial institutions (AAOIFI) in the 1990s and Islamic Financial Services Board (IFSB) in 2002 to oversee the standardization of the banking practices of Islamic methods of finance has also contributed to the growth of Islamic financial institutions across the globe.

### **Islamic Banking in India**

About 170 million Muslims live in India. A considerable number of people from Muslim population are generally reluctant in doing business with the present banking system. There are certain other people also who are also not comfortable with the present system. They will be able to do their business according to the Islamic Guidelines of Banking. After Indonesia the maximum number of Muslims live in India and they maintain some distance from commercial banks. Banking experts say that the Muslim population will also benefit from the Islamic Banks and they will also be able to improve their economic conditions and this system must be helpful in eradicating poverty among Muslims and will certainly help in their overall uplift.

### **Current Position of Islamic Banking**

Indian financial institutions are broadly classified into two - Banks and Non-banking Financial Intermediaries (NBFIs) based on the Banking Regulation Act of 1949. Our conventional banking has to be necessarily be based on interest and thus banking without interest is prohibited in the nation. However, the banking law does permit the Islamic finance to work out their operations as an NBF1 under the direct supervision and control of RBI. However, the functions and operational freedom of NBFIs are limited. Besides many changes in regulations over a span of just a few years, acted as a barrier for the NBFIs in general and for Islamic NBFIs in particular to grow and prosper. Many corporate and Asset Management Company of the country has been showing their favour to Islamic finance industry since last few years. The country's major corporate giants like Tata and Reliance, to name a few have introduced Shariah compliant mutual funds. The Bombay Stock Exchange in collaboration with the Taqwa Advisory and Shariah Investment Solutions (TASIS) launched an Islamic Index in 2010 to attract Muslim investors from India and abroad. The index was called BSE T ASIS Shariah 50 Index and it allowed investors to trade in the stock markets without violating the Islamic code on investment and finance.

In May 2013, Bombay Stock Exchange (BSE) and Standard and Poor's (S&P) Dow Jones Indices announced the launch of the S&P BSE 500 Shariah index, the first new index resulting from the strategic partnership formed between the two companies. The S&P BSE 500 Shariah index was designed to represent all Shariah compliant stocks of the broad S&P BSE 500 index. The Index serves as an important role in measuring the performance of the Shariah-compliant stocks from the universe of S&P BSE 500 Index. With the coming up of this index the BSE T ASIS Shariah 50 Index was discontinued. A very significant and positive step towards developing Islamic banking and finance in the country came in August 2013, when RBI allowed Kerala based Non-banking financial company Cheraman Financial Services - to operate in Shariah-compliant mode, with the Kerala State Government also having a share in it.

### **Global Demand for Islamic Banking**

The global financial crisis of the previous decade exposed the weaknesses of the conventional banking and financial system and highlighted the strengths of the Islamic banking. This crisis forced the stance of many nations like USA Singapore, Japan and Hongkong to change their banking laws to accommodate the smooth operation of Islamic banks in their countries, which were affected less by this crisis. This resulted in many international banks and non-banking financial companies opening new windows of banking that operated according to the Shariah law. Banking giants like HSBC, Citibank and Standard Chartered made huge efforts to promote the Islamic financial system in these nations.

## **Benefits of Islamic Banking**

### **A. Efficiency**

In the conventional banking system, the loans are given to those who are more credit-worthy. The banks get a pre-determined rate of interest, irrespective of what profit the business generated because of that loan. In contrast, in an interest-free banking, loans go to finance projects expected to be most productive and/ or profitable and not to those who are most credit-worthy. This is more efficient because the savings are directed towards the high-yielding investments.

### **B. Stability**

An interest-based financial inter-mediatory system is believed to be more unstable. This is primarily because of lack of synchronization between a firm's payment obligations to the banks and of expected profits or revenues. Payment of pre-determined interest obligation is fixed at specific intervals but the revenue generation amount and timings are uncertain. Inability to make interest payments may destabilize the system. Islamic banks overcome this drawback of the conventional banking by linking the payment obligation with the revenue generation and thus increases stability.

### **C. Justice**

In a conventional banking system, businesses bear the risk as costs are incurred on expectations of profits which may or may not accrue. The owners of money are guaranteed their principal as well as interest. This is unfair as all risk is borne by one party and the other enjoys a risk-free return on their capital. Islamic banking, on the contrary, suggests that those who seek to earn a profit must also expose their principal to risk, for the only way to earn money on money is to do it through enterprise. An option in Islamic banking is that principal is guaranteed only in case when zero returns are stipulated. Otherwise, if someone expects to receive a return on the capital, then he should use it himself or let someone else use it in trade or industry etc. and share the return as well as the risk.

The interest based finance is unjust. In this system, one party bears the risk while the other enjoys a risk-free return. One party may be loosing but the other continues to earn more and more money, this leads to concentration of wealth. In contrast, in Islamic banking, the risk and returns both are shared.

### **D. Inclusions**

Islamic Banking can be introduced for more inclusive growth. Islamic banking can give equitable growth along with control over inflation. Unfortunately India houses the highest number of financially excluded adults in any single country, 21 percent of the world's unbanked population. Financial inclusion is more explicitly emphasized in Islamic finance as compared to conventional finance. The reasons why Islamic finance scores better than the conventional finance to enhance financial inclusion is because it is interest-free and risk-sharing of wealth and redistribution of wealth can be called two pillars of Islamic economics.

### **E. Increase Investments**

India is a developing country and needs huge investments. Investment framework is favourable in India. India's legal framework, which is the best in the region and it protects foreign investors. Also, the economies of neighbouring Islamic countries have limited opportunities. India has abundant managerial and technical skill too. If India introduces Shariah-compliant banking, it can bring in more Arab petrodollars into the country. The western countries have also adopted Islamic banking to attract petrodollars. Introducing Islamic banking will not only please

175 million Muslims living in India but will also attract Non-resident Indian Muslims to invest in India. All this will make more money available for investments.

### **Challenges to Islamic Banking**

#### **A. Regulatory and Financial Challenges**

Politics is a powerful tool in the governance of Economy. A part from politics there are some regulatory barriers to contend with. Firstly, a bank in India cannot raise deposits without promising a specified rate of return to depositors, but under Shariah, returns can only be determined post-facto depending on profit; secondly, banks have to maintain a statutory liquidity ratio (SLR) and (CRR) Current Reserve Ratio, which involves locking up a substantial portion of funds either as cash reserve in government securities. "Cash does not provide any return; keeping it in gold is risky as it could depreciate; and government securities are interest bearing, which is unacceptable under Shariah.

These two issues make Islamic banks unviable at present. The other hurdles involve restrictions on equity investment (the primary investment avenue in the Islamic system is based on equity and trading and banks are not allowed to involve in any business. How banking business requires licencing from RBI and RBI need a huge deposit for the licencing.

#### **B. Unequal Treatment of Debt and Equity**

Under the existing rules in India, interest is exempted from tax while dividends are taxed. In an Islamic financial institution, the capital is equity based as it is operating through profit and loss sharing. This therefore is a big disadvantage for Islamic financial companies as compared to other conventional financial firms.

#### **C. Lack of Islamic Insurance**

Islamic banking and financial firms develop a sense of insecurity and lack of confidence as there is no provision of deposit insurance and credit guarantee unlike conventional commercial banks and cooperative societies which have these facilities. Besides non-availability of Islamic insurance schemes, lack of interest free instruments, undeveloped Islamic primary market and non-existence of secondary market for Islamic product are some other serious problems of Islamic financial firms.

#### **D. Lack of Transparency**

To promote and restore confidence of investors there should be transparency in profit distribution, financial documentation and compliance to both the government's as well as Shariah rules. However, Islamic financial firms have not been able to meet these expectations. There is always a fear of misreporting of profits by borrowers. Besides, there is no heavy penalty for defaulters, and hence again a fear of its misuse.

#### **E. Lack of Credit Rating Agencies for Islamic Financial Institutions**

There are many credit rating agencies for the conventional financial firms but there is no such rating agencies to rate the Islamic financial firms. This leads to lack of confidence among the investors.

#### **F. Lack of Qualified Shariah Experts**

The lack of qualified Shariah experts only increases the woes of the investors to check if any firm is actually operating as per Shariah law

### **Conclusion**

Islamic banking is one of the fastest growing sectors in the world. It has overtaken the speed of conventional banking industry. According to Banker Magazine report, more than 600 Islamic financial institutions are working across America, Europe, Africa and Middle East.



However, 15% to 20% growth rate recorded in Islamic banking industry. According to market intelligence and data analysis services provider by Grail Research that India has the potential of an emerging market for Islamic banking institutions. A favourable change in regulatory environment and increased awareness among Muslims and India as a whole may pave out the path for Islamic Banking in India. As per the census, India has the second largest Muslim population in the world but a large portion of this has not been able to access the banking services. Emergence of Islamic banking induces economic development and better future for many people deprived from banking.

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# Child Sexual Abuse: the Conspiracy of Silence

Theme of Two days Colloquium on Family Institution- Ideas, Practice and Impact

Organised by- Research Academy of Social Science, (RASS) Mumbai In collaboration with Internal quality Assurance Cell of (IQAC), Maulana Azad College of Arts , Science & Commerce, Dr. Rafiq Zakaria Campus, Rauzabagh, Aurangabad.

## Abstract

Human rights violation is least prosecuted crime and is threat to peace and development. Rights are not luxuries therefore it cannot be separated from the needs of individuals. Women and child rights are at the heart of human rights as it deals with dignity, equality, peace & security. It is unthinkable that young children's are subjected to almost all forms of abuse in our state & country. Even an infant of five months is also get raped. Thus the need of an hour is to understand the extent, nature, causes & consequences of various forms of child abuse and understand how abuse is socially & legally constructed and dealt with.

Child does not have language to describe their experiences, family keep mum to protect their honors, society have never allowed them to voice their fear, and we have to proceed from silence about the abuse to awareness, rather burying the abuse pretending that it never occurred or happened. Thus child abuse needs multidisciplinary intervention and its services need to adopt multidisciplinary approach. The nodal points for intervention of child abuse are police, hospital, court and educational institutions are to be involved to fight against child abuse and needs to contextualize within an understanding of the family and civil society with it political, economic, legal institutions. Against this backdrop and role of university teachers is not just teaching but making public awareness.

**Introduction- Children's** are not able to talk about their abuse & violence because our society Never allows them to voice their fear; this false notion of shame is the single largest culprit in perpetuating child abuse in every society. If we see the legal and social construction of child sex abuse, we will understand the sexual offences is defined in the context of feudal patriarchal relationship's.i.e. offence of rape is defined within the parameters of proprietarily rights of male over female with the confines of virginal penetrating &sex purity, therefore child's sexual act does not find any specific mention in India Penal Code. Sexual assaults are frequently perpetrated against women and girl child therefore it is important to understand what kind of preventive services will help us to find out solutions in the areas of violence and abuses. All human beings are born free and equal in dignity and the violation of human right poses serious consequences for current and future generation devaluating the efforts to ensure peace and security to achieve Millennium development goals. Women's equality and child rights are very near to the heart of Human rights and values to life with dignity, equality, peace & security.

## Objectives of Study

- 1) To analyze the provoking factors that sparks domestic violence.
- 2) To study harmful effects on children's exposed to Violence
- 3) To identify the social and legal context of child abuse
- 4) Find out socioeconomic and age profile of victims and offenders.

## Methodology

To study of occurrences of Domestic violence and child sexual abuses both the qualitative and quantitative methods are used but more emphasis is given on the narration of case studies. Authentic data of police department and district court is also used to see the impact.

More than 603 million women live in countries where domestic violence's is not yet considered as a crime, 60 millions girls worldwide are child brides, in many societies sexual violence's remains the issues of deep shame for women and individuals. Violence in every society has regained the nature of Omnipresent and irrupts more intense than right behind the doors of our homes and all across our country, people are being tortured ,beaten and killed and is occurring everywhere, It is crossing all social classes , genders, racial lines and age group. It has become a legacy is being passed from one generation to another generation.

The most common cause of women stalking and battering includes dissatisfaction with the dowry and exploiting women for more of it . The greed of dowry, desire for male child , infertility in females, indulging in extra marital affairs, neglecting children's and not giving correct or complete information to their partners. The Tandoor murder case Naina sahani in new Delhi in the year 1995 is such dreamful incident of a women being killed and then burnt in Tandoor by her husband due to suspicion of extra marital affair of Naiana One of the severe effects of VAW is that its effect her children's, It is nature's phenomenon that a child has greater attachment towards mother for she is one who gives birth. As long as violence's subjected to mother is hidden from children's they will behave normally at home. The day mother's grief and suffering is revealed , a child may become upset, Children's may not even comprehended the severity of the problem , they may turn salient reserved and express solace to mother. When violence is openly done in front of children's , this impacts their mindset, they get used to such happenings and get tendency of reciprocating in their lives the rural homes or where the space in the houses is small their children's become more victimize.

According to the latest report prepared by India's National Crime Records Bureau (NCRB) states that in every three minutes a crime is recorded against women in India, every 60 minutes two women are raped in this country and every six hours, a young married women is beaten to death , burnt or driven to suicide. Looking at the sensitive issues of DV we can sense the importance of such topic to be discussed, The causes that spark the violence within the four walls of homes needs to be analyzed carefully. We have to see closely the association of the factors provoking a particular form of DV.

**Child Sexual Abuse (CSA)** - Childs Sexual Abuse as a social problem is of recent origin therefore it has not received much attention in India. On 14<sup>th</sup> Nov 2012 Protection of child from offences of sexual assaults and safeguard interest of child at judicial process i.e. child friendly mechanism for reporting , recording of evidences , investigation and speedy trails of offences through special court. State Government under section 39 forms guidelines that within 24 hours the police should bring the child before welfare committee, than child under this act has right to life and survival , protecting the child from secondary victimization and hardship of regaining the justice.

#### **Major Aspects of child Abuse-**

- 1) Neglect, Credulity, Exploitation, Sexual assaults.

Child sexual Abuse is defined as mistreatment of children's by parents, caretaker and employees that leads to gross neglect, sadistic ill-treatment and murder. Sharing of abuse will not help them but harm so they have to learn shame, secrecy and silence.

Forms of child sexual abuses are

- 1) Kissing and touching the body parts
- 2) Oral , Anal or vaginal sexual intercourse
- 3) Pornography



- 4) Persuading child to touch the sex parts of other person
- 5) Masturbating using child as sex object
  - Differences between contact and non contact abuse
  - Non contact abuses** are as follows
    - 1) Voyeurism- Obtaining sex satisfaction by Observing children’s who are naked or undressed , however it does not involves relationship
    - 2) Exhibitionism- Exposure of genital or child is made to watch the sexual activity
    - 3) Pornography- Children’s are exploited for the use of pornography
  - Contact Abuse** is
    - 1) Foundling- Touching the body parts of the body
    - 2) Masturbation- children’s are made to rub the genitals
    - 3) Penetration- Objects are inserted in viagin and Anaus
  - Oral Sex**
    - 1) Kissing- Kissing sounds innocent and affectionate towards children’s but it is highly sexualized and frightening for children’s even some times breast id kissed , sucked and bitten
    - 2) Fellatio- oral genitals sex.
    - 3) Cunnilingus- tongue is place in the vagina
    - 4) Analingus – kissing of anaus.

**Parameters for studying sexual Assaults**

**1) Place of occurrences**

Place of occurrence	Frequency of occurrence
Offenders home	10
Park and garden	02
Temples	04
Toilets	02
Victims home	-
Public places	02

This table clarifies the myth that all rape occur in dark places , the offender is known to the child and her family Under the name of taking care of child they make access to touch th girls body and authority over her . the question is does the children’s are safe and secured at home ?

**Period between occurrences and registration of cases**

Period	Registration
Within 24 hours	15
One week	3
8 days to 1 month	2
One month to one year	1

Public are aware that CSA cases are to registered within 24 hours this is highlighted from above table

1) **Distribution of cases as per law sections**

Cases under sections	Frequency
U/S 302 murder	1
U/s 342 wrongful confinement	03
U/s 363 Kidnapping	10
U/s376 Rape	05
U/s 354 outraging modesty	02

Kidnapping and rape in Marthwada is more frequently occurring abuse in most of the cases family is involved either the step mother or pathogenic family patter is responsible for such cases.

2) **Informants relationship to child**

Relation	Frequency
Mother	07
Father	05
Friends	05
Custodian	03

From this table it is narrated that maximum cases are registered by their mother it shows that even today the major responsibility of care and protection still lies in the domain and responsibility of mother.

3) **Religion of girl child**

Religion	Frequency
Hindu	09
Muslim	07
Christian	01
Buddhist	03

This is clear that girl child of different communities are sexually abused and this problem cuts across all the religious boundaries.

4) **Distribution of cases by offender's relationship to child**

Relationship	child
Neighbors	09
Father	01
Stranger	06
Unknown	04



Neighbors' who are having close intimacy with the family of girl child , their frequently interaction with the other family members that helps in building trust on the offender and he take undue advantage of doing such unlawful act with the daughters.

**5) Distribution of cases by marital status of offender**

Marital status	Frequency
Single	10
Married	04
Wife is away from home	05
Separation	01

Large number of cases of sexual abuses are occurred when the offender is single followed by when the offenders wife is away from home for shorter or longer duration

**6) Alcohol or drug dependency of offender.**

Alcohol or drug dependency	Frequency
Use of drug	06
Use of Alcohol	10
Data not available	04

Alcohol is the causal factor and alcohol is used by the perpetrator as an excuse.

Many activities of **sexual assaults by minors** bring to light inadequacies of family functioning which threatens the traditional glorified family image; it could be narrated by following examples.

- 1) Ashis 14 year's boy has raped three years sunita after inquiring he said I have done this act and knew about this through films.
- 2) Adolescent boys are committing rape on young girls under the age of ten years by pouring coconut oil in girl child vagina to lubricate it for smoothen the passage for penetration. They have their plan of action for hiding the crime.
- 3) Ram has seen his friend sham sexually abusing his cousin of seven years so shayam has entered into bargain with Ram, now the cousin is abused by Ram and he will keep quite about Sham's act.. Such trade off reflects upon our culture which upholds unequal power relations between sexes. In contemporary society we can see two trends explaining the motive behind sexual assaults on women and girls. Sexual assault is an act of violence against women and girls to establish supremacy or power or authority of man. The other trend is the sexual nature of the aggressive act is the acknowledgement that men had sexual urge and the sexual satisfaction was one of the goal of assault. More over violence is seen as violence against women and violation of her human rights. Therefore relation between sexes is socially organized and constructed and reflects the imbalanced power relations. India is characterized by conspiracy of silence, silences is generated out of lack of acknowledgement, the most unfortunate part is the society attaches the stigma of CSA only to the victims who is sexually abused. It is important to map how and what they know and think about the crime in family and families will be helping in designing the future strategies in context of CSA.

**Conclusions**

The cause of abuse cannot be simply located in psychopathology, but involves number of social factors, such as poverty & isolation; therefore breaking the legacy of violence of

romanticizing family life and mythologizing normal relations between parents and children's as respectful and harmonious. Child's sexual abuse needs to be contextualized within an understanding of family and civil society with its political, economic, and legal institutions. Child's sexual abuse cuts across all categories of class, caste, religion, educational background, and age, both of victim and the offender. We need different yardsticks to understand CSA and different skills to record the statements. We have to create a culture where sexual harassment is not tolerated? It is better to learn, know, and put an end to unlawful practices before it costs you. There is no excuse for violence against girls and women.

Transform narratives around the role of men to the issues as a part of the solution and not as a part of the problem. Start listening to what women are saying and not what you want them to say. Stop demeaning the feminine by saying things like "bitch" or "Ho". Teach your daughters and sons about fair and respectful treatment of girls & women; no matter how a woman is dressed, it is not an invitation to any man to mistreat her. Efforts are needed in areas of awareness, sensitization, and behavior change, speaking about sex, sharing with parents, destigmatization, and legal literacy among young adults. Sexual abuse that occurs within the family is of a hidden and most secretive and difficult type of abuse for children's; therefore, Child Sexual Abuse should be considered as a Public Health Problem and must be addressed with a sense of urgency. The toxic social environmental factors like violence, poverty, unemployment, poor housing, chaining pattern of family structure, formation of marriage and living relationship, ability of family to adapt to changing circumstances are reasons leading to sexual abuse. The epidemiology of child maltreatment, physical & sexual abuse, neglect, and the social taboos of treating the abused child as the perpetrator of abuse must be treated if the risk of re-abuse is to be rendered. It is the responsibility of teachers to stop child abuse and think about the ways of healing, helping the child to talk about their experience, provide emotional support, and help them by giving the helpline number 1098.

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# "DIVORCE" IN CONTEXT WITH INDIAN PERSONAL LAWS

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**Abstract :**

Marriage is a sacrament in Hindu and it is contract in Muslim. It is an accepted principle from ancient era that marriages are made in heaven. But there are some situations where such marriages also would come to an end i.e. „Divorce . Divorce was not prevalent in ancient time but now it is use to practice amongst new generation. Therefore our Indian legislator made different legislations and provisions on the basis of religion such as Hindu, Muslim, Christian and Parsi regarding separation of marital divorce. This paper only speaks about the Divorce provisions under different personal laws as well as maintenance.

**Key Words:** Introduction, objective of the study, personal laws and grounds for divorce, Hindulaw and divorce, Muslim law and divorce, Christian law and divorce, Parsi law and divorce.

**INTRODUCTION:**

Marriage is an institution which evolved out of gradual processes. Though it was initially based on practice, it finally entered into the state of legal recognition. Generally speaking marriage is the act of marrying that confers status on a union man and women, for some legal process.<sup>1</sup> At the point when a marriage separates, the separation law gives lawful answers for the spouse and the wife who are not ready to determine their conjugal issues by common participation. Divorce is the legitimate disintegration of marriage. A Divorce is among the most horrible adversities for any couple.<sup>2</sup> Therefore this paper has explained about different aspect of divorce under personal laws in India.

**1) OBJECTIVE OF THE STUDY: -**

The objectives of the paper are:

- 1) To study about Divorce laws in India as per personal laws.

**2) PERSONAL LAWS AND GROUNDS FOR DIVORCE a. Hindu law and divorce:**

Marriage was availed recognized institution in ancient India, its ideal being very high. In ancient Hindu laws, marriage was conceived as sacramental union; and a sacramental union implies that it is a permanent union which cannot be dissolved. According to Manu, a husband and wife are united to each other not merely in this life but even after death, in the other world. Polygamy involves an accepted practice and there was no limits on number of women Hindu man could marry.<sup>3</sup> The Hindu Marriage Act, 1955 reformed the Hindu law of marriage. The Act does not use expression “sacramental marriage” but speaks of Hindu marriage solemnised in accordance with the customary rites and ceremonies of either party. Hindu marriage Act laid down different conditions for valid marriage such as monogamy, mental capacity of both the parties, age of the parties, degree of prohibited relationship and subpoenas relationship, ceremonies, registration and restitution of conjugal rights etc.

On the other hand the Hindu marriage Act, 1955 declares the right of either spouse to a marriage to obtain judicial separation and provides a procedure for the same. Though such a remedy for obtaining judicial separation was unknown under Hindu law, the courts of British India by their pronouncement established that the suit for judicial separation is maintainable on certain grounds. As consequences, The Divorce Act, 1869 was passed and was made applicable



to all communities in the country. By the Marriage Law Amendment Act 1976, section 10 of the Act was radically changed and now the grounds for both the husband and the wife are the same as the ground for the divorce contained in section 13(1) of the Act. They are adultery, cruelty, desertion, conversion, unsound mind, mental disease, incurable leprosy, renunciation of the world, presumption of the death and failure to comply with the decree of restitution of conjugal rights etc. all these grounds are available equally to the husband and the wife.<sup>4</sup> Apart from the aforementioned grounds, or Hindu wife may invoke any of the following grounds available exclusively to her, namely, the marriage by husband, husband being found guilty of rape, non-resumption of cohabitation in spite of the decree of maintenance of wife, an option of puberty. These provisions place Hindu wife on a highly pedestal than Muslim or Christian wife.

Hindu marriage Act, 1955 also speaks about maintenance. This Act makes provision for *grand of maintenance pendente lite* and expenses of proceedings to either spouse, and makes similar provisions regarding payment of permanent alimony and maintenance.<sup>5</sup> The object of this provision is to ensure that the parties to the proceeding does not suffer during the pendency of the proceeding by reason of his or her poverty.

#### **b. Muslim Law and Divorce:**

**Marriage “nikah”** in case of Muslim, religion and law are indissolubly bound and it cannot be said that marriage is not a religious rite. According to established tradition of prophet, marriage is considered to be a religious duty, Although the Muslim conception of marriage differs radically from the original Hindu conception which provides for Indissolubility of marriage even after death.<sup>6</sup> There is not much significance of the matrimonial relief of judicial separation in Muslim law because unbridled powers are given to Muslim husband relating to divorce. The law however recognizes certain ground where the wife refuses to leave with the husband and will be entitled to judicial separation. *Talaq* means repudiation of wife by husband in exercise of the absolute power which the law has confirmed on him.<sup>7</sup> The term *Talaq* in its original sense meaning repudiation or rejection; but under Muslim law, it is a release from the marriage tie, either immediately or eventually. As per Muslim laws grounds of *Talaq* are death of parties, by single pronouncement when the woman is in a state of purity (*Ahsan*), *Talaq* by mutual consent etc. but after passing of dissolution of Muslim Marriage Act, 1939 Muslim woman may obtain decree of divorce on certain grounds<sup>8</sup> such as the husband have not been known for a period of 4 years, the husband has neglected or failed to provide for her maintenance for a period of two years, the husband has been sentenced to imprisonment for a period of seven years or upward, the husband has failed to perform, without reasonable cause, says marital obligations for a period of three years, the husband was important at the time of marriage, the husband has been insane for period of two years and the husband treated her with cruelty etc. In this way Muslim wife can get the divorce from her husband on the above grounds.

Muslim Law also speaks about maintenance in case of divorce. As per *Hedaya* all those things which are necessary to the support of life such as food, clothes and lodging may confine it solely to food. Thus a person is entitled to maintenance if he has no property, when it is related to obligor within prohibited degree and when obligor is in a position to support him. In Muslim law wife, descendants, descendants and other relations are entitled for maintenance. Wife can get maintenance under two years firstly maintenance during suggestions of marriage and maintenance on divorce. Therefore the Muslim law is also supporting the provision of maintenance.

#### **c. Christian law and Divorce:**

The law relating to solemnization in India of marriages of persons professing Christian religious was spread over two acts of the English Parliament and three acts of the Indian legislature. To reduce into a smaller, pass and to simplify the then prevalent law on this subject by the consolidation of different enactments, the Christian Marriage Act, 1872 was passed.<sup>9</sup> There are a number of enactments in India that deal with Christian marriage and matrimonial causes. However, legal experts are of the opinion that the law relating to Christian marriages is deficient and that is lack of coherency. The divorce Act, 1869 regulates the law relating to divorce of person professing the Christian religion and also other matrimonial causes. The Act is applied if one of the parties to the proceeding is of Christian. Section 10 of the Act provides the ground on which a husband or a wife may petition for dissolution of marriage. The divorce Act enacted a century ago contained certain harsh and discriminatory provisions. Thus, a need for reform in the divorce Act was long felt by jurists and even by the Supreme Court and the Law commission. The constitutional validity of section 10 was again challenged in *M.S. Zachariah V. Union of*

*India*<sup>10</sup> where the court directed the union to take a decision towards amending the Act within 6 months. The Indian Divorce (Amendment) Act, 2001 was passed by which certain amendments were introduced in the Act. New section 10-A was inserted. So the grounds of divorce are adultery, ceased to be Christian by conversion to another religion, unsound mind, suffers from leprosy, suffers from venereal disease, not been heard for period of seven years, willful refused to consummate marriage, desert the petitioner for at least two year etc. Even they can take divorce by mutual consent and liable to claim maintenance.

#### **d. Parsi law and Divorce:**

Parsis are governed in the matter of marriage and divorce by the Parsi Marriage and Divorce Act, 1936. This act has been amended by Parsi Marriage and Divorce Amended Act, 1988 to change the provisions which were discriminatory nature. The Act lay down that in any case in which consummation of marriage is from natural causes impossible, such marriage may, at the instances of either party thereto, be declared to be null and void.<sup>11</sup> Any marriage may be dissolved on certain grounds such as the marriage has not been consummated within one year, after solemnization, unsound mind, the defendant was at the time of marriage pregnant by some other person, cruelty, the defendant is undergoing a sentence of imprisonment for seven years, that the defendant has deserted the plaintiff for two years, the defendant has ceased to be a Parsi by conversion, there has been no resumption of cohabitation as between the parties to the marriage for period of one year, there has been no restitution of conjugal rights etc.

Further the Parsis law Amended Act, 1988 provides for the payment of alimony to the wife and her trusty.<sup>12</sup> It says that in all cases in which the court shall make any decree or order for alimony, it may also direct that the same be paid either to the wife herself, to the trusty on her behalf to be approved by the court.

#### **Conclusion and suggestions**

On the basis of above research paper it has been concluded that divorce is granted and legalized in every personal laws with proper grounds for divorce as well as maintenance amount to the wife and husband. There are so many cases which are still pending in lower judiciary regarding maintenance and due to delay in adjudication of matters create hurdles in life of both the parties. Therefore it has been suggested more court should have been open to dispose of such kinds of cases as early as possible. Second suggestion is that, court should arrange such

kinds of councilors that they should try their level best to solve the dispute between the parties amicably and inspired them to start their marital life again rather than go for divorce.

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# Family institution-idea, concept and impact

Ansari ZartabJabeen

## Abstract

Families have long been endorsed as a basic building block of a strong and vital society. The importance of family will likely never change. The family of Today varies from house to house; it is very complicated to define a family of today. The role of family is important in every society because it is the main foundation and structure of society itself. With modernization the concept of family institution has undergone transformation and the impact is witnessed in many spheres. The present research aims to analyse the changing concept of family institution and its impact on society. The research focuses on understanding the importance of families its functions and types and impact of transformation of the concept in modern times. The research is explanatory in nature and non empirical method is adopted and data presented will be based on secondary sources such as: scholarly articles, blogs, news paper reports, books, magazines and websites.

*Key words:* **Family Types functions Contemporary issues**

“Family is a universal concept, the sexual urge of men and women, the desire of a woman to bear a child, of a man to perpetuate his line and of the both to look after their procreation, coupled with the desire of economic security for leisure and for pleasure on the basis of division of labour may have contributed to the origin of the family”.

**J.L. Rachroo**

## Introduction :

The word family is said to have been derived from the Roman word ‘famulus’ meaning servant and from the Latin word ‘familia’ meaning household<sup>1</sup>. The modern era has witnessed numerous transformations of prevailing concepts of family in Western society. Family systems theory is one that suggests that individuals are best understood in relation to their family system, that families are systems of interdependent people, none of whom can be fully understood in isolation from the system or from one another.<sup>2</sup> Family has been recognized as a basic unit of society and is a link between individual and community. A number of changes have been observed in the patterns of marriage such as age at marriage, inter-caste marriage, etc. A relative increase is noticed in divorce cases in urban areas. It was quite common in the past but at that time families were more stable and provided adequate security in terms of physical, social and emotional needs. Current trends indicate that there is a definite change in the basic system of family, especially the role of elders and disharmony in husband-wife relationship. Divorce rates are testimony to the increasing fragility of husband-wife relationship.<sup>3</sup>

## Definitions of family

MacIver defined family as “a group defined by sex relationship sufficiently precise, and enduring to provide for the procreation and upbringing of children.”<sup>4</sup>

Eliot says” Family is the biological social unit composed of husband, wife and children.”<sup>5</sup>

Nimkoff says “Family is a more or less durable association of husband and wife with or without child, or of a man or woman alone, with children.”<sup>6</sup>

According to the Bureau of Census (U.S.A.), "Family is a group of two or more persons related by blood, marriage or adoption and residing together".<sup>7</sup>

The Vanier Institute of the Family defines "family" as, "Any combination of two or more persons who are bound together over time by ties of mutual consent, birth and/or adoption or placement and who, together, assume responsibilities for variant combinations"<sup>8</sup>

### **Functions of family**

MacIver has classified the functions of family into two types: (1) Essential or primary and (2) non-essential or secondary.<sup>9</sup>

The essential primary functions include:

- (1) Stable Satisfaction of Sex need<sup>10</sup>
- (2) Reproduction or procreation<sup>11</sup>
- (3) Protection and care of the young<sup>12</sup>
- (4) Socializing Functions<sup>13</sup>
- (5) Provision of a home<sup>14</sup>

### **The non-essential functions of family are:**

- (1) Economic function<sup>15</sup>
- (2) Educational function<sup>16</sup>
- (3) Religious function<sup>17</sup>
- (4) Recreational functions<sup>18</sup>
- (5) Protective function<sup>19</sup>

### **Types of Family in India**

#### **Traditional Indian Family**

The traditional pattern of the family in India is that of the joint family. The traditional Indian joint family consists of a number of married couples and their children who live together in the same household. All the men are related by blood—as a man and his sons and his grandsons, or a set of brothers and their sons and grandsons; the women of the household as their wives, unmarried daughters and perhaps the widow of a deceased kinsman<sup>20</sup>.

#### **Matriarchal Family**

The matriarchal family known as mother centered or mother dominated family. The mother or the woman is the head of the family. She exercises authority and manages the property. The descent is traced through the mother hence it is matrilineal in descent. Daughters inherit the property of the mother. The status of the children is decided by the status of the mother. Matriarchal family is matrilocal in residence. After the marriage the wife stays back in her mother's home. The husband pays occasional visits to the wife's home. Few families in Kerela are examples of this type of family<sup>21</sup>.

#### **Patriarchal Family**

The patriarchal family is also known as father (male) centered family. The father is the head of the family and exercises authority. The descent, inheritance and succession are recognized through the male line. Patriarchal families are patrilineal in character because the descent is traced through the male line. Majority of families in India are patriarchal in nature

#### **Nuclear Family**

Modernization has given rise to nuclear families in India which is a universal social phenomenon. It can be defined as a small group composed of husband and wife and children that constitute a unit apart from the rest of the community. The nuclear family comprises a cohabiting man and woman who maintain a socially approved sexual relationship and have at

least one child. A major factor in maintaining the nuclear family is economic cooperation based upon the division of labor between the sexes. The structure of the nuclear family is not same everywhere.

### **Contemporary issues and impact on family institution**

Modernization has given rise to nuclear families and in India too is witnessing these types of families. Modern families varies from house to house, it is very complicated to define a family of today, it has different biological parents due to remarriages after divorce or death of first spouse, due to system of adoption children and sometimes both parents don't have any biological connections with the children but still are live as family. Inter-caste and inter religious marriages are posing challenges to personal laws as there are different family laws based on religious rights guaranteed as per constitution of India; which covers matters of personal relations and family practices such as marriage and divorce, adoption, maintenance, guardianship and custody of children, and inheritance and succession. As these laws draw from the respective religious norms, they often perpetuate traditional patriarchal norms, and slow down the process of reforms<sup>22</sup>.

Changing needs of contemporary Indian Families has affected change in family structures<sup>23</sup>. Family institutions are important for overall well being of members of family as they provide economic as well as emotional support. Families in India are undergoing vast transformation like increasing number of divorce and separation rates, domestic violence, inter-generational conflicts, social problems of drug abuse, juvenile delinquency etc. These changes indicate that modern families are incapable to deal with with the stress of the modern life.<sup>24</sup>

Children's upbringing depends upon the moral values of the family. The changing patterns of families in India are adversely affecting the family bonds. Children and adolescents are not getting adequate moral and emotional support leading them to depression and other social evils<sup>25</sup>. Children's mental health is getting affected<sup>26</sup>. Number of elderly people is getting neglected and their numbers are increasing in old age homes, they are vulnerable to economic crimes due to increasing number of nuclear families<sup>27</sup>. The 2011 census also revealed that 15 million elderly people live alone and three-fourths of them are women<sup>28</sup>. The NCRB report demonstrated that crimes against senior citizens rose by 10 percent in 2015 as compared to the previous year. A total of 20,532 cases of crimes committed against senior citizens were reported in 2015 as compared to 18,714 in 2014<sup>29</sup>.

### **Conclusions and suggestions**

Family is a universal institution, though its structure or form varies from one society to another. The traditional concept of "family" in India has transformed to a considerable extent. Families have long been considered as a basic edifice for healthy society. When the family foundation is strong the impact is positive and members are more likely to become mentally strong. Sharing of responsibilities in family inculcate values. No matter which type of family institution individual is living in what is important is emotional bonding and support. The contemporary issues discussed above reflect that the more we are getting modernized more we are degrading in morals. Hence in order to overcome the adverse affects of transformation of family institution we must not give up our values and not break the bond of kinship.

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# Homosexuality Impact and Solution

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## Abstract

Homosexuality is either frowned upon and stigmatized (as in religious societies) or condoned and encouraged as a legitimate expression of one's sexuality (as in liberal societies). Accordingly, this also has a profound effect on the institution of marriage. In societies where it is stigmatized, homosexuality is considered a disease, which is either 'cured' by marrying the person concerned in a heterosexual union, or the homosexual person himself enters into a marriage of convenience. On the contrary, in societies where homosexuality is completely accepted, the homosexual person either remains unmarried or enters into a homosexual union depending upon the laws of his country/state. This paper seeks to explore all these four possibilities and their respective consequences. It also seeks to ascertain the true drive behind homosexual behaviour and arrives at tangible solutions taking into consideration the ethical, social, psychological and religious aspects of the issue at hand. Personal interactions with homosexual persons and interviews with counsellors have been used as important tools of study, in addition to religious texts and academic literature on this topic. Although an inherent bias is present in any such topic that deals with only one particular part of society, concerted attempts have been made to keep this paper as objective as possible. Also, although homosexuality is found in both males and females, only male homosexuality has been discussed in this paper.

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- 2) Anonymous telephone conversation with a homosexual person from Kalyan.
- 3) Mr. Zafar Ansari, Preacher, Mumbra.
- 4) Dr. Danish Shakeb, Clinical Psychiatrist, Mira Road.
- 5) Mrs. Shruta Rawat, Counsellor, Humsafar Trust, Mumbai
- 6) Dr. Yasir Qadhi, Preacher, USA, via two video lectures.

## What is Homosexuality?

The definition of Homosexuality ranges from having attraction towards persons of the same sex, getting aroused by those of the same sex to having sexual encounters with those of the same sex. But we need to draw a line here between getting aroused and having sexual encounters. This is essentially because while the latter is a voluntary act, the former is an involuntary phenomenon. And we cannot equate something which is voluntary with something that comes involuntarily, right? As we all know, sexual arousal is not a deliberate act. We cannot get aroused or not get aroused at will. A man cannot decide to have an erection just as he can decide to raise his hand. It's totally different. If a heterosexual man gets aroused at the sight/smell/touch of a woman and he starts getting an erection, it happens naturally. Men just cannot decide whether they want an erection or not, and erections happen even when men don't want them, like say when they are in public. The same applies to Homosexuals. They essentially get aroused at the sight/smell/touch of a man. They get wet dreams about men. When they watch pornography they inadvertently search for nudes of men because that is what arouses them. A nude female body would not give them an erection at all. Is this voluntary? Is this deliberate? No. And it can never be. Dr. Danish makes an exception. According to him, lone voyager acts of homosexual encounters do not make the person a homosexual. Even heterosexual people engage in homosexual acts 'just of fun' or just to experience passive penetration. He regards



these as sexual perversions which do not constitute what can be labelled as 'persistent homosexual behaviour'.

Shruta, on the other hand, avers that the concept of a person's sexuality is more fluid. Nothing is black and white, she says; it is mostly grey. Between being exclusively homosexual and exclusively heterosexual, there is a wide spectrum of men who can get aroused by both, in varying degrees. Alfred Kinsey, in 1948, mentioned 6 categories in his scale, in addition to a seventh category of being asexual. So, what Dr. Danish refers to as sexual perversion, Shruta does not; she sees this as a perfectly normal phenomenon. Those who have ever engaged with or get aroused by both sexes are somewhere in that mid-range; it's just that most don't confess to it or are in denial, she believes. In fact, the most ardent and vociferous homophobes, she says, are those who are themselves homosexuals, and they are only trying to mask their sexual orientation by hiding behind their offensive façade.

#### **Is homosexuality inborn or is it a result of conditioning?**

Dr. Danish tells me that homosexuality can either be inborn or acquired. If acquired, it may be because of a past traumatic experience or because of conditioning. But since sexual orientation is visible only after puberty, the line between inborn and acquired gets obscured. Shruta, however, believes that this is just as innate as someone being left-handed.

I have spoken to a man who was contemplating suicide because he did not know what to do with himself. He could not change what was beyond his control and the society would not accept him as he was. He was a middle-aged man from Kalyan who had been forced into marriage several years back. He is now divorced and has a daughter who lives with her mother. He told me that when he was a teenager in Dubai, his parents had asked a Shaikh to cure him of his homosexuality. The Shaikh, he said, sodomized him in the hotel room he had booked to ostensibly cure him. He has been living with that mental scar ever since. He now seeks partners and engages in sex with stranger men to satisfy his carnal urges. But his overriding guilt had plunged him into depression.

Many people also get traumatized (sodomy or oral sex) by their family members like uncles or elder cousins, or by teachers. The latter is most common in boarding schools like seminaries. Dr. Danish avers that quite a few seminary students have been sexually abused by their teachers at some point in their life, and he gets many such cases. Not all sexually abused children end up as homosexuals, but those who enjoy the act are certainly more inclined towards this behaviour. If not traumatic, it might be that the adolescent boy has been exposed to male nudity during his puberty. This can be in the swimming pool or gymnasium or boys' hostel. If he gets attracted to boys or men during that age, he develops a greater preponderance towards homosexuality. Shruta insists, however, that those who get attracted to boys or men are already homosexuals from birth, and it is just that they realize this during puberty. The fact that not all boys who have been sodomized or exposed to male nudity turn out to be homosexuals fortifies her claim.

#### **Is homosexuality reversible?**

Dr. Danish explains that if the homosexuality is acquired, and he has a conflict in his mind, and he wishes to abandon it, it can be done with the help of counselling. Such people then turn either heterosexual or asexual. Hormonal treatments are available for those with inborn homosexuality, but they are not in vogue. Shruta disagrees. She rubbishes all claims of 'curing' homosexuality. She regards all forms of sexualities as normal and acceptable, and hence does not see any reason why the person concerned should be so counselled in the first place. In the

1970s, both the International Classification of Diseases (ICD 10) and the Diagnostic and Statistical Manual of Mental Disorders (DSM IV) have declassified it as a mental disorder. On 17<sup>th</sup> May 1990, the WHO declassified homosexuality as a mental disorder. The American Psychiatric Association states, "Homosexuality is not an illness. It does not require treatment and is not changeable." On the 1<sup>st</sup> of March 2016, the Indian Psychiatric Association and the World Psychiatric Association have issued position statements clearly stating that homosexuality is a normal variant of human sexuality.

As same sex attraction is not deemed a mental disorder any more, it is not 'cured'.

### **Family Life**

There are four marital scenarios for homosexual persons:

1) Forced marriage: Young men having homosexual tendencies are forced into marriage by their parents who want to 'heal' them. But, as Dr. Danish laments, such marriages cannot survive unless the man is bisexual. He narrates a case in which his patient was an engineer working for a bank. His parents, both doctors, wanted to have him married, but he is not ready for it because of his sexual orientation. He tells me that if exclusively homosexual persons are forced into marriage, the marriage breaks up just as is the case with impotent men. The bride feels betrayed, cheated, and goes into a depression. She finally spills the beans and the marriage gets annulled.

2) Shruta has a more nuanced view on this. She says that such a bride would choose to divorce her husband only if she is financially secure or independent. Otherwise, social constraints compel her to compromise and live through that marriage. Also, it might be possible that she never comes to know about her husband's sexual orientation if he falls in any intermediary category of Kinsey's scale. Moreover, even an exclusively homosexual man can manage an erection and orgasm with a lady and father a child if he wants to (by fantasizing about a man or taking sildenafil tablets) and then abstain from having sex with the wife. The wife might then be made to feel that she is not attractive enough or she just gets busy with motherhood and household chores and leads a platonic life with her husband.

3) Marriage of convenience: There are also cases in which a homosexual man himself marries a woman after telling her about his sexual orientation or by keeping her in the dark. He marries under societal pressures. In cases where the woman is kept in the dark, the marriage suffers the same end as above. But even if the woman marries this homosexual man despite knowing about his sexual orientation (for some societal need of her own, and this happens only in high societies which are too liberal), the marriage might still break down. This is because sex is essential to marriage. An asexual marriage does not stand the test of time, or it is at least an unpleasant one.

4) Same sex marriage: Though this has found some acceptability in the west, it does not have legal sanction in India. Live-in homosexual relationships are, however, quite common. But there is no fidelity in most cases, and the man ends up having multiple partners. This makes such relations unstable.

5) Bachelorhood: This is true for those homosexuals who do not marry. They might indulge in casual sexual encounters or take to abstinence owing to moral, religious, social or health reasons.

### **Religion**

There was a young man who wept uncontrollably after listening to a lecture about homosexuality being a sin. He went up to the speaker, Mr. Zafar Ansari, that evening and

confided in him that he used to ejaculate in his sleep dreaming of men and boys and that there was nothing he could do about it. He was living in a perpetual guilt for no fault of his. The speaker, a kind gentleman I personally know, tried to console him, but could not offer him any pragmatic solution. He later narrated this incident to me, and the helplessness on his face perfectly mirrored the concern in his voice.

### **Post-truth v/s Religion**

In this post-truth era of YOLO, when all paradigms of social unrest, health risks and mental perversion have been flouted by the post-modernists, the only institution or idea that stands against homosexuality is religion. Here, we shall discuss Islam's stand on homosexuality in some detail.

### **Islamic Perspective**

Islam does not punish someone for simply having a desire. Islam punishes someone only if he COMMITS a sin. This brings us to the second part of the definition- engaging in a sexual encounter with a man. It is THIS which is a sin.

Whenever and wherever the Qur'an speaks about Homosexuality, it rebukes the men of Sodom and Gomorrah for DOING the act, of having sexual encounters with other men. The Qur'an never says that those men were guilty of feeling attracted towards men. And how could it ever do so? How can it ever chastise a man for something beyond his volition when it itself says in the last *ayat* of *Surah al-Baqarah*: "*la yukallifullahu nafsan illa wus'aha*" (Allah does not charge a soul beyond its capacity)!

For a man to have sexual encounters with a man is as sinful as a man having sexual encounters with any woman other than his wife. Both are equally *zina*. Just as a heterosexual man is not allowed to get romantic with a lady who is not his wife, so also a Homosexual man is not allowed to get romantic with a man. Both have desires, and they are both required to rein in their desires. Even a heterosexual man cannot justify his act of fornication or adultery or rape saying that it was a natural instinct, can he? So it's not about having natural or unnatural desires, it is about taming your desires and keeping them restricted. This is what TAQWA is.

### **Temptation and Trial**

Islam tells us that every person on earth is undergoing an examination. And every person has his own question paper of temptations. What might be a temptation for me might not be a temptation for you. Lying, gossiping, using swear words are as much a trial for someone as having excessive sexual attraction towards someone can be a trial for someone else. Every person is required to and is expected to control HIS OWN temptation. So, a homosexual person is being tested with his desires in as much the same way as a heterosexual man is tested with his. They would both sin if they act upon their illicit desires and they would both be punished. Someone might contend that heterosexuals have a vent. They can fulfil their desires with their wives. But are all rapists bachelors? Do married men not have illicit affairs? And what about unmarried men? Students, for instance. Are they not expected to control their desires for several years after they cross puberty? So marriage is not an excuse. Married men also sin, and not being married is also not a justification for having sinned. Also, as Dr. Yasir Qadhi aptly puts it, when God engrains certain temptations in a man's heart, He also gives him the strength to conquer it. In addition to the aforementioned *ayat*, the Qur'an makes it clear at many places that no soul has been burdened with a load that it cannot bear [2:233, 6:152, 7:42 and 23:62].

**Solution****Acknowledging Homophobia**

Man has always had a fear of the unknown. And when man cannot relate with something, this fear grows into a phobia. Anything different, anything that he cannot understand is shunned, condemned and stigmatized. Islamophobia is one very vivid example of this hate against the 'other'. Another example is Homophobia.

Homosexuality is an extremely misunderstood concept; and the stigma surrounding it makes it difficult for man to explore it with an unprejudiced mind. When homosexuals say that they have been programmed that way and they cannot help but get attracted to men, the heterosexual society does not believe them and treats them as social rebels and outcasts. Why? Because they cannot relate to it. Tell them that a man is attracted to many women and they would readily believe you and treat it as a 'normal' thing. Why? Because they can relate to it. And this difficulty in understanding someone else's situation gives rise to Homophobia.

**Empathy**

The stigma attached to Homosexuality is so strong in our society that men tend to remain closeted Homosexuals, living in guilt and fear all their lives. It is for this reason that we need to empathize with those who are different from how we are. Hate the sin, not the sinner. Fight the disease, not the patient. And beyond this, love and respect the person who is suppressing his instincts only because he fears God and the hereafter. Curbing one's sexual urges is among the highest levels of *taqwa*. And if a person is doing so, he deserves our help and support, not our contempt. Dr. Yasir Qadhi has spoken extensively on this, and on where we need to finally draw the line.

**Helpline**

But help cannot be given in the open. No one would feel comfortable coming out in the open and revealing his sexual orientation if he deviates from the 'norm'. The boy I spoke about earlier had an enormous amount of courage and *taqwa*, but everyone cannot be that brave. He knows he would be seen differently, his friends would shun him, keep away from him, ridicule him or even physically harm him because of their homophobia. And these fears and reservations are very much genuine. We can instead have an anonymous helpline for God-fearing Homosexuals- those who have these feelings, no less, but are sincerely interested in abiding by the limits of God. We need to make them understand that God loves them, He does not hate them, and that they can very well be wonderful pious human beings and attain the highest levels of Paradise just as anyone else can. They need to be explained that this is *just* a test, no matter how tough, and guide them through by suggesting ways and means to overcome their temptations. We need to encourage and motivate them to pass this test with a distinction, lift up their spirits and pull them out of their unfounded guilt and anxiety and conflict and depression.

**Question and Answer session**

After the presentation, a member of the audience asked two questions:

- 1) How should a Muslim homosexual man vent out his sexual urges?
- 2) Should we have respect for him?

**The reply I gave him was:**

1. Since Islam does not allow homosexual practice, Muslim homosexuals should be counselled to abstain from indulging in any homosexual act. This can be done in four ways:

1) Positive reinforcement: He should be told that Prophet Muhammad úy has guaranteed paradise for those who give him a guarantee that they would not misuse their tongues and private parts. Many such aHadith can be cited to reassure him that controlling his carnal urges can land him in Paradise.

2) Negative reinforcement: He should be told that Prophet Muhammad úy has cursed those men who indulge in homosexuality. Likewise, the punishments of *zina* in the hereafter should also be narrated to him to deter him from giving in to his temptations.

3) Precautions: Many ayaat of the Qur'an and aHadith provide tips to rein in one's carnal desires. These apply to both- homosexuals as well as heterosexuals. For instance, 'Do not approach zina' [Surah Bani Israil, ayat 32], 'Say to the believing men that they should lower their gaze and guard their chastity' [Surah Noor, ayat 30], "Fast regularly" [Hadith] etc. He should be advised not to frequent those places which promote *zina* or even ignite his sexual urges (like discos, swimming pools or gymnasiums).

4) Vent: He should be told that he can at most resort to masturbation to vent out his sexual urges. While masturbation cannot- and should not- be promoted, it can definitely be allowed. Of the four Imams of *fiqh*, Imam Ahmad bin Hanbal allows masturbation, Imam Abu Haneefah allows it in constrained circumstances (for those men who might indulge in *zina* if they do not masturbate), while Imam Malik and Imam Shafi'i consider it a sin.

2. We should respect the person like any other human being, but we should not respect his desire to indulge in homosexual acts.

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# Role of Women in Urban and Cosmopolitan Society

Fasiha Arshad Shaikh

*"If the empowerment of women was one of the great changes of the past 50 years, dealing with its social consequences will be one of the great challenges of the next 50."*

*The Economist, December 2009.*

## **Introduction:**

Women's experiences in urban areas vary depending on their situation and profiles, e.g. age, living space largely determined by wealth, education levels, household profile and care responsibilities (e.g. head of household, married or multi-generational households), and networks and health.<sup>1</sup> It is important to analyze the existing role of women in urban and cosmopolitan society for several reasons. Primarily, it would not only help us make sense of the exponential growth of women's contribution in the workplace, industry, education, and other public spaces but also help bridge the gap between the state of women today and of that in an ideal, well-developed society. In early human history, responsibilities held by women were fairly binary. They were essentially caretakers and the men were left to earn bread for the family. If the circumstances demanded it, women engaged in farming, agriculture and other manual labour that were basic requirements of rural life.

However, with the passage of time, the role of women has evolved into a more complex form. Outside of taking care of their families, their contributions to society have expanded far into the fields of business, entrepreneurship, learning, education, politics, leadership, science, technology etc. The significance of the paradigm shift in the role of women can be attributed to some of the great changes in history, like the increased participation of women in the workplace during and after the Second World War, the Universal Declaration of Human Rights and the decline of domestic slavery. Other factors include the second wave of the feminist movement, increasing need for supplementary income in households with rising prices, the emancipation of third world countries that led to the emergence of various labour laws, increased access to higher education, and much more. These changes have brought about their own set of challenges with them, not only on women, but also on urban society itself.

In this paper, a study is made of the role of women in the workspace, the effect of their contributions to the economy, their families, and society at large and even more importantly, on themselves. The study comments on the representation of women in the media and public discourse and undertakes a deeper look into the various aspects of cosmopolitan society, while studying its effect on women and vice versa. It aims not only to analyze the root cause of some of these issues but also proposes ethical, Islamic or value based solutions for a more progressive future. It understands the modern woman as a complex entity within contemporary society, whose role is most vital to the sustenance and very existence of civilization..

## **Women in the Family**

Women have always been the primary caretakers of children and elders in almost every country. International studies demonstrate that when the economy and political organization of a society change, women take the lead in helping the families adjust to new realities and challenges. They are likely to be prime initiators of trying to complement the family income, and play an important role in facilitating changes in family life.<sup>2</sup> This may also give rise to unpleasant

consequences. Although more women in urban life have economic responsibilities or an engagement in previously male-dominated areas of work, studies have shown very little participation of men in care work and a continued imbalance in distribution of domestic responsibilities.

A careful cross between religious beliefs and social convention has held that the bearing and rearing of children is the only contribution of value a woman can make to society by questioning their competence in the workforce and allowing for little involvement of men in nurturing their role in their families. However, urban society has already started to evaluate the positive effects of evenly shared family roles between men and women. A University College London study has shown that children from families with shared family responsibilities grow up with healthy positive role models; they tend to be more independent, less prone to depression, and better leaders and decision-makers. The nuclear family system in urban societies is also responsible for the changed role of women compared to their role in rural areas and traditional cultural norms. Nuclear families are more egalitarian in nature, which has given women more space to be vocal about decisions regarding the family and even themselves. Higher education, late marriage and professional demands along with greater access to birth control have resulted in the fertility rates of women in urban areas to be lower than women in rural areas. Lower fertility rates have given women more freedom and the ability to spend more time in public spaces. Moreover, having few children or just a single child is the norm in urban and cosmopolitan society. However, low birth rates have dire economic consequences, as it will inevitably lead to a drop in total consumption in the future as overall population declines. Low birth rates eventually lead to fewer men and women of working ages, and hence a smaller tax base to finance national development, unless the fewer children born have sufficiently greater amounts invested in their education and other human capital. Research has confirmed that women perceive many benefits of family planning use. But at the same time, they experience negative consequences such as family disapproval, method side effects, and the uncertainty associated with a redefinition of traditional gender roles.<sup>3</sup>

#### **Women in the Workplace:**

The role of women in the urban and rural workforce has expanded exponentially in recent decades. Today, the median female share of the global workforce is 45.4 percent. Women's formal and informal labour can transform a community from a relatively autonomous society to a participant in the national economy. Despite significant obstacles, women's role in businesses and industry can form a stable economic foundation for future generations.<sup>2</sup>

Urban women, on the whole, have greater access to services and infrastructure, more opportunities to engage in paid employment, and are subject to fewer socio-cultural restrictions than women living in rural areas. However, they do not benefit equally with men in urban environments. They are disadvantaged in income poverty, asset poverty, time and power. Increasing feminisation of labour in urban areas has accompanied an informalisation of labour, but informal sector activities (e.g. street vending) are precarious, mostly unregistered and poorly paid.<sup>4</sup>

According to a report by the UN Women, gender differences in laws affect both developing and developed economies, and women in all regions. Globally, over 2.7 billion women are legally restricted from having the same choice of jobs as men. Of 189 economies assessed in 2018, 104 economies still have laws preventing women from working in specific jobs, 59 economies have no laws on sexual harassment in the workplace, and in 18 economies, husbands can legally prevent their wives from working. Labour force participation rate for women aged 25-54 is 63 per cent compared to 94 per cent for men. When including younger (aged 15 years and up) and

older women (aged 55 and up), in 2018 women's global labour force participation rate is even lower at 48.5 per cent, 26.5 percentage points below that of men. **Women are also more likely to be unemployed than men.** In 2017, global unemployment rates for men and women stood at 5.5 per cent and 6.2 per cent respectively. **Women are less likely to be entrepreneurs and face more disadvantages starting businesses.** In 40% of economies, women's early stage entrepreneurial activity is half or less than half of that of men's and only 5% of Fortune 500 CEOs are women. Out of India's 158 largest companies, women hold only 15% of board seats and only 6% of board chairs are women.<sup>5</sup>

However, for a country like India, the current and historic role of women in the workforce is indisputably a sign that modern society has come a long way from how things used to be, starting with the shrinking gender pay gap in India. According to The Global Gender Gap Report (2018) by the World Economic Forum, women in India earn 65% of what their male colleagues earn for performing the same work. Economists thus claim that reaching gender parity would have a bigger impact in India than in any other region in the world. Increasing women's labor force participation by 10 percentage points could add \$770 billion to India's GDP by 2025.<sup>6</sup>

The empowered role of women in today's economy is remarkable for the simple reason that the same social group that once relied on men is now taking the reins of their own economic destiny. The Economist calls this phenomenon 'revolutionary' because of how intimately such a change has affected people's very identities. "When brute strength mattered more than brains, men had an inherent advantage. Now that brainpower has triumphed, the two sexes are more evenly matched. The feminisation of the workforce has been driven by the relentless rise of the service sector (where women can compete as well as men) and the equally relentless decline of manufacturing (where they could not)."<sup>7</sup> Women are found in occupations, industries and roles previously regarded as the sole prerogative of men. Thus, it is safe to say about the urban and cosmopolitan female role in the economy that "demand has been matched by supply: women are increasingly willing and able to work outside the home".<sup>7</sup>

#### ***Women in Education-***

The contribution of women to a society's transition from pre-literate to literate is undeniable. Basic education is the key to a nation's ability to develop and achieve sustainability targets. Research has shown that education can improve productivity, enhance the status of girls and women, reduce over-population, enhance environmental protection, and widely raise the standard of living.<sup>2</sup> Education changes their worldview, improves their chances of employment and facilitates their participation in public life. Several studies indicate that educated women have, on an average, fewer children and they take good care of their socialization.

Global statistics show that 59% of urban girls attend secondary school.<sup>8</sup> In India, the female youth literacy rate is a whopping 90% while the urban female literacy rate in general is 64%.<sup>9</sup> In 2018–2019, women in India held 27.3% of Professor and equivalent faculty positions, 36.8% of Reader and Associate Professor faculty positions, and 42.6% of Lecturer/Assistant Professor faculty positions.<sup>11</sup> A lot still needs to be done to address the gender parity of women in education and academia. Although urban, cosmopolitan women are more advantaged than women in rural areas, the number of female educators is disappointingly low, especially with respect to Maharashtra history and the legacy of female educators like Savitribai Phule and Fatima Sheikh. In urban India, 68% of girls are graduates but are not employed anywhere.<sup>12</sup>

In the words of Tian Wei (CCTV News), "Any society which fails to harness the energy and creativity of women, is a huge disadvantage in the modern world."



### **Women in Religion:**

George H. Gallup Jr. wrote in an analysis for the Gallup Organization in 2002 that, a mountain of evidence shows that women have more religiosity than men. Gallup goes on to say that women hold on to their faith more heartily, work harder for the church, and in general practice with more consistency than men.

Muslim women have historically always participated in religious affairs and pioneered worldly and Islamic scholarship and academia with the founding of world-class universities (Fatima al-Fihri's University of Al-Karaouine) and Madrasas, mosques and other religious institutions through the Waqf board. Many women remained patrons to these establishments. They were also well versed in the Hadith (sayings of the Prophet Muhammad SAW) and possessed other Islamic Knowledge. However, in urban and Indian society, the influence of modernity and Hindu culture has eroded this legacy and more women have stepped away from engaging in religious affairs. There is much debate surrounding Muslim women's access to mosques and lack of representation in decision-making spaces for the Muslim community at large. Many contemporary Islamic organizations however, though not nearly ideal, do include women in positions of religious leadership to an extent.

The roles of women in Christianity can vary considerably today as they have varied historically since the third century New Testament church. This is especially true in marriage and in formal ministry positions within certain Christian denominations, churches, and other organizations.

Many leadership roles in the organized church have been prohibited to women. In the Roman Catholic and Orthodox churches, only men may serve as priests or deacons; only males serve in senior leadership positions such as pope, patriarch, and bishop. Women may serve as abbesses. Most mainstream Protestant denominations are beginning to relax their longstanding constraints on ordaining women to be ministers, though some large groups, most notably the Southern Baptist Convention, are tightening their constraints in reaction.<sup>13</sup>

With respect to Hinduism, it has always presented diverse yet conflicting views about women, ranging from feminine leadership as the highest goddess to limiting her role to an obedient wife, daughter and mother. Although many regressive practices mark the history of the Hindu woman, urban society has more or less liberated her from those customs. This however cannot be said about Southern India where matriarchal societies have always been the norm. Nevertheless, Hindu women have continued to take up spaces in religious scholarship, art and culture.<sup>14</sup>

The principles of Sikhism state that women have the same souls as men and thus possess an equal right to cultivate their spirituality with equal chances of achieving salvation. Women can participate in all religious, cultural, social, and secular activities including lead religious congregations, take part in the Akhand Path (the continuous recitation of the Holy Scriptures), perform *Kirtan* (congregational singing of hymns), and work as a Granthis. Today, they are privileged enough to have access to political franchise and new opportunities for advancement have opened up for them.<sup>15</sup>

### **Women in Leadership-**

“There is growing recognition of the untapped capacity and talents of women and women's leadership. Over the last two decades, the rate of women's representation in national parliaments globally has incrementally increased from 11.8 percent in 1998 to 17.8 percent in 2008 to 23.5 percent in 2018. Some regions have seen particularly dramatic increases, such as Sub-Saharan Africa, where in the last 20 years the number of women in parliaments has risen from 11 to 23.6 percent, and the Arab States region, which has seen an increase from 3.1 to 17.5 percent. Total

global representation is still well below the 30 percent benchmark often identified as the necessary level of representation to achieve a “critical mass”—a considerable minority of all legislators with significant impact, rather than a token few individuals—not to mention falling short of women’s representation as half of the world’s population.”<sup>16</sup> The full and equitable participation of women in public life is essential to building and sustaining strong, vibrant democracies. In the words of the National Democratic Institute’s (NDI) Chairman Madeleine Albright, women in power “can be counted on to raise issues that others overlook, to support ideas that others oppose, and to seek an end to abuses that others accept.”

### **Challenges**

The world seems to be still catching on to the enormous socio-economic changes of the past century. Women in cosmopolitan society still face the apparent sexism, misogyny, violence and economic inequity that comes with greater involvement in public life in a society that is inherently patriarchal. Gender-based violence is also a major issue, particularly in urban areas where gender norms might be challenged.

### **Causes**

The deviation of society from the basic standards of morality and ethics and/or value based culture, be it in either social or political fields or even governance is an important aspect for most issues in relation to the modern woman. The lack of representation of women in leadership and government, inadequate education systems, socio-economic disparity among others are all factors responsible for the challenges faced by women today.

### **Solutions**

Moving forward as a society, more women must take seats at the table, more women must be entrusted with positions of power and public responsibility as it would be an accurate representation of the ground reality. This will ensure the development and implementation of appropriate public policy for the protection and social security of women. Society must re-evaluate its benchmark for what stands as ethical, moral and virtuous. The most important way for enhancing the role of women in urban and cosmopolitan society is by ensuring that their role is protected, sustained and their identities cherished and celebrated. This can be accomplished by wider community involvement and collective action, education of religious clergy, laws for protection of women’s rights, opportunity for public discourse on women’s issues and the feminist movement and men and women working together as allies and not adversaries. Like Emma Watson once said, “It is time we see the role of women in society as a spectrum instead of two sets of opposing ideals.”

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## Place of Women in Islam

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The prevailing notion about the place of woman in Islam is that women are deprived of freedom, equal rights and that women are subjected to injustice and oppression. This notion is the result of either complete ignorance about Islam or the biased propaganda of anti Islamic ideology and prejudiced media. Woman was not appreciable in Greek civilization. In Greek mythology an imaginary woman named Pandora was considered to be the source of all evils and problems. Women with loose morals, dancers and prostitutes became centre of attraction for promiscuous men. In the name of art they depicted women in such a way that paves way for unbridled sex. About their religious deity, Aphrodite, it is said that she had affairs with three others other than her husband. If such things were in vogue about the goddesses, it is needless to talk about the common women.

The following excerpt by N. Krishnaswamy, John Verghese and Sunita Mishra, sums up the place of woman in ancient cultures with economy of words:

Aristotle (384-322 B.C.) declared that “the female is female by virtue of a certain lack of qualities” and added that “we should look upon the female state, as it was, a deformity, (Generation of animals trans. Peck).....Nietzsche, the German philosopher, is convinced that “woman is the source of all folly and unreason, the siren figure that lures the male philosopher out of his appointed truth seeking path and that “ woman is god’s second mistake”.

Before the advent of Islam in Arabia the position of the fair sex was appalling and deplorable. The infant girls were buried alive, thrown for dogs to eat, pushed down from a mountain peak, drowned in water or slaughtered mercilessly. Islam revolutionized this situation in all aspects of woman’s life. There is a separate chapter in the Quran entitled *Nisa* meaning the women in which all the rights of women in Islamic system of life are discussed.

### **Provisions for empowerment of women in ethical, moral and legal systems:**

#### **i) Freedom:**

Right to education is given to woman. Girls have every right to receive education as boys do. “It is obligatory for every man and woman to receive education.” Parents are advised to regard education and training in etiquettes as the best gift for their children. “Of all that a father gives to his children, the best gift is their good education and training” (Hadith i.e. saying of Prophet Muhammed).

#### **ii) Equality:**

There is no disparity among boys and girls and men and women. The Quran proclaims: “If any do deeds of righteousness- be they male or female, and have faith, they will enter heaven, and not the least injustice will be done to them.” (*The Qur’an*: 4:2) She is respected as the mother, loved as a wife, cared for as a sister and daughter. In a family system she is free from the burden of earning money to fulfil the daily needs of her husband or any other family member. In Islam ‘Women are equal to men in all civil and criminal acts of judiciary.’

#### **iii) Social uplift:**

In contrast to the Christian belief that woman is the source of evil and it is she who opened the door for Satan’s entry, Islam frees woman of such accusation. As per Islam, Adam and Eve both are equally responsible for eating the forbidden fruit and Satan simultaneously seduced both. It has been proclaimed that killing a girl child is an abomination.

(The Qur'an 17:31) Parents of girls are intrinsically motivated to nurture girl child. Prophet Muhammed (peace be upon him) assured that the father of two girls would stand close to him in heaven. "He who brought up three daughters or sisters under his (loving) care, and imparted beneficial education and training to them persisting with it until they become independent of him (get happily married) Allah conferred the reward of heaven on him. (Hadith) Islam imposed restrictions on number of women man can marry to four and divorce is the most disliked act for God. As man has liberty to divorce, women were also allowed to seek divorce if they wanted. A woman can liberate herself from the clutches of a husband whom she dislikes, who is cruel, unjust or impotent through 'qula' (divorce from wife's side). The place of mother is regarded high, higher than the place of father. Other teachings of Islam regarding women include: "The better people among you are those who are good in behavior towards their wives, who are kind to wife and children" "Be decent in your behavior towards your wives"(Hadith).

**iv) Security:**

Security of woman in Islamic system of life is very important. She must not be regarded inferior to a boy in family. "The person to whom a daughter is born and he does not bury her alive ... nor does he look down upon her, nor metes out preferential treatment to boys in comparison to her, Allah will reward him with heaven"(Hadith). The responsibility to provide bread and butter to girl/woman lies with the male guardian. "You should feed her when you eat, and clothe her when you yourself put on clothes. You should not strike her on the face nor curse her. And in case of temporary boycott due to strained relations, it should be limited to the four walls of your house. (Publicity and propaganda are not allowed)"When she travels long (for three days) her husband, father, brother or son must accompany her to facilitate her journey. If a woman is divorced or widowed it is the responsibility of father or brother to provide sustenance to her. Such a woman is allowed to re-marry if she wishes. A girl cannot be married off to anybody without her consent. It is duty of man to protect wife, sister, mother or daughter from an offender who invades the dignity and poses threat to the chastity of woman.

**v) Economic empowerment:**

As it is not the responsibility of a woman to spend on the daily need of family she has no compulsory expenditure. She receives money in the form of bride price (Mahar) from her husband. She has lawful share in the property of father, husband, brother and other relations. It is true that she inherits a smaller share than her brother. This is so because she is free from the responsibility of providing sustenance to family where as a man has. "From what is left by parents and those nearest related there is a share for men and a share for women whether the property be small or large- a determinate share" (TheQur'an:24:30).

**vi)Dignity:**

Islam pays more attention on the training of women in domestic affairs. Her lap is the first school of a child. "She is the ruler of her husband's homestead" (Hadith). It is said that she is the queen of the household. She may go out to earn money to the needful but in *pardah* i.e. in veil. During prophet Muhammed's time there were women traders and there were instances when women participated in wars to supply water or to nurse the wounded. Even in present day world we see thousands of Muslim women in head scarf and veil working in hospitals, banks, schools colleges and many other suitable working places. Veil is actually a guard, a protective tool for her from the mischievous staring eyes. Tertullian also believed that "women ... (must) keep themselves strictly veiled"Men who sit or stand on streets or crossroads are ordered not to stare at women passing by. "Say to the believing men that they

should lower their gaze and guard ...”(The Qur’an:24:30). This way Islamic system of life gives dignity, respect, protection, natural rights and appropriate place to women.

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# **Modernization and its impact on Morality and Family institution: A perspective**

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**Dr. Shaikh Abul Barkat**

## **Abstract**

Modernity is preceded by industrial revolution which signified and for all practical purposes, implied a change in the nature and thrust of economy: mercantile and agricultural to industrial economy and simultaneously the industrialization/commercialization of agriculture. The economy changed its thrust from need based to marked based i.e. profit making. The whole process is resulting in making individual economically independent and leading to breaking up of joint family system. The economic independence of individual is bound to have brought up certain critical changes in their attitude towards family, community, society and particularly the value-system that had evolved during the course of history and had come to stay, at times, backed by the force of religion. The big issue before us is that how to resist/minimize/curtail the impact of the forces which we have adopted and have continuously been adopting? In essence, we wish to fight the consequences but promote and preserve the causes. Indian educational system has, at times, been sought to be geared to meet this challenge. We have to seek to partly spiritualize the content and/or thrust of education by adopting and incorporating thoughts of great spiritual leaders of the country. The question, however, remains: can we rear our generation by teaching them spirituality in an extremely materialized environment which does not strengthen the desired value system. The issue is wide, deep and of vast significance. The outcome of the problems has certainly psychological ramification but it has its roots outside the psychology. This may perhaps be resolved if at all it can be resolved, by inter-disciplinary collective synchronized efforts. The Western society passed through the state of transition during the 18<sup>th</sup> and 19<sup>th</sup> century, entered the phase of modernity during the 20<sup>th</sup> century. The present century has witnessed those societies getting fully modernized. But this era is marked by speedy value deterioration in the context of accentuated and well established materialism and advent of technological and economic advancement. As a result the social relations are becoming artificial, making the person individualistic and ego-centric. But when this mask is discarded by a single jostle and of the vicissitudes rough world, the darkness and misery seem pervading everywhere, at least to many, if not for all. Such a state of affairs is aptly comparable to the treacherous sea-shore, which appears charming, but in actually in perilous for imperils the lives of sailors. The world turmoil is hardly showing any sign of abating. Humanity is experiencing intense strains it seems to be roaming and peering around on the rim of hell.

Contemporary modern life differs in many respects from the life of earlier times. Modern societies are urbanized, industrialized, rationalized, differentiated, professionalized, bureaucratized, globalized and so on, whereas previous societies were characterized as stratified, undifferentiated, rural, agrarian, and above all dominated by traditional institutions of family and religions. An important shift has occurred in the foundation and legitimization of the main values in society. In pre-modern agrarian societies, the basic value orientations were primarily rooted in tradition and in institutional religion, whereas, in modern and post-modern societies values are increasingly based on individual autonomy, self-interest and personal preferences. Individual freedom has gained importance, and the people's dependence on the traditional social and religious institutions is on decline. Instead of relying on these institutions and their prescriptions, individuals have become personally responsible for their acts and their preferred ways of living.

Modern society, therefore, is often described as individualistic, indicating a society consisting of individuals, 'whose goal is to fulfil private ends, largely through relationships seen as instrumental, and whose principal characteristic is the possession of individual rights that have priority over societal needs (Crittenden, 1992). The impact of collective authority has declined to the advantage of personal autonomy.

The process of individualization is often assumed as the real threat to morality. It is argued that the increased emphasis on the individual generates all kinds of negative side effects, such as consumerism, privatism, nihilism, atomism, narcissism, hedonism and egoism. The unbridled pursuit of selfish and personal goals undermines collective solidarity and citizenship, and may ultimately lead to social dissolution and isolation. Individual autonomy does not allow society to interfere with people's personal lives and their decisions, and since morality represents a voice of society (Poole, 1991), it has become less self-evident in modern individualized society to accept the prevailing collective moral principles. In contemporary individualized society there can be no valid rational justification of objective moral standards and hence there are no such standards (MacIntyre, 1981). Modern individualized people are, to a large extent, independent of society, and therefore, their moral sources are quite diverse (Taylor, 1989). There does not prevail public order of standards and evaluations any more. In similar vein Bellah, et. Al. (1986) warned of individualism that has grown cancerous destroying social commitment and agreement on moral issues. Each individual becomes his own moral guide. Rigid moral standards are impossible in modern, individualized society, since they 'interfere with one's freedom and enjoyment in life'. The question, however, remains: whether morality and modernization are essentially incompatible. How true is the suggestion that modern individuals are mainly interested in pursuing their own interests, guided by personal happiness, success and achievement, and denying the public cause?

The presumed decline in morality is supposed to be closely related to increasing modernization in general and augmenting levels of individualization in particular. It is widely acknowledged, and even otherwise is a matter of common sense that not all the countries are equally modern and individualized. It is quite natural to expect prevalence of differences in degree of moral decline, as well as in morality. Further, 'although it can be argued that moral values share similar basic features across the societies, it is obvious that the manner in which they are applied may vary radically both between and within the different societies, and at different times. (Harding et. Al. 1986).

In particular, the variation in the degrees in which the religious institutions exercise influence on society, may speak of the differences, in the individualization, as also in the level moral orientation. In more traditional settings, religion and morality were connected closely, and the waning of the dominant position of religion in modernizing society fostered the establishment of a 'new morality' or 'permissive morality' (Wilson, 1982). Process of industrialization/modernization started much later in India. As we know, India has been and still continues to be a traditional society having overwhelmingly strong beliefs in religious value system which in contemporary days are hallmarks of traditionality and conservatism. In essence, tradition is taken to be inconsistent with religion. The dilemma before Indian society is that it has a strong desire to be industrialized. And modernism is believed to be the natural consequence of industrialization.

Modernism is believed to be inevitable consequence of industrialization. India wants to march ahead on the path of industrialization. On the other hand, spiritualism is well ingrained into the psyche of Indian society. It does not prefer to abandon traditionality. Indian society thus

is confronted with a dilemma. This dilemma is applicable to all religions either Hindus or Muslims, and urbanized and the rural people. Another dilemma is that appropriateness of the values on the whole is judged by the outgoing generation and India's present generation is determined to provide Western education to the incoming generation and put it on the path of progress which leads to the economic independence of the individual. This facilitates the trend of modernization to acquire roots and momentum. In a way, older generation has been having hopes which are not consistent and that is why their aspiration about the younger generation are equally contradictory.

Similar dilemma is visible at national level. India has adopted Westerns system of education plus economy which, essentially, is based on material culture and promotes modernity. On the other hand, it intends, rather has a strong desire to promote Eastern-cum-Indian traditional value system which has its roots in the spirituality. But the two are treated as inconsistent with each other. However, India does not want to adopt/abandon one at the cost of the other. As such, India is confronted with a big issue; ever increasing impact at the speeded up process of modernization coupled with the direct impact of forces, the global forces that have been promoting and accelerating the process of modernization and which have been eroding the very base of the traditional value system. The big issue before us is that how to resist/minimize/curtail the impact of the forces which we have adopted and have continuously been adopting? In essence, we wish to fight the consequences but promote and preserve the causes. This dilemma or dichotomy is visible in Indian society where a gap has been existing and which continues to widen between the older and younger generations. How to bridge this gap? Indian educational system has, at times, been sought to be geared to meet this challenge. We have to seek to partly spiritualize the content and/or thrust of education by adopting and incorporating thoughts of great spiritual leaders of the country. The question, however, remains: can we rear our generation by teaching them spirituality in an extremely materialized environment which does not strengthen the desired value system. The issue is wide, deep and of vast significance. The outcome of the problems has certainly psychological ramification but it has its roots outside the psychology. This may perhaps be resolved if at all it can be resolved, by inter-disciplinary collective synchronized efforts.

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## Live in Relationship Present Scenario, Arguments and Islamic Perspective

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The importance and usefulness of family is a well-established and well-known fact since ancient times and it has always been deemed an essential institution of society. On this basis, human beings of all cultures, countries and colors have been living their lives under this family system. However, due to various reasons, this institution is suffering from a deadly disease in the current age. The destruction of the family system is one of the many serious crises humanity is going through these days. Brazenness, unbridled freedom, selfishness, opportunism, lust, the predominance of materialism and greed for money has defeated and destroyed this holy institution. Ways for being sought to escape from the responsibilities of family to an extent that even its necessity is being denied.

This trend has technically been called 'Live in Relationship' or 'Cohabitation'. It means the living together of a man and a woman. This term is applied to those couples who live together without marriage. This lifestyle of theirs could be temporary and only for a few days or there is also a possibility of permanence in it that they may continue to live together for a long period of time. During this period, they maintain sexual relations as well as a result of which they sometimes do have children. But despite living like husband and wife, they do not enter into a legal agreement of marriage on the basis of which they both have the option to get separated whenever they like. Since it is not a marriage, the partners are free from all kinds of responsibilities to each other. They don't have any legal binding too.

### **Global Scenario:**

Till half a century ago, sexual relations without marriage was seriously disliked and frowned upon in most of the parts of the world. And it was illegal in the constitutions and laws of most of the countries. However, the situation began to change quite quickly later on and the trend of living life free from family restrictions started to grow unabatedly to an extent that it has now assumed an extremely dangerous and horrible shape and form. This can be assessed by the statistics from various countries. Before 1960, around 450,000 couples used to live together without marriage in America. Till the year 2000, there was a tenfold increase in their numbers. It reached such a level that in 2011, their numbers increased to 7.5 million. In 2009, the U.S. Census Bureau conducted American Community Survey. It showed that the percentage of middle-aged men and women between the ages of 30 and 44, who lived together without marriage, was 4% in 1999 which has now grown to 7%. The result revealed by the survey conducted separately for the women was that the percentage of the women aged between 19 and 44 who lived together with men without marriage was 33% in 1987 which has now grown to 58%. According to the Office for National Statistics, U.K. in 2012, the population of the couples living together without marriage was 9.5 million doubling from what was their population in 1996. Similar is the case with other European countries. In 2011, of the children born in the 27 countries of the European Union, 39.5% are those who were born as a result of sexual relations without marriage.

This plague is now spreading fast to the eastern countries along with the west. According to the National Institute of Population and Social Security, Japan, around 3% of the middle-aged women aged between 25 to 29 are now living with men without marriage. And 20% of the women are those who experimented with sexual relations without marriage at sometimes in

their lives. In the Philippines in 2004, men and women between the ages of 20 and 24 were living together without marriage. In Australia, in the year 2005, the percentage of the population adopting Live in Relationship lifestyle was 22% and 18% in New Zealand. These are the statistics of just a few countries. The situation of other countries is not very different either.

#### **The Situation in India:**

India, since ancient times, has been a country which is very respectful towards religious and moral traditions. People belonging to many different religions, nations, tribes and cultures live here. All of them are in agreement with the family system. Marriage has enjoyed their trust and support and sexual relations without marriage have always been considered a horrible and disgusting thing. Due to an almost daily increase in promiscuity, licentiousness and obscenity, even here Live in Relationships are being tolerated. Not only there is a decrease in regarding it evil, but also voices are being raised to legalize it.

How many couples do live together without marriage in India? The statistics are not available but various reports do shed light on it that this trend is gaining momentum here too, especially the boys and girls living in the metros are getting inclined to it.

Even the Indian parliament is quietly in support of this trend and the courts here are trying to provide legal justification for it. To protect the women from domestic abuse, a law was passed here called Protection of Women from Domestic Violence Act. In its ambit, even those women have also been included who together with men without marriage. Their sexual relationship has been declared to be “relationship in the nature of marriage”. Such women, who are the victims of domestic abuse, have been given monetary and some other guarantees in this law. In the case of S. KhushboovsKanniammal, a Supreme Court bench gave the ruling on 23<sup>rd</sup> of March, 2010 that adult men and women can live together without marriage, there is no problem with it. The honorable justices also deemed it necessary to express the following too: “When two adult people want to live together, what is the offence? Does it amount an offence? Living together is not an offence. It cannot be an offence”. On 13<sup>th</sup> of August 2010, a Supreme Court bench gave this opinion in the case of Rajni Kant vsMadan Mohan Singh that if a man and a woman were to live together for a long period of time without marriage then it can be considered as a relationship akin to marriage. In another case of BharataMathavs R. Vijaya, the Supreme Court bench gave the judgment that if any children are born out of live in relationship then they will have inheritance rights from both sides of father and mother. On 21<sup>st</sup> of October, 2010, another bench of the Supreme Court gave the judgment in the case of D. Velusamyvs D. Patchaiammal that under the Domestic Violence Act, 2005, the live in relationship of two individuals will be considered a marriage if they meet the following conditions:

- 1) In the eyes of the society, they both have been living together like husband and wife.
- 2) They both are of age which is legally considered to be necessary for marriage.
- 3) Despite living together without marriage, they should be eligible enough to legally get married.
- 4) They should be living together willingly and had been cohabiting for a considerable amount of time.

With these details, the inclination of India’s justice system can be duly gauged how anxious it is to give live in relationship a legal status like marriage.

#### **Reasons and the Arguments of Pro-Live in Relationship:**

They mention various reasons for escaping from the restrictions of family and a free lifestyle devoid of marriage. Similarly, those who support this trend and are trying to legalize it present various arguments in its favor. These are as follows:

1) A man and woman who get married usually do not have a prior introduction to each other except may be a little. They are not aware of each other's habits, ways, temperament, lifestyle and other such stuff. The purpose of living together without marriage is to get to know each other in detail and to assess whether they could lead their lives together? Some of the survey-reports show that more than 3/4<sup>th</sup> of those individuals who live together without marriage say living together before marriage is a prelude to marriage.

2) If a man and a woman were to live together within wedlock then there would be legal hurdles and conventional restrictions in getting separated due to mutual dislike or some other reason after sometime. That is why, it is better that they live together without marriage and when they get fed up of each other, they can get separated and go about their own ways.

3) The income of some people is limited or there are indecisive regarding their financial status. They delay their marriage or do not marry altogether for they find difficulties in bearing the cost of wedding or they may be apprehensive that if the relationship were to become unsustainable after getting married and end up in divorce then they could get into financial problems. They deem that their safety and well-being lie in spending some time with the opposite sex.

4) Some young men and women temporarily reside in distant countries away from their homelands for higher education or work and due to various reasons, it might not be possible for them to get married at the moment. Therefore, they start to live together without marriage.

5) If a married person wanted to have a second wife but the law does not allow him to have another wife as long as he is married to his first wife then he would start to live with another woman without marriage.

6) Some men and women regard marriage to be outdated and a prison. They think it to be wise to spend some time with whoever they want without getting bounded by marriage and to end the relationship whenever they get fed up and start a new one with someone else.

#### **The System of Family-A Demand of Nature:**

The truth is that human nature demands that life be lived under family system. It is because of this that since ancient times, all human societies have been following it and none has ever rejected it nor tried to weaken it prior to the domination of today's promiscuous and materialistic culture.

For the survival and continuation of the human race, it is important that the sexual relations between man and woman be established on solid foundations. Both of them should not be free in the matter of getting together and then separating merely for the sake of lust and carnal pleasure. Rather, the relationship between them should be so firm that it should be known in the society and whose preservation is also guaranteed. That's because, the children who will be born of them, will be in need of lots of attention, supervision, care and patronage. If man were to not cooperate in this matter then a woman alone cannot do it in the proper way. For this very purpose, nature has placed sexual attraction between men and women. It is for this reason alone that they meet and when they have children then love for their children gets generated in them. Both of them raise the children together, fulfill their basic needs and prepare them to face the struggle of life. These demands of nature get violated with sexual relations without marriage because it only aims at lustful satisfaction and carnal pleasure and not the continuation of human race. And if the woman were to get pregnant coincidentally and deliver the child then man would not be willing to accept its guardianship and to support and raise it.

**The Growth of Civilization is Dependent on Family System:**

Another reason why family system is needed is because without it the growth of civilization is not possible. A civilization only comes into existence when a man and a woman build a home together and create a family. They have children and the family expands encompassing parents and other relatives. Many families come into existence and they develop connections with each other. In this way, social life begins and civilization flourishes. But if men and women are consumed by selfishness and individualism and restrict themselves merely to the satisfaction of their lustful urges and take no interest in forming a family then social life will get uprooted and the foundation does not remain anymore upon which the edifice of civilization could be built.

**Family makes a Human Being Distinct from an Animal:**

Family is a characteristic of human life. It distinguishes humans from animals. Sexual urges are found in animals too because of which their males and females meet each other. As a result of which they have offspring and through them their kind survives and continues. However, in the animals, after mating, their males do not have any relationship with their females and offspring and even if there is then it is only very weak. The female raises and protects its new offspring which is only to the extent of their survival. After that they become strangers to each other. In contrast to that, permanence is found in the mutual relationships of human beings. Men and women establish sexual relations in a meaningful way. They raise the children that are born out of their relationship together for a long period of time. Love, affection and sympathy survive between them till the end. They are mindful of the rights of others and their own responsibilities as well.

Those who limit their relationships to only the satisfaction of their sexual urges and are unconcerned with forming a family and raising their children actually lower themselves from the lofty status of humanity to the lowly status of an animal.

**Total Loss for the Woman:**

A woman's role is much more than a man's in raising a child. Man's actual job is only sowing the seed (insemination). All he does is have sex with the woman but it is the woman who has to go through all the rest of the stages alone. She carries the child in her womb for 9 months and nourishes it through her own blood. After the delivery, she feeds the child her milk for 2 years straight. The child in its infancy is weak and feeble and needs total care. She gives up her own comfort and dedicates herself completely to raise it. She has to render this service for a long period of time. Due to the marriage contract, man maintains a constant relationship with the woman and the child. He provides all kinds of help and support to the woman possible by him. He bears the cost of maintenance, fulfills its needs and under his care and guardianship, the woman fulfills the tasks entrusted to her in an atmosphere of peace, satisfaction, love and affection. Both do their part in the child's physical, mental and moral development. In the absence of a strong marital bond, man could not agree to this responsibility just for the sake of it. And if he were to refuse this responsibility then he cannot be obligated to take it up in any way. In such a scenario, it is only the woman who suffers loss. A man goes away from her after spending a few moments while she alone would be forced to bear all the hard work and problems. Experts in sociology felt this imbalance, injustice and oppression and expressed their dissatisfaction with it. Dr. Parul Sharma expressed her feelings regarding live in relationships, after reviewing the national and international scenarios, in these words:

“This is a sensitive issue. People in large numbers are getting inclined towards live in relationship. And this lifestyle is gaining currency due to various reasons. However, the young

generation, especially men, do not take this relationship seriously and cheat on their partners and dissociate with them prior to the arrival of the pleasant days of their life. This gets manifested in the form of depression, anger and mental stress and sometimes it even results in suicide”.<sup>1</sup>

#### **The Bitter Consequences of Unfettered Lifestyle:**

Marriage is a strong bond which keeps the man, the woman, the children and the relatives connected to each other. It fosters love, sympathy, well-wishing, cooperation and selflessness among them. It urges them to help each other out, fulfill each other's needs and be there for each other. Without this bond, individuals would come close to each other merely out of selfishness, for self-interests and personal accomplishment and dissociate themselves with each other as soon as their needs are met. Everyone likes their own interests and have no shame in exploiting others. The victims of this situation are those children who are born out of unrestricted sexual relations. They are not raised in a right way. They get deprived of good upbringing, morals and development of character on right lines. They don't get to enjoy the peace of being in a home and the peaceful environment of a family. Consequently, they become the cause for spreading chaos, obscenity, vices and vulgarity in the society. In short, as a result of an unrestricted lifestyle, civilization starts to unravel, people's lives become bitter and the whole society begins to suffer from anxiety and unrest. Today, we are seeing an example of situation with our own eyes in the whole world and especially in western societies.

#### **Imaginary Benefits:**

The benefits mentioned by those who oppose family system and try to justify sexual relations without marriage are imaginary with no relation with reality whatsoever. But even if they are accepted for the argument's sake, the far-reaching and terrible impact it has on civilization is worrisome and serves as a warning. Therefore, wisdom demands that it be avoided and measures be taken to curb such an inclination.

The biggest benefit – as they say – is that living together before marriage helps in mutual understanding. That's why, even the couple were to spend some time together, it would be helpful in creating stability in the relationship. However, this is far from reality. The National center for Health Statistics conducted a study of 12,571 individuals. Its result was that the possibility of separation remained the same in those couples who lived together with the intent of getting married later on or spent some time together after the engagement and before marriage, as those who didn't live together before marriage.<sup>2</sup>

#### **Islamic Viewpoint:**

Islam is a supporter of family system. And therefore, it takes up various measures to strengthen it and tries to the full extent to remove the causes that weaken it. The explanation of the Islamic viewpoint continues as under: -

#### **Family is a blessing from God**

Islam mentions family not only as a social need for also as a religious prerequisite. The Quran clearly explains that the prophets and messengers sent by God lived family lives and met its requirements. Allah the Almighty says:

*“We indeed sent many Messengers before you and We gave them wives and children” (13:38).*

He declares wife and children to be the coolness of the eyes for man. Hence, Allah has advised this prayer through the lips of His pious slaves:

*“Our Lord! Grant us that our spouses and our offspring be a joy to our eyes, and do make us the leaders of the God-fearing” (25:74).*

Flourishing families, which contain wife, boys, girls, grandchildren and other relatives and in which a person feels happy, peaceful, joy and satisfaction are one of the greatest blessings of Allah for which no amount of gratitude would be enough.

*“And Allah has given you spouses from your kind, and has granted you through your spouses, sons and grandsons, and has provided you wholesome things as sustenance. (After knowing all this), do they still believe in falsehood and deny Allah’s bounty” (16:72).*

### **Marriage is the only Legitimate Way of having Sexual Relation**

Islam has made marriage obligatory for the legitimate and healthy relationship between a man and a woman. It neither encourages monasticism nor lets anyone totally loose to satisfy their sexual urges. In its view, a strong family comes into existence as a result of marriage. A sense of responsibility is found in all the members of the family and they neither neglect their duties nor ignore the rights of others. That’s why it encourages marriage and underscores its importance to individuals, families and societies in clear words. Allah the Almighty says:

*“Marry those of you that are single...”(24:32).*

ايمى is the plural form of ايم. It is applied to that man who is without a wife and that woman who is without a husband regardless of whether or not they had ever been married before. And it also refers to the widow and the widower.

At one time, the Messenger of God (peace be upon him) warned in strong words:

نبيك حافل مينك حفايس من نساء من قدر عليا

*“Those who are able to get married and yet do not marry are not of us”<sup>3</sup>*

*“And permitted to you are chaste women, be they either from among the believers or from among those who have received the Book before you, provided you become their protectors in wedlock after paying them their bridal-due, rather than go around committing fornication and taking them as secret-companions” (5:5).*

*“Marry them, then, with the leave of their guardians, and give them their bridal-due in a fair manner that they may live in the protection of wedlock rather than be either mere objects of unfettered lust or given to secret love affairs” (4:25).*

All the three words mentioned in these verses are notable. حصن means protected and حصن means a castle which is the means of protection from enemies. احصان means staying pure and protected from fornication. Therefore, marriage is like a strong castle within the walls of which a human being stays protected from the attacks of Satan.

### **Prohibition of Adultery:**

For the continuation of human race and the growth of civilization, it is important that the sexual relations between a man and a woman stay within legal framework and limited to reliable connection. It is for this reason that Islam views adultery and fornication in a way that if they are given free reign then the continuation of human race would be threatened on one hand and on the other hand civilization would get uprooted. It is on this basis that it regards adultery as an outrageous and wrong act and advices to stay away from it. Allah says in the Quran:

*Do not even approach fornication for it is an outrageous act, and an evil way (17:32).*

The verse says ‘do not even approach fornication’. A lot of eloquence is found in this verse. It only points out to not committing fornication but also to stay away from all those incentives and reasons which lead to fornication.<sup>4</sup>

Islam regards fornication to be a grave social crime and proposes severe punishment for those who commit it.

*Those who fornicate - whether female or male - flog each one of them with a hundred lashes (24:2).*

**Islam does not permit Sexual Relations without Marriage even with Mutual Consent:**

According to the law of western countries, which has now become the law of most of the countries in the world and which also enjoys the unanimity of public opinion on it, if sexual relations are established with the other party with consent then it is not a punishable offense. The thing which makes it a crime is force and coercion. At the end of 2012, a female student was gang-raped in the Indian capital of New Delhi. This led to massive protests all across the country and all sections of society condemned it in the strongest possible terms. Especially the women's rights groups and student unions of colleges and universities were at the forefront. During these protests, some of the placards carried by the girls read 'you cannot touch me without my consent'. This means that a boy having sex with a girl outside the legal relationship is not a crime rather the crime is not seeking her consent and coercing her to do this act.

In the sight of Islam, sex-with-consent is as grave as sex-without-consent (aka rape). There is no difference between the two. Those who have sexual relations without marriage are actually making a mockery of the laws of nature and become a cause for creating anarchy and unrest in the system of civilization. And therefore, they too are liable for punishment.

**Other Measures for the Stability of Family:**

Islam has taken many other measures as well for the stability of family the details of which are outside the scope of this paper. It has clearly laid out the rights of husband, wife, children, parents and other relatives and obligated everyone to fulfill them. It gave numerous precautionary commandments to maintain purity and decency in society. It made severe punishable laws for those who spread and promote obscenity, vulgarity and vices. If the teachings of Islam are implemented then the institution of family would get stable and firm which then can play its role in a right way for the growth of a good civilization.

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# Judicial Pronouncements on LGBT

Vinod N. Patil

## Introduction

“Never be bullied into silence, never allows yourself to be made a victim, accept no one’s definition of your life; define yourself.” - Harvey Fierstein<sup>1</sup> Hinduism since ancient time accepted homosexuality as natural Hinduism acknowledges a third gender. In one of the world-famous epic, Mahabharata, there is mention of “shikhandi, who is born female but living as male, making him as a shield Arjuna defeated Bhishma Pitamah and Bhishma knowing the birth secret of shikhandi, dropped his arms.

The Naradasmurti and the Sushruta Samhita, two important scriptures from ancient India declare homosexuality to be unchangeable and forbids homosexuals from marrying a partner of the opposite sex. The Naradasmruti listed fourteen types panda (men who are important with women) The Kama Sutra, a Sanskrit text on human sexual behavior, uses the term Tritiya-prakriti to define men with homosexual desires. In the same manner, the Kama Sutra describe lesbians (savirini, who engage in aggressive love making with other women), bisexuals (referred to as kami or paksha), transgender and intersex people.<sup>2</sup>

The LGBT means Lesbians, Gay, Bisexual and Transgender. They are also mentioned as “Third Gender” (TG) or “transgender” (T). The British rule in India criminalized sex (for both heterosexual and homosexuals) under Section 377 of the Indian Penal Code, 1860.

Sec.377 Unnatural Offences: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life a term which may extend to ten years and shall also be liable to fine. <sup>3</sup>

The intention behind the introduction of section 377 has to police control the body of the colonial subjects. In colonial Victorian era morality, these subjects were seen as erotically perverse and in need of the imposition.<sup>4</sup>

In furtherance of the object in 1871, the British labeled the hijra population as a “criminal tribe”.<sup>5</sup>

Originally the Act was applicable in North India. In 1876, it was extended to the Bengal Presidency and other areas, and in 1911 to Madras Presidency. Finally, the Criminal Tribes Act, 1924 incorporated all earlier enactments since 1870.

The Transgender Persons (Protection of Rights) Bill, 2019 defines Transgender Persons as those, “whose gender does not match the gender assigned to that person at birth and includes transmen or transwomen, person with intersex variations, gender-queers, and persons having socio cultured identities such as Kinnar, hijras, aravani and jogta.”

On 26<sup>th</sup> January, 1950 the Constitution of India came into effect. On 6<sup>th</sup> September, 2018, the Apex Court ruled unanimously that Section 377 was unconstitutional.<sup>6</sup>

In other words, it simply means that the LGBT people suffered violation of their human and personal rights for sixty-eight years. During there sixty-eight dark years, there are countless incidents of harassment of LGBT groups by the people and authorities under the law.

The execution and discrimination of LGBT persons result in:

- a) Dropping out of school
- b) Leaving/expelling from home and family
- c) Ignored in society
- d) Lacking family support



- e) Attempt suicide
- f) Facing exploitation

In 1994 the very first challenge given to Section 377. The NGO filed a PIL in the Delhi High Court for decriminalizing this provision. The facts were that after observing homosexuality in the Tihar Jail the workers of the NGO wanted to distribute condom among the male inmates. The then superintendent of Tihar Jail Kiran Bedi disapproved this as according to her, this would have encouraged homosexuality. This petition was dismissed in 2001.<sup>7</sup>

#### **Constitutional Provisions**

There are approximately 4.8 million transgender people in India as per 2011 census. Since Independence, the LGBT people are deprived from the following Constitutional Rights:

#### **Right to Equality under Article 14**

The Right to Equality under Article 14 requires equal treatment of all citizens before law. While it allows for a distinction to be drawn between different categories of individuals, it also mandates that such a distinction must be based on intelligible differentia and must have a rational nexus with the object sought to be achieved.

#### **Right against discrimination under Article 15**

Article 15 prevents the State from discrimination against any citizens only on the ground of sex, religion, race, caste or place of birth.

#### **Right to Freedom of speech and expression Article 19**

The six freedoms conferred on citizens by Article 19 not only to promote intellectual self-expression by, and social intercourse amongst citizens but also the preservation of the spirit of unity by encouraging free movement throughout India as well as the development of personality and pursuit of gainful activity, so as to increase national productivity.

#### **Right to Privacy under Article 21**

The Supreme Court has interpreted Article 21 to include the right to live with dignity, the right to privacy, and the right to autonomy. The Supreme Court found Section 377 of IPC to be in violation of these Constitutional rights.

#### **Legal Development, Cases under IPC after Independence**

A) The harassment of LGBT people is not new. An early sentence found in a case of 1884. A Court in North India commended the police's desire to check these disgusting practices in a case of prosecution of a hijra.

a). In *Fazal Rub Chaudhary vs State of Bihar*, the accused also charged for committing an unnatural offence.<sup>8</sup>

b). In *Chitranjan Dass*, the Supreme Court having regard to his loss of service and other consequences to his career let him off with a sentence of two months imprisonment.<sup>9</sup> c). In *Charanjit Singh* case, a truck driver sentenced to one year's imprisonment and a fine of Rs. 500.<sup>10</sup>

d). In *Brother John Antony vs State*, the petitioner, a sub-warden of a Boarding Home was alleged to have committed unnatural offence with the inmates.<sup>11</sup>

B) Delhi High Court Judgement In *Naz Foundation vs Government of NCT of Delhi*, the High Court declared Section 377 of IPC and other legal prohibitions against private, adult consensual and non-commercial same sex conduct to be in direct violation of fundamental rights provided by the Indian Constitution.

Though it is decision of Delhi High Court, it was not confined to the Jurisdiction of Delhi, but it was applicable throughout India as per a provision ruling of the Supreme Court of India.<sup>12</sup>

Irrespective of the judgement, there have been incidents of harassment of LGBT groups by the government authorities. C). Governments view and future development

The Ministry of Home Affairs expressed its opposition to the decriminalization of homosexual activity, stating that in India, homosexuality is seen as being immoral on 23<sup>rd</sup> February, 2012. On 28 February, 2012, the Central Government reversed its sentence. asserting that there was no legal error in decriminalizing homosexual activity. J.G.S.Singhvi and J.S.J. Mukhopadhaya pulled up the center and asked it not to make a mockery of the system.<sup>13</sup> In Suresh Kumar KaushalvsNaz Foundation,<sup>14</sup> the Supreme Court overturnedthe Delhi High Court case Naz Foundation vs Government of NCT of Delhi and reinstate Section 377 of the IPC. On 28<sup>th</sup> January 2014, the Supreme Court dismissed the review petitionfiled by the Central Government, the Naz Foundation and several others against its earlier judgment. On 18 December 2015, ShashiTharoor, M.P. of introduced a Bill for the repeal Section 377 but it was rejected in the House by a vote of 71-24.

#### **Judicial Pronouncement**

On 6 September,2018 the Supreme Court of India unanimously ruled that Section 377 is unconstitutional in Navtej Singh Johar vs Union of India.<sup>15</sup>

The petitioner Navtej Singh Johar, Dancer, Sunil Mehra, Journalist, RituDalmia chef, Aman Nath, Hotelier, Keshav Suri, hotelier, and Ayesha Kapoor, business-man. The petitioners argued that they had all been directly aggrieved because of Section 377, alleging it to be a direct violation of Fundamental rights. The Court found that the criminalization of sexual acts betweenconsenting adults violated the right to equality guaranteed by the Constitution of India. The Court ruled that LGBT people in India are entitled to all Constitutional rights, including the liberties protected by the Constitution of India. It held that the choice of whom to partner, the ability to find fulfilment in sexual intrinsic to the constitutional protection and sexual orientation. The judgement also made note that LGBT community is entitled to equal citizenship and protection of law of discrimination.

#### **Conclusion**

After a year of this landmark judgement, it is necessary to see the changes in the Society. All over India, the LGBT community held pride parade. Same sex people approaching the Courts all over India asking for protection. The clamor is for civil and political rights. The right to adoption, buying medical insurance for year partner, to visit your partner in a hospital and make medical decisions. The other big step is anti-discrimination in the work place. Corporate India also needs to make it clear that they will not discriminate in matters of hiring and promotion. The same-sex peoples single mother need surrogacy right in 2011, a Haryana Court legally recognized a same-sex marriage involving two women. On April 15, 2014, the Supreme Court declared transgender people a Socially and economically backward class entitled to reservation in educationand job and directed government accordingly. On the basis of Government document such as voter ID Cards, passport and bank forms, have started providing a third gender option along with male(M) and female(F), others(O), third gender(TG), transgender(T). In 2013, activist S. Swapna and GopiShanker Madurai demandedreservation and to appear for examinations conducted by TN PSC, UPSC, SSC, and Bank exams. On 24<sup>th</sup> April,2015, the Rajya Sabha unanimously passed the Rights of Transgender persons Bills, 2014 and gave 2% reservation in Government jobs, legal aid, pensions, unemployment allowances etc.

On 22<sup>nd</sup> April, 2019, the Madras High Court upheld the marriage rights of Transgender women. There are various laws passed by the various States in India for LGBT people. They are proving themselves in various walks of life. The judicial recognition of their rights will certainly bring a change in society also. I would like to conclude this paper with a quote from Jasan Collins, first openly Gay athlete in United States:

“Openness may not completely disarm prejudice, but its good place to start.”

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